

I.

BAVLI SANHEDRIN CHAPTER ONE

FOLIOS 2A-18A

1:1-6

- A. (1) Property cases [are decided] by three [judges];
- B. (2) those concerning theft and damages, before three;
- C. (3) [cases involving] compensation for full-damages, half-damages [Exo. 21:35], twofold restitution [Exo. 22:3], fourfold and fivefold restitution [Exo. 21:37], by three;
- D. (4) “cases involving him who rapes [Deu. 32:28-29], him who seduces [Exo. 22:15-16], and him who brings forth an evil name (Deu. 22:19), by three,” the words of R. Meir.
- E. And sages say, “He who brings forth an evil name is [tried] before twenty-three, for there may be a capital case.”

M. 1:1

- A. (5) [Cases involving the penalty of] flogging [Deu. 25: 2-3] are before three.
- B. In the name of R. Ishmael they said, “Before twenty-three.”
- C. (6) [The decision to] intercalate the month is before three.
- D. (7) “[The decision to] intercalate the year is before three,” the words of R. Meir.
- E. Rabban Simeon b. Gamaliel says, “With three do they begin, with five [more] they debate the matter, and they reach a final decision with seven [more] [judges].
- F. “But if they reached a decision [to intercalate the year] with three judges, [the year is] intercalated.”

M. 1:2

- A. (8) “The laying of hands [on a community sacrifice] by elders and the breaking of the heifer’s neck [Deu. 21: 1-9] are done by three judges,” the words of R. Simeon.
- B. R. Judah says, “By five.”
- C. (9) The rite of removal of the shoe [breaking the levirate bond] (Deu. 25: 7-9) and the exercise of the right of refusal are done before three judges.

- D. (10) [The evaluation of] fruit of fourth-year plantings [which is to be redeemed [(Lev. 19:23-25)] and of second tithe (Deu. 14:22-26) whose value is not known is done before three judges.
- E. (11) Assessment of the value, [for purposes of redemption,] of things which have been consecrated is done before three judges.
- F. (12) [Property pledged as security for] vows of valuation, in the case of movables, is evaluated by three [judges].
- G. R. Judah says, "One of them must be a priest."
- H. And [evaluation of property pledged as security for vows for valuation] in the case of real estate is done by nine and a priest.
- I. And so for [the valuation-vow covering] men.

M. 1:3

- A. (1) Cases involving the death penalty are judged before twenty-three judges.
- B. (2) The beast who commits or is subjected to an act of sexual relations with a human being is judged by twenty-three,
- C. since it is said, "And you will kill the woman and the beast" (Lev. 20:16).
- D. and it says, "And the beast you will slay" (Lev. 20:15).
- E. (3) An ox which is to be stoned is judged by twenty-three,
- F. since it is said, "And the ox will be stoned, and also its master will be put to death" (Exo. 21:29).
- G. Just as [the case of the master], leading to the death-penalty, [is adjudged], so is the [case of] the ox, [leading to] the death-penalty.
- H. The wolf, lion, bear, panther, leopard, and snake a capital case affecting them is judged by twenty-three.
- I. R. Eliezer says, "Whoever kills them first acquires merit."
- J. R. Aqiba says, "Their capital case is judged by twenty three."

M. 1:4

- A. (1) They judge a tribe, a false prophet [Deu. 18:20], and a high priest, only on the instructions of a court of seventy-one members.
- B. (2) They bring forth [the army] to wage a war fought by choice only on the instructions of a court of seventy-one.
- C. (3) They make additions to the city [of Jerusalem] and to the courtyards [of the Temple] only on the instructions of a court of seventy-one.
- D. (4) They set up sanhedrins for the tribes only on the instructions of a court of seventy-one.
- E. (5) They declare a city to be "an apostate City" [Deu. 13:12ff.] only on the instructions of a court of seventy-one.
- F. And they do not declare a city to be "an Apostate city" on the frontier,
- G. [nor do they declare] three [in one locale] to be apostate cities,
- H. but they do so in the case of one or two.

M. 1:5

- A. The great sanhedrin was [made up] of seventy-one members,
- B. and the small one was twenty-three.

- C. And how do we know that the great sanhedrin was to have seventy-one members?
- D. Since it is said, “Gather to me seventy men of the elders of Israel” (Num. 11:16).
- E. Since Moses was in addition to them, [lo, there were seventy one.]
- F. R. Judah says, “It is seventy.”
- G. And how do we know that a small one is twenty-three?
- H. Since it is said, “The congregation shall judge, and The congregation shall deliver” (Num. 35: 24, 25) —
- I. one congregation judges, and one congregation saves — thus there are twenty.
- J. And how do we know that a congregation is ten? Since it is said, “how long shall I bear with this evil congregation [of the ten spies]” (Num. 14:27) — excluding Joshua and Caleb.
- K. And how do we know that we should add three more?
- L. From the implication of that which is said, “You shall not follow after the many to do evil” (Exo. 23:20), I derive the inference that I should be with them to do good.
- M. If so, why is it said, “After the many to do evil”?
- N. Your verdict of acquittal is not equivalent to your verdict of guilt.
- O. Your verdict of acquittal may be on the vote of a majority of one, but your vote for guilt must be by a majority of two.
- P. [2B] Since there cannot be a court of an even number of members [twenty-two], they add yet another — thus twenty-three.
- Q. And how many residents must there be in a town so that it may be suitable for a sanhedrin?
- R. One hundred-twenty.
- S. R. Nehemiah says, “Two hundred and thirty, equivalent in number to the chiefs of groups of ten [Exo. 18:21].”

M. 1:6

- I.1 A.** [Property cases [are decided] by three [judges]; those concerning theft and damages, before three:] *do not cases concerning theft and damages fall within the classification of property cases [that they have to be singled out]?*
- B. *Said R. Abbahu, “The purpose of the framer of the passage is to spell out [what property cases are], thus, ‘What cases fall into the classification of property cases? They are cases such as those that concern theft and damages. But cases involving admissions that loans have been made and transactions of loans do not fall into that category.’ [Schachter, p. 4, n. 3: There are claims supported by witnesses attesting the defendant’s former admission of his liability, or who were actually present at the time of the transaction].”*
 - C. *And it was necessary to refer both in general to monetary cases, and also in particular to cases concerning theft and damages.*
 - D. *For had the Tannaite authority made reference solely to property cases [without further specification], I should have concluded that even cases*

involving admissions that loans have been made and transactions of loans fall into the same category. Accordingly, the Tannaite authority made explicit reference to cases of theft and damages.

- E. *And had the formulation made reference only to cases of theft and damages and not made reference to the more general category of property cases, I should have reached the conclusion that the classification encompasses even cases of admissions of loans and transactions of loans.*
- F. *I might have further assumed that the reason the authority framed matters in particular with reference to theft and damages was that the very principle that three judges are required is written with explicit reference to cases of theft and damages.*
- G. *As to cases of theft, it is written, "The householder shall come near to the judges" (Exo. 22: 7), a verse that speaks of damages. But what difference does it make to me whether the damage is to one's body or one's property.*
- H. *Accordingly, the Tannaite authority made reference to property cases and further made explicit that in the classification at hand are involved cases of theft and damages, but not cases of admissions and transactions involving loans.*
- I. *Now what, further is the reason for excluding such cases?*
- J. *If one might wish to propose that it is because trials for such cases do not require three judges,*
- K. *and has not R. Abbahu said, "If two judges dealt with monetary cases, in the view of all parties, their judgement is null"?*
- L. *Hence [the reason for excluding such cases] is that we do not require the judgment of experts [in the cases of conflicting claims as to loans].*
- M. *[Testing this thesis, we ask:] What is the exegetical principle in the mind of the authority at hand. [At issue here is the interpretation of Exo. 22: 9, "For every breach of trust ... of which one says, 'This is it,' the case of both parties shall come before God." Now do we maintain that "one passage is interwoven with another"? Specifically, do we hold that at hand is a transposition that applies the rule just now stated also to loans as well as to bailments, the topic to which the verse makes explicit reference? If we do take that reading, then just as we require three judges for a case involving a bailment, so we require three judges in a case involving a loan. Thus:] If, then, the authority before us maintains that in the present instance we have a transposition of verses [in such wise that the rules governing the case of a property claim are the same as those governing the case of a loan,] then surely we should require expert judges [for the case of a loan, just as much as we do for a property case].*
- N. *And if he maintains that, at hand, we do not have a transposition of passages, then why does he insist that there be three judges to begin with? [If we do not apply to cases involving loans the procedural requirements governing property cases, then why do so in the detail at hand at all?]*
- O. *In point of fact the authority at hand does maintain that [we interpret the cited verse in such a way as to suppose] that we have an interposition of one matter [in the midst of another, with the consequence that we hold the cited verse to speak*

not only of bailments but also of loans]. In point of fact, on that account, one should require expert judges for cases involving loans.

- P. *The reason that, nonetheless, the authority before us does not require experts in such cases is on account of the view of R. Hanina.*
- Q. For R. Hanina said, “As a matter of the law as the Torah would have it, the same rule would govern both capital and property cases in respect to diligent examination of the witnesses.
- R. **[3A]** “For it is written, ‘One manner of judgment shall you have’ (Lev. 24:22).
- S. “Why is it then that sages have maintained that property cases do not involve the diligent testing of the witnesses? So as not to shut the door before people who need to take loans. [Schachter, p. 5, n. 8: Creditors would refuse to advance loans should difficulties confront them in collecting their debts, and the same consideration has led to the suspension of the law regarding the need of expert judges.]”
- T. If [cases involving property do not require experts, then if the judges make an error,] they should not have to pay compensation [the injured party who has suffered from their error. For that provision protects inexpert judges in general, and, if you have accepted such a class of judges, you should extend to the judges the normal protection.]
- U. All the more so, such a provision would lock the door against those who need to take out loans. [The creditors would have no recourse in a case of judicial error.]
- V. *If so, the Mishnah at hand presents two distinct laws.* First, it indicates that property cases are judged by three ordinary people. Second, it indicates that cases involving theft or damages are to be judged by three experts. *Furthermore, why does the framer of the passage make reference to the fact that three judges are required [in each case, if the one clause, namely M. 1:1B, simply serves to explain the other, namely, M. 1:1A]?*
- W. *Rather, said Raba, [“The framer of the passage has presented two different rules. As to the matter of the trial of cases involving loans, they do not require expert judges, on account of the position laid forth by] R. Hanina.”*
- 1.2 A.** [Explaining the matter of three judges in cases involving loans], *R. Aha, son of R. Iqa, said, “On the basis of the rules of the Torah itself, a single judge also would be suitable to judge the case. For it is said, ‘In justice you [singular] shall judge your neighbor’ (Lev. 19:15). But on account of idle folk [who pass their opinion without knowing the law, three are required.]”*
- B. *But merely because they are three, may they not turn out to be idle folk [merely passing their opinion]?*
- C. *It is not possible that among the three will be no one who has learned the law.*
- D. *If that is the case, then, if they make a judicial error, they should not be free of having to make restitution [on the grounds that an expert is exempt if he makes an error from having to make up the loss]?*
- E. *[If that were the rule], how much the more so would idle meddlers get involved in judging cases.*

- F. *[Since Raba, above, and Aha concur that ordinary folk may judge cases], on what point do Raba and R. Aha, son of R. Iqa, differ?*
- G. *They differ on the statement of Samuel, "If two people judged a case [in place of the three], their decision is valid. But they are called a presumptuous court." Raba rejects Samuel's view [because, in his view, the Torah requires three judges to deal with a case], while R. Aha, son of R. Iqa, concurs with Samuel's view.*

II.1 A. Cases involving compensation for full-damages, half damages [twofold restitution, fourfold and fivefold restitution, are judged by three judges] [M. 1:1C]:

- B. *Cases involving compensation for full damages fall into the category of cases involving damages. [Why then make explicit the fact that these two are tried by three judges?]*
- C. *It is because the framer of the passage wished to make reference to cases involving compensation for half-damages that he included, within his formula, a reference also to cases involving claims for full damages.*
- D. *But cases involving claims for half-damages likewise fall into the category of claims for damages.*
- E. *The Tannaite authority first made reference to cases involving property claims of an ordinary character [in which the compensation is indemnification, dictated by the nature of the claim], and then he made distinct reference to cases in which the compensation takes the form of a fine [rather than being assessed against the actual damages that have been inflicted]. [Schachter, p. 6, n. 8: A fine imposed upon the owner for not guarding his animal from causing damage, as distinct from damages in cases of mayhem, which are considered indemnity.]*
- F. *That explanation well serves him who maintains that a claim for half-damages falls into the category of a fine. But in the view of him who has said that a claim for half-damages falls into the category of [indemnification for loss of] property, what is there to be said?*
- G. *Rather, since the framer of the passage wished to make reference, in his formulation, to cases involving two-fold, four-fold, and five-fold damages, [3B], all of which constitute payments not assessed in accord with the actual damage that has been done, he framed matters also to encompass the matter of half-damages, which likewise [by definition] are not assessed in accord with the actual damage that has been done, and, quite naturally, since he made reference to half-damages, he included in his formulation reference to whole damages as well.*

II.2 A. How on the basis of Scripture do we know that [trials of this classification take place before] three judge courts?

- B. *It is in accord with that which our rabbis have taught on Tannaite authority:*
- C. *"‘Then the householder shall come near to the judge’ (Exo. 22: 8) — lo, one; ‘The case of both parties shall come before the judge’ (Exo. 22: 9) — lo, two; and ‘He whom the judge shall condemn shall pay double to his neighbor’ (Exo. 22: 9) — lo, three, [thus the three verses specify that three judges must be involved in the case],” the words of R. Josiah.*

- D. R. Jonathan says, “The first allusion to a judge serves to introduce the topic, and further exegetical meaning cannot be imputed to the first occurrence of a word [which serves simply to supply the facts of the matter]. Rather: ‘The case of both parties shall come before the judge’ (Exo. 22: 9) — lo, one. ‘And he whom the judge shall condemn shall pay double to his neighbor’ (Exo. 22: 9) — lo, two. You cannot have a court with an even number of judges, so add yet another, thus three in all.”
- E. *May we say at issue is whether or not further exegetical meaning may be imputed to the first occurrence of a word? Thus? one master takes the position that further exegetical meaning may be imputed to the first occurrence of a word, and the other master maintains that further exegetical meaning may not be imputed to the first occurrence of a word.*
- F. *No, all parties concur that, indeed, one may not impute to the first occurrence of a word further exegetical meaning. What R. Josiah will say to you [in response to Jonathan’s criticism of his proof] is this: “[If the purpose of the passage at hand were merely to specify the need for a judge, and if that were its sole meaning,] then the author of the passage should have said, ‘And the householder shall come near to the judge [using the word for judge alone, rather than the word which serves to mean both ‘judge’ and ‘God.’] Why does the verse at hand make use of the word that bears the double meaning of both ‘judge’ and ‘God’? That produces the inference that a secondary issue, the number of judges on the court, also is subject to discussion [with the result as specified above.]”*
- G. And R. Jonathan?
- H. *He takes the view that the framer of the passage used commonplace language [and the choice of the word in question was not to convey yet a secondary sense]. That ordinary usage is illustrated by the saying, “He who has a trial should go to a trial-judge.”*
- I. *But does R. Josiah not concur that a court must be made up of an odd number of judges? And has it not been taught on Tannaite authority: R. Eliezer, son of R. Yosé the Galilean, says “What is the meaning of the verse of Scripture, ‘... to incline after many to wrest for yourself a court made up of an uneven number of judges.’”*
- J. *[Indeed, he does not concur, since] he accords with the view of R. Judah, who holds that there are to be seventy judges. For we have learned in the Mishnah: **The great sanhedrin was made up of seventy one members. ... R. Judah says, “It is seventy” [M. 1:6A, F].***
- K. *But I may propose that R. Judah addresses the composition only of the great sanhedrin, concerning which there are relevant verses of Scripture, but as to other courts, does he take the view [that a court need not be made up of an odd number of judges]? And should you say there is indeed no difference, have we not learned in the Mishnah: **“The laying of hands on a community sacrifice by elders and the breaking of the heifer’s neck are done by three judges,” the words of R. Simeon. R. Judah says, “By five” [M. 1:3A-B].** In this connection it has been said, “What is the scriptural basis for the position of R. Judah? ‘...and they shall lay hands...’ (Lev. 4: 5) — thus speaking of at least two persons, and further specifies, ‘...the elders...’ (Lev. 4: 5), thus speaking of at least two persons.*

Since there cannot be a court with an even number of judges, they add on one more, thus yielding five.” [Hence Judah will not accept a court with an even number of judges, except in the case of the great sanhedrin. Josiah cannot appeal to Judah as his precedent.]

- L. *The position of R. Josiah goes further than R. Judah's. For R. Judah speaks specifically of the great sanhedrin, in maintaining that there need not be an odd number of judges, but other courts must have an odd number of judges, while R. Josiah maintains that for all other courts too, there cannot be an even number of judges.*
- M. *Now in Josiah's view, how are we to explain the word, “to incline” (Exo. 23: 2) [from which we have derived the principle that the court must have an odd number of judges]?*
- N. *One may apply that reference to courts that try capital cases but not to courts that try property cases. But lo, we have learned in the Mishnah: **[In judging property cases], if two judges say, “He is innocent,” and one says, “He is guilty,” he is innocent. If two say, “He is guilty,” and one says, “He is innocent,” he is guilty [M. 3:6I-J].***
- O. *We may maintain that the cited passage does not accord with the view of R. Josiah [since it assumes we have an odd number of judges trying a property case].*
- P. *You may maintain that it accords even with the view of R. Josiah. [Schachter, p. 9: He will agree that the decision of the majority is valid even in civil cases] by virtue of an argument a fortiori. This argument rests on the rule covering capital cases. If in capital cases, which deal with more severe penalties, the All-Merciful has said, “Follow the majority,” how much the more so [will we follow the majority, and hence require an uneven number of judges], in a property case?*

II.3 A. *Our rabbis have taught on Tannaite authority:*

- B. **Property cases [are brought before] three judges [M. 1:1A].**
- C. **Rabbi says, “Before five, so that the decision may be reached by three” [T. San. 1:1A-B].**
- D. *But if there is a court of three judges, will the decision not be reached by two? [And in both cases, there is a majority, whether it is three out of five or two out of three].*
- E. *This is the sense of Rabbi's statement: It is because the court verdict must be reached by three judges [not merely a majority of the court, without reference to the actual number of judges]. Therefore Rabbi takes the view that when the Scripture requires three judges, it is for the final verdict that the three are required.*
- F. *R. Abbahu made fun of this thesis: “But if that is the principle at hand, then the great sanhedrin should have a hundred and forty one members, so that the final verdict will be reached by seventy one. The lesser sanhedrin should have to have forty-five members, so that the final decision will be with twenty-three members. But the text states, ‘Gather to me seventy men of the elders of Israel’ (Num. 11:16), and thus the All-Merciful speaks of the number that must be gathered at the time of their assembly, namely, seventy. So too, ‘The congregation*

shall judge and the congregation shall deliver' (Num. 35:24), [on the basis of which the make-up of a lesser sanhedrin is determined to be twenty-three judges,] speaks of the time at which the congregation undertakes judgment [of the case]. So too, 'The householder shall come near to the judges' (Exo. 22: 7) speaks of the time at which the plaintiff comes before the court. That is the moment at which three judges must be present [and not in the rendering of the verdict, which may be done by two.] Rather, this is the scriptural basis for the view of Rabbi: 'They shall condemn' (at Exo. 22: 7) makes use of the plural verb with reference to the subject, 'judges.' Thus two judges are required. Now when the word 'judges' occurs below, and when it occurs earlier, we assign the same meaning to each use of the word. Just as the later occurrence indicates that two judges are required, so the earlier occurrence indicates that two judges are required. Since you cannot have a court with an even number of judges, yet another must be added to the number, yielding five in all."

G. **[4A]** *And rabbis?*

H. *They hold that the word is written in the singular form [lacking a consonant would demand a plural reading, and hence stands for only a singular subject, hence one judge, not two, is required.]*

II.4 A. *Said R. Isaac bar Joseph said R. Yohanan, "Rabbi, R. Judah b. Roes, the House of Shammai, R. Simeon, and R. Aqiba, all take the view that we read Scripture in the way in which the supplied vowels direct it to be read."*

B. *As to Rabbi, evidence is as we have just now stated [that we interpret the word in accord with the supplied vowels, thus as a plural, rather than in accord with its consonantal form, which is in the singular].*

C. *R. Judah b. Roes, as it has been taught on Tannaite authority:*

D. *For it has been taught on Tannaite authority:*

E. A disciple asked R. Judah b. Roes, "I read [at Lev. 12:5, 'If she bear a female child, she shall be unclean for two weeks'] the consonants as 'two weeks.' Is it possible that a woman who bears a female child should be unclean for seventy days [reading the consonants in that way]?"

F. He said to them, "The Scripture has imposed uncleanness followed by a period of cleanness on the occasion of birth of a male, and, in the case of the female, it is for double the period specified for a male. So too we when the Scripture imposes a period of uncleanness in a male, for a female it should be double that same period [and hence, since it is a week of uncleanness on the occasion of the birth of a male, it should be two weeks — not seventy days — for the female]."

G. After they had gone forth, he ran after them, brought them back, and said to them, "You do not require [the argument I just made], since we pronounce the word as 'two weeks', and the principle is that we follow the version of Scripture in the way in which the supplied vowels direct that it should be read."

- H. The House of Shammai?
- I. *It accords with that which we have learned in the Mishnah:*
- J. **The House of Shammai say, “Any offering, the drops of blood of which are to be tossed on the outer altar, if one properly tossed blood one time, produces atonement. But in the case of the sin-offering, two tossings of the blood done properly on the outer altar are required to effect atonement.”**
- K. **And the House of Hillel say, “Even a sin-offering, the blood of which was properly tossed only one time, effects atonement” [M. Zeb. 4:1A-C].**
- L. *And said R. Huna, “What is the scriptural basis for the position of the House of Shammai? Scripture makes reference to the horns of the altar three times [at Lev. 4:25, 30, and 34, with the noun read as a plural all three times, even though in two of the three occurrences the vowel specifying the female plural is not written]. Thus there are six allusions to the horns of the altar. Four cover the description of the proper carrying out of the religious duty [if done rightly], and two to indicate what is at a minimum required [so that if not properly done two times, the act is null].*
- M. *“The House of Hillel say, “We find that, since the word for ‘horns of the altar’ is written in the plural one time [yielding two], but is written twice lacking the full spelling out of the plural form,] [so yielding only two more, that is, two singletons], we have in all four allusions. The sense then is that the blood must be done properly, by way of carrying out the religious duty, three times, but it must be done properly at least one time.” [So the House of Shammai read the words in accord with the supplied vowels, and the House of Hillel read them only in accord with the consonants.]*
- N. *But perhaps the sense is that all of the references to “horns of the altar” pertain to the proper conduct of the religious duty [but do not indicate what, at a minimum, must be done]?*
- O. *We do not find the case of an act of atonement all by itself [Schachter: without an accompanying rite].*
- P. R. Simeon?
- Q. *It is in accord with that which we have learned on Tannaite authority:*
- R. Two sides of the sukkah must be in accord with the law pertaining to them [as solid walls], but the third wall may be even so small as a handbreadth in size.
- S. R. Simeon says, “Three of them must accord with the law applying to them, but the fourth may be only a handbreadth.”
- T. *What is at issue between them?*
- U. *Rabbis take the view that we are governed by the inherited spelling out of the words at hand, and R. Simeon takes the*

position that it is the manner in which the received vowels dictate the pronunciation of the passage that we read the passage.

V. *To spell this out: rabbis take the view that we are governed by the inherited spelling out of the words at hand [the consonants, without the vowels]. Thus the word for tabernacles (sukkot) [which occurs at Lev. 23:42-3] is written twice defectively [lacking the letter that signifies the feminine plural] and once properly, so yielding four references in all [the two read as if in the singular, the one read in the plural]. You deduct one reference for simply announcing the matter, leaving three. The received legal tradition is that one of the walls may be of diminished size, namely, a handbreadth [with the result that, as rabbis maintain, two must be of standard size and one of a handbreadth].*

W. *R. Simeon takes the position that [reading all three occurrences of the word for tabernacle as plurals] we have six such references. We remove one verse of Scripture for simply announcing the matter, leaving four. The received law that one of the walls may be of diminished size, namely, a handbreadth [with the result that three must accord with the law, the fourth being merely a handbreadth].*

X. And R. Aqiba?

Y. *As it has been taught on Tannaite authority:*

Z. R. Aqiba says, “How on the basis of Scripture do we know that a quarter-log of blood that derives from two corpses [with each corpse by itself contributing less than the requisite volume] imparts uncleanness when overshadowed [because the blood from two distinct sources is held to join together to form the requisite volume]?”

AA. “As it is said, ‘He shall not go into any dead body’ (Lev. 21:11). [Schachter: The plural *nafshot*, translated body, indicates that] even though there are two persons [from which the blood has flowed], their blood constitutes a single volume [to form the requisite amount to impart uncleanness in the tent of a corpse].”

BB. And rabbis? The word is written in the singular form [and so the requisite proof does not flow from it]. [Aqiba wishes to read the word as the vowels dictate, rabbis in accord with the consonants only.]

CC. *To this proposition [at A] R. Aha bar Jacob objected, “Is there no one else [apart from those listed earlier] who does not concur that the mode of reading a word indicated by the supplied vowels dictates the meaning?”*

DD. *“And has it not been taught on Tannaite authority:*

EE. *“‘You shall not boil a kid in the milk of its mother’ (Exo. 23:19).*

- FF. “‘Is it possible that we should read the word for milk as though it were the word for fat [since both use the same consonants]?”
- GG. **[4B]**”Surely you must therefore maintain that the mode of reading a word is dictated by the supplied vowels [Schachter, p. 12, n. 8: And this is disputed by no one, as otherwise there would be no foundation for the prohibition.]
- HH. *“Therefore it must follow that all parties concur that the supplied vowels dictate how a word must be read [with the result that we ignore the consonantal meaning and follow only that provided by the vowels].” [We shall now review the several disputes and prove that all parties concur on that principle.]*
- II. *As to the dispute between Rabbi and rabbis, it concerns the following point of difference:*
- JJ. *Rabbi takes the view that the word “whom the judges shall condemn” (Exo. 22: 8) speaks of two other judges [Schachter, p. 12, n. 11: and that accounts for his view that five judges are required], while rabbis hold that the word speaks of the judges both in the verse in which it occurs as well as in the preceding clause [Schachter: the word in each case being taken as plural of majesty, and so no additional judges are implied].*
- KK. *R. Judah b. Roes has no rabbinical opposition in any event.*
- LL. *As to the House of Hillel:*
- MM. *It is in accord with that which has been taught on Tannaite authority:*
- NN. The word, “He shall make atonement” occurs three times [at Lev. 4:26, 31, 35] in connection with the sin-offering [demonstrating that if the blood is properly tossed even one time only, that suffices to attain atonement in the case of a sin-offering].
- OO. The reason for that repeated stress is on account of a possible logical argument to the contrary [which, by formulating matters as it does, Scripture forestalls.]
- PP. The proposed argument is as follows: The word “blood” is used with reference to tossing the blood of an offering below the red line that divided the altar into two horizontals, and the word blood is used with reference to tossing the blood of offerings that has to go above that same red line.
- QQ. Just as, in the case of blood that has to be tossed below the red line, if one has tossed the blood properly one time only, he has achieved atonement, so in the case of blood that is tossed above the red line, if it is properly tossed one time only, the priest has effected atonement.
- RR. [At the same time,] one may take the following route:
- SS. The word “blood” is used in connection with offerings the blood of which is tossed onto the outer altar, and the word “blood” is used

in connection with offerings the blood of which is tossed on the inner altar.

- TT. Just as blood that is tossed on the inner altar is such that, if only one of the requisite tossings of the blood should be lacking, the sacrifice is null and accomplished nothing, so with respect to blood that is tossed against the outer altar, if only one of the requisite tossings of blood is lacking, the sacrifice is nought. [This second proof, then, would vitiate the conclusion of the first.]
- UU. Now let us see which is the dominant analogy: We should construct an argument concerning blood that is sprinkled on the outer altar on the basis of a case involving blood that is sprinkled on the outer altar, and let us not construct an argument concerning blood that is sprinkled on the outer altar from the case of blood that is sprinkled on the inner altar [thus rejecting the first of the two proposed arguments].
- VV. Or let us take this route: Let us construct an argument governing the sprinkling of the blood of the sin-offering, which is done on the four corners of the altar, from the case of a sin-offering, with the blood sprinkled on the four corners of the altar. But let proof not derive from the case of an offering which is not a sin-offering and does not involve the four corners of the altar.
- WW. [Since we can, through logical argument, produce contradictory results, it is necessary for] Scripture to state three times, "He shall make atonement."
- XX. This then deals with the problem of logic [just now spelled out, in the following way:]
- YY. "He shall atone" even though he has tossed the blood only three times.
- ZZ. "He shall atone" even though he has sprinkled the blood only two times.
- AAA. "He shall atone" even though he has only tossed the blood only once.
- BBB. *As to R. Simeon and rabbis, at issue is this matter:*
- CCC. *R. Simeon takes the view that no verse of Scripture is necessary to indicate that sukkah-roofing is required, while rabbis take the view that a verse of Scripture is necessary to indicate that sukkah-roofing is required.*
- DDD. *As to R. Aqiba and rabbis, at issue is this matter:*
- EEE. *R. Aqiba holds that the word for "any body" refers to two corpses, not only to one, while rabbis maintain that the word speaks of only one corpse.*
- FFF. *Is it truly the case that all parties concur that the supplied vowels indicate how a word is to be read and so what it means?*
- GGG. *But has it not been taught on Tannaite authority:*

- HHH. “The word for frontlets [referring to phylacteries] occurs three times, two times lacking the indication of the plural, one time including that full spelling [at Deu. 6: 8, 9:18, and Exo. 13:16]. that indicates there are four [sections of Scripture to be inserted into the phylacteries],” the words of R. Ishmael.
- III. R. Aqiba says, “It is not necessary [to resort to such a proof], for the letters for the first half of the word, in the Katpi language, stand for two, and the letters for the second half of the word, in Afriki, stand for the word two.”
- JJJ. *It must, therefore, follow that there is dispute [concerning whether or not the determinant is the supplied vowels]. But where there is a dispute, it is where the pronunciation of the word in accord with its vowels differs from the pronunciation of the word as dictated solely by the consonants. [Where the vowels indicate the presence of a letter which the consonants do not present, there we shall have a dispute, but not otherwise.]*
- KKK. *But in such a case as the word for “milk” which is the same in its consonantal form as the word for “fat,” where the letters are the same for both pronunciations, [there really is universal agreement that] the word is read in accord with the received vowels and in that way alone.*
- LLL. But lo, there is the case of the verse, “Three times in the year all your males shall appear before the Lord” (Exo. 23:17) [in which the word for “shall appear” may be read “shall see,” hence, “shall see the Lord”]. In this case, the two meanings are to be imputed to exactly the same consonantal construction, and yet there is a dispute [as to whether we follow the received vowels or the consonantal form alone].
- MMM. *For it has been taught on Tannaite authority:*
- NNN. Yohanan b. Dahabai says in the name of R. Judah b. Tema, “He who is blind in one eye is exempt from having to bring an appearance-offering [on a pilgrim festival, such as is specified at Exo. 23:17], for it is said, ‘He will appear.’ ‘He will appear’ just as he sees, that is, just as one comes to see, so he comes to be seen. Just as seeing is with two eyes, so being seen is with two eyes. [Schachter: As the Lord comes to see with both eyes, so should he who comes to be seen by Him come with both eyes].”
- OOO. Rather, said R. Aha, son of R. Iqa, “Scripture has stated, ‘You shall not boil a kid in its mother’s milk’ (Exo. 23:19). What is forbidden is the act of boiling. [Schachter, p. 15, n. 3: Boiling is a term applicable only to a liquid, such as milk, and not to fat, which would require such a word as roasting. Therefore we must read the word at hand as milk, not as fat.]”

II.5 A. *Our rabbis have taught on Tannaite authority:*

- B. Property cases are to be tried by a court of three judges. **[5A]** But if the judge was recognized by the community as an expert, he may judge even all by himself.
- C. Said R. Nahman, “Someone such as myself may judge property cases alone.”
- D. And so said R. Hiyya, “Someone such as myself may judge property cases alone.”
- E. *[Interpreting the foregoing statements,] the question was raised: Is the sense, “Such as myself,” that I have mastered legal traditions and learned how to reason about them, and, furthermore, have gotten authorization [to judge by*

myself],” with the further implication that someone who has not gotten authorization to judge by himself [and has done so] produces an invalid judgment? Or is it the sense that even if one has not gotten authorization, [if he judges by himself], his judgment is valid?

- F. *Come and take note: Mar Zutra, son of R. Nahman, judged a case by himself and made an error. He came before R. Joseph [to find out whether he had to make restitution]. He said to him, “If they accepted you as judge in their case [even though you would judge as an individual], you do not have to make restitution for the error, and, if not, you have to make restitution.” What the precedent yields is that the fact that even though one has not gotten authorization, should he judge by himself, his judgment is a valid one.*

H. *That indeed is the inference.*

II.6 A. *Said Rab, “One who wants to judge cases with the proviso that, if he makes a judicial error, he is exempt from having to make restitution, had best get authorization from the house of the exilarch.”*

- B. *And so said Samuel, “Let such a one gain authorization from the house of the exilarch.”*

II.7 A. *It is self-evident that authorization granted here for judging cases here, or that granted there for judging cases there [in the Land of Israel], or authorization granted here for judging cases there [in the Land of Israel] is valid.*

- B. *The reason is that here [in the exilarch] we have “the scepter,” while there they have only “the law-giver” [Gen. 49:10].*

C. *For it has been taught on Tannaite authority:*

- D. *“The scepter shall not depart from Judah” (Gen. 49:10) speaks of the exilarchs of Babylonia, who govern Israel with the authority of the scepter [officially, by right].*

E. *“And a lawgiver” (Gen. 49:10) speaks of the grandsons of Hillel in the Land of Israel, who [merely] teach Torah in public [but do not have standing as a government].*

- F. *The real question is this:] Is authorization granted there valid for judging cases here?*

G. *Come and take note: Rabbah bar Hana judged a case and made an error. He came before R. Hiyya, who said to him, “If they accepted you as judge in their case, you do not have to make restitution for the error, and, if not, you have to make restitution.” Now, in point of fact, Rabbah bar Hana had indeed taken authorization [there]. What is the implication of the case? It is that authorization granted there for use here is invalid.*

J. *That implication indeed emerges.*

K. *Is it then the case that such authorization [granted in the Land of Israel is invalid in Babylonia?] And lo, when Rabbah bar R. Huna had a dispute with the staff of the exilarch, he said, “I do not have my authorization from you. I have my authorization from my father, my master, and my father, my master, has authorization from Rab, and Rab has authorization from R. Hiyya, and R. Hiyya has authorization from Rabbi [in the Land of Israel].” [So authorization from there to here is assumed to be valid.]*

M. *It was any old argument that he threw at them.*

- N. *If that is the case, if then authorization from there to here is invalid, then why did Rabbah bar Hana seek authorization at all?*
- O. *It was for the purpose of judging cases in the towns on the frontiers.*

II.8 A. *What is “authorization”?*

- B. *[The following story answers the question by means of illustration.] When Rabbah bar Hana was going down to Babylonia, R. Hiyya said to Rabbi [Judah the Patriarch], “My nephew, son of my brother, is going down to Babylonia. May he make decisions on matters of religious prohibition?”*
- C. *“He may make decisions on matters of religious prohibition?”*
- D. *“May he judge cases of civil law?”*
- E. *“He may judge cases of civil law.”*
- F. *“May he declare firstborn beasts [to be blemished and so] permitted for ordinary use?”*
- G. *“He may declare firstborn beasts [to be blemished and so] permitted for ordinary use.”*
- H. *When Rab was going down to Babylonia, R. Hiyya said to Rabbi, “My nephew, son of my sister, is going down to Babylonia. May he make decisions on matters of religious prohibition?”*
- I. *“He may make decisions on matters of religious prohibition?”*
- J. *“May he judge cases of civil law?”*
- K. *“He may judge cases of civil law.”*
- L. *“May he declare firstborn beasts [to be blemished and so] permitted for ordinary use?”*
- M. *“He may not declare firstborn beasts [to be blemished and so] permitted for ordinary use.”*
- N. *Why did [Hiyya] differentiate between his nephew, son of his brother, and his nephew, son of his sister?*
- O. *And if you should wish to reply that that is how things happen to be, has not a master said, “Aibu, Hana, Shila, Mareta, and R. Hiyya all were sons of Abba bar Aha Karesela of Kafri”? [So Rab was son of the brother of R. Hiyya, as well as son of his sister.]*
- P. *Rab was son of the brother of the sister of R. Hiyya [on his mother’s side], and Rabbah was son of his brother alone.*
- Q. *And if you prefer, I shall explain that [5B] it was because of his [distinguished] sagacity, for it is written, “Say to wisdom, you are my sister” (Pro. 7: 4).*
- R. *As to his response to the question, “May he declare firstborn beasts [blemished and so] permitted for ordinary use,” which was, “He may not do so,” why would he not permit him to do so?*
- S. *If one might wish to propose that it was because he was not learned, lo, we have just said that he was very learned.*
- T. *But it was because he was not expert in the character of disqualifying blemishes.*

- U. But has not Rab said, "I spent eighteen months with s shepherd of domesticated cattle in order to learn which blemish is permanent and which passes [and so would not disqualify the beast]"?
- V. Rather, it was to pay special respect to Rabbah bar Hana.
- W. *And if you wish, I shall propose that it was because of the very fact that Rab was altogether too familiar with disqualifying blemishes. He might therefore permit a beast for ordinary use on the basis of a blemish that ordinary folk might not fully recognize. The result, then, would be that people would say that in the case of such a blemish, Rab permitted the beast, and so people would come to permit secular use of a beast affected by a merely transient blemish.*
- X. "May he make decisions on matters of religious prohibition?"
- Y. "He may make decisions on matters of religious prohibition."
- Z. *But if [an authority] has learned the rules properly, what need does he have to gain permission to judge such cases?*
- AA. It was because of an actual case.
- BB. *It has been taught on Tannaite authority.*
- CC. One time Rabbi came to a certain place and saw that the people were kneading their dough in a state of susceptibility to cultic uncleanness [by wetting it down with a liquid that imparts susceptibility to the flour, which, when dry, is insusceptible in line with Lev. 11:32, 34]. He said to them, "On what account are you kneading your dough in a state of susceptibility to cultic uncleanness?"
- DD. They said to him, "A certain disciple came by and taught us, 'Swamp-water does not impart to dry flour the susceptibility to uncleanness.'"
- EE. *But what he had said was eggs, and they though he had said swamp-water [since the consonants are the same, and the vowels shift only slightly], [with the result that they erred].*
- FF. *They made a further mistake with respect to the following: **Water of Qarmyon and water of Pugah are unfit [for use in mixing with the ashes of the red cow to make purification water], because they are swamp water [M. Par. 8:10I-J].***
- GG. *The people drew the conclusion that, since these classes of water are unfit for mixing with the ashes of the red cow to form purification-water they also will not impart susceptibility to uncleanness [to dry flour].*
- HH. *But that is not the law. The point is that, for use for mixing purification-water, we require running water [and swamp-water does not fall into that classification]. But here, with respect to imparting susceptibility to uncleanness, any sort of liquid [among the specified ones, including water] does impart susceptibility to uncleanness.*
- II. *It has been taught on Tannaite authority:*

JJ. At that moment they made the decree that a disciple may not give a decision on a matter of religious prohibition unless he gains permission from his master.

II.9 A. *Tanhum, son of R. Ammi, came to Hattar. He gave the following exposition to the people: “It is permitted to soak grain before grinding it for use on Passover [despite the concern that the grain may be leavened, because, Schachter states, p. 18, n. 6: Leavening, the result of dampness, does not occur in this, as the grain is ground immediately after washing.]”*

B. *They said to him, “Is it not R. Mani of Tyre here. And it has been taught on Tannaite authority: ‘A disciple may not give a decision on a matter of religious prohibition in the locale of his master unless he is at least three parasangs away from him, a distance equivalent to the breadth of the camp of Israel.’”*

C. *He said to them, “That never came to my mind!”*

II.10 A. *R. Hiyya saw a man standing in a graveyard. He said to him, “Are you not son of Mr. So-and-so, a priest?”*

B. *He said to him, “Yes. But the father of that man [me] was strong-headed, and he gazed upon a divorced woman and, with her, produced profaned seed [in the form of children who were unsuited to be in the priestly caste, as children of a priest and a divorced woman, in line with Lev. 21:14].”*

II.11 A. *It is self-evident that if authorization is granted only in part [for one purpose, not for some other], that is valid [as in the case of Rab]. What is the rule on authorization granted on the basis of a condition?*

B. *Come and take note: R. Yohanan said to R. Shemen, “Lo, you act under our authorization, until you come back to us.”*

Judgment of Cases by Fewer than Three Judges

II.12 *[Reverting to the] body [of the text cited above at I.2]:*

B. Said Samuel, “Two who judged a case produce a valid judgment, but they are called ‘a presumptuous court.’”

C. *In session R. Nahman stated this tradition. Raba objected to R. Nahman, “Even if two judges declare him innocent and two declare him guilty but one of them says, “I don’t know,” they have to add to the number of the judges [M. 3:6L-N]. Now if the judgment of Samuel is valid, let the case fall into the category of the judgment of a court made up of two judges [and why add a third]?”*

D. *That case is to be distinguished from the present issue, for, in that matter, to begin with the court went into session in the presumption*

that three judges would decide the case. In the present circumstance, it was not in the presumption that three judges would decide the case that the court went into session.

- E. *A further objection was raised to Samuel's view: **Rabban Simeon b. Gamaliel** says, "Judgment is by three [judges], and arbitration is by two arbitrators. The force of arbitration is greater than the force of a court decision. For if two made a judgment the litigants have the power to retract. If two who effected an arbitration, the litigants do not have the power to retract" [T. San. 1:9I-L]. [6A] And if you wish to maintain that Rabban Simeon b. Gamaliel's colleagues differ from him, has not R. Abbahu stated, "If two persons judged a case, all parties concur that their judgment is invalid."*
- F. *Do you simply throw the opinion of one authority against that of someone else? [Schachter, p. 19, n. 8: Why should Samuel, unlike R. Abbahu, hold that the rabbis differ from R. Simeon b. Gamaliel?]*

II.13 A. *Reverting to the text cited above:*

- B. R. Abbahu said, "If two persons judged a property case, all parties concur that their judgment is invalid."
- C. *R. Abba objected to R. Abbahu, "If one has judged a case, declaring the liable party to be exempt and the exempt party to be liable, declaring what is clean to be unclean or what is unclean to be clean, what he has done is done. But he has to make restitution out of his own property." [This rule would surely contradict Abbahu's position, since the effect of the decision of even a single judge is valid.]*
 - D. *With what sort of a case do we deal here? It is a case in which the litigants accepted the authority of the individual to judge their case.*
 - E. *If that is the case, why does he have to make restitution out of his own property [for his judicial error]?*
 - F. *It is because they originally said to him, "Judge the case for us in accord with the Torah, [and he has not met that stipulation]."*
 - G. *Said R. Safra to R. Abba, "In what aspect did the error consist? If we say that it was in a matter of law made explicit in the Mishnah, has not R. Sheshet said R. Assi said, 'If one has made an error in a matter made explicit in the Mishnah, he simply retracts his decision.' Rather, it is an error in reasoning among contradictory views."*
 - H. *What would such a case — an error in reasoning among contradictory view — involve?*
 - I. *Said R. Pappa, "It would be exemplified by a matter of law in which two Tannaite authorities or two Amoraic authorities differ, and a definitive statement of the decided law is not laid down. But there is a customary view in*

circulation to act in accord with one of the contending parties, and the judge at hand went and made a decision in accord with another of the parties. This would constitute an error in reasoning among contradictory views.

- II.14 A.** *May we propose [that the issue between Samuel's and Abbahu's views of whether two persons may judge a case] follows lines of a dispute between Tannaite authorities? "Arbitration is with three judges," the words of R. Meir. And sages say, "With one" [T. San. 1:1C-D]. Now if we make the assumption that both parties concur that we treat as equivalent arbitration and trial of a case, then would it not follow that the dispute at hand concerns the following principle: One authority holds that a trial must be before three judges [as Meir says], while the other authority maintains that a case is judged by two judges [and at issue, then, is the matter on which Abbahu and Samuel differ].*
- B. *No, all parties concur that a case is tried before three judges. Here what is the point at issue? One authority holds that we treat as comparable arbitration and judgment of a case at trial. The other authority maintains that we do not treat as comparable arbitration and the judgment of a case at a trial.*
- C. *May we say, then, that there are three opinions among Tannaite authorities on the matter of arbitration? One authority says it is before three authorities, one before two, and one before one?*
- D. *Said R. Aha, son of R. Iqa, and some say, R. Yemar, son of R. Shelemia, "He who holds that it is done with two would accept the arbitration even of a single individual. The reason that he wants to have two arbitrators is to that there will be [two] witnesses [namely, the arbitrators] [if needed]."*
- E. *Said R. Ashi, "What follows from the facts is that an act of formal acquisition is not necessary in an arbitrated case. For if you suppose that an act of acquisition is required, then why should the Tannaite authority at hand require three arbitrators? He should suffice with two, with the parties then being bound by an act of acquisition [in which they pledge themselves to adhere to the award (Schachter)]."*
- F. *The decided law is that arbitration must be accompanied by an act of acquisition [Schachter, p. 21, n. 4: because, strictly speaking, the decision is not one of law, and unless the parties have bound themselves by an act of acquisition, they can retract].*

Composite on Arbitration as Alternative to a Legal Contest

II.15 A. *Our rabbis have taught on Tannaite authority:*

- B. Just as judgment is done before three judges, so an arbitration is reached by three judges.
- C. **[6B]** Once the court process has been completed, one has not got the right to arbitrate.

II.16 A. R. Eleazar, son of R. Yosé the Galilean, says, “It is forbidden to arbitrate, and whoever arbitrates a case [after judgment has been passed] — lo, this one sins.

- B. “And whoever praises the arbitrator — lo, this one curses [the Omnipresent].
- C. “Concerning such a person it is said, ‘He who blesses the arbitrator blasphemes the Lord’ (Psa. 10: 3).
- D. “But let justice pierce the mountain, as it is written, ‘For judgment is God’s’ (Deu. 17).
- E. “And so Moses’ motto was: Let the law pierce the mountain. But Aaron loved peace and pursued peace and would make peace between one person and another, as it is said, ‘The Torah of Truth was in his mouth and unrighteousness was not found in his lips, he walked with me in peace and uprightness and did many turn away from iniquity’ (Mal. 2: 6).”
- F. **R. Eliezer [T.: b. Jacob says, “Why does Scripture say, ‘He who blesses a robber blasphemes the Lord’ (Psa. 10: 3)?**
- G. **They made an analogy. To what is the matter to be compared? To] someone who stole a seah of wheat, ground it into wheat, baked it into bread, and separated dough-offering from the bread [for the priest], and then fed the bread to his children.] How is such a person to say a blessing? It is no blessing but a curse.**
- H. **“Concerning such a person it is said, ‘When the robber blesses, he blasphemes the Lord’” [T. San. 1:2].**
- J. R. Meir says, “The reference to one who robs speaks only of Judah. For it is written, ‘And Judah said to his brothers, What profit is it if we slay our brother’ (Gen. 37:26) [using the same root as the verb for arbitrate]. And whoever blesses Judah, lo, such a person blasphemes, and it is in that context that it is said, “When the robber blesses, he blasphemes the Lord.”

II.17 A. R. Joshua b. Qorha says, “It is a religious duty to arbitrate, as it is said, ‘Execute the judgment of truth and peace in your gates’ (Zec. 8:16).

- B. “Now is it not so that in any case in which there is a judgment [of truth], there is no peace, and in any case in which there is peace, there is no judgment of truth?
- C. “So what is the judgment [of truth] which also contains peace?
- D. “You have to say, This is arbitration.”
- E. And so it says in the case of David, “And David acted with judgment and charity to all his people” (2Sa. 8:15).
- F. Now is it not so that in any case in which there is judgment, there is no charity, and in any case in which there is charity, there is no judgment?

- G. So what is the judgment in which there also is charity?
- H. You have to say, This is arbitration [T. [San. 1:3](#)].
- I. [If] one has judged a case, declaring the guiltless to be guiltless, and imposing liability on the guilty party,
- J. if one then sees that he has imposed liability on a poor man,
- K. he takes [the necessary funds for restitution] out of his own pocket and gives it to him, this is a case of true justice and charity.
- L. [That is how he turns out to do] true justice with this one and charity with that one, justice to the one who gets his property back. Charity to that one, since he has paid from his own property [T. [San.1:4I](#)].
- M. To Rabbi, this view of matters presented a problem. If matters were as stated, then rather than saying, “To all his people” (2Sa. 8:15), it should say only, “to the poor.”
- N. Rather, Rabbi says, “[Following T.’s phrasing:] “[If] one has judged a case, declaring the guiltless to be guiltless and imposing liability on the guilty party,
- O. “he turns out to do charity with the one who is liable,
- P. “for he removes the stolen goods from his possession.
- Q. “and he does justice to the innocent party, for he restores to him what belongs to him” [T. [San. 1:5](#)].
- R. R. Simeon b. Menassia says, “[Sometimes one should arbitrate, and sometimes he should not arbitrate].
- S. “Two who came before someone to judge [their case] —
- T. “before one has heard what they have to say,
- U. “or if he has heard what they have to say but does not know in which direction the case should turn,
- V. “he has the right to say to them, ‘Go out and seek arbitration.’
- W. “But once he has heard what they have to say and knows in which direction the case should turn,
- X. he has no right to say to them, ‘Go out and seek arbitration.’
- Y. “Just as it is written, ‘The beginning of strife is as when one lets out water; therefore before the matter is laid bare, leave off contention’ (Pro. 17:14) —
- Z. “Before the ruling is clear, you are free to abandon it.
- AA. “Once the decision is clear, you do not have the right to abandon it” [T. [San. 1:6](#)].
- BB. R. Judah b. Laqish would say, “Two who came before someone for judgment —
- CC. “one strong and one weak —
- DD. “before one has heard what they have to say,
- EE. “or if one has heard what they have to say, but does not yet know in which direction the case should turn,
- FF. “he has the right to say to them, ‘I am not going to be subject to you [and to take your case],’

- GG. “lest the stronger party turn out to be liable, and the stronger one go after him.
- HH. “But if one he has heard what they have to say and knows in which direction the case should turn,
- II. “he has not got the right to say to them, ‘I am not going to be subject to you [and to take your case].
- JJ. “For it is said, ‘You shall not be afraid before man, for judgment is God’s’ (Deu. 1:17)” [T. [San. 1:7](#)].
- KK. R. Joshua b. Qorha says, “How do we know that, if a disciple was sitting before his teacher [who was acting as a judge] and knew something for the case of the poor man and something against the case of the rich man, you are not free to keep silent?
- LL. “Scripture says, ‘You shall not be afraid before man, for judgment is God’s’ (Deu. 1:17).
- MM. [B. lacks:] “Do not hold back what you have to say because of man” [T. [San. 1:8](#)]
- NN. R. Hanin says, “You may not hold back your view on anyone’s account. The judges should know Whom they judge, and before Whom they judge, and Who it is Who judges with them.
- OO. “And the witnesses should know about Whom they give testimony, and before Whom they give testimony, and with Whom they give testimony, and Who it is Who is a witness with them,
- PP. “since it is said, ‘Then both the men before whom the controversy is shall stand before the Lord’ (Deu. 19:17).
- QQ. “And it is said, ‘God stands in the congregation of God and in the midst of judges he judges’ (Psa. 82: 1).
- RR. “And concerning Jehoshaphat it is said, ‘Consider what you do, for you judge not for man but for God’ (2Ch. 19: 6).
- SS. “Now perhaps a judge might say, ‘What do I need this trouble for?’
- TT. “But has it not truly been said, ‘He is with you in the matter of judgment’ (2 Chron. 19: 6).
- UU. “You have to take account only of what your own eyes see.”

II.18 A. *What marks the conclusion of the trial?*

- B. Said R. Judah said Rab, “[The statement by the judges,] ‘Mr. So and so, you are liable. Mr. So and so, you are innocent.’”
- C. Said Rab, “The decided law accords with the view of R. Joshua b. Qorha.”
- D. *Is this the case? And lo, R. Huna was a disciple of Rab, and when litigants would come before R. Huna, he would say to them, “Do you want me to judge the case or to arbitrate it?”* [Schachter, p. 24, n. 5: Hence we see that Rab does not favor R. Joshua b. Qorha’s opinion, as it is unlikely that Huna, the disciple, would deviate from the ruling of the master].”

II.19 A. *What is the sense of “religious duty” as it was used by R. Joshua b. Qorha?* **[7A]** *It is a religious duty to say to them, “Do you want me to judge the case or to arbitrate it?”*

- B. *If so, then what we have is nothing other than the opinion of the first authority [who favors arbitration].*
- C. *At issue between them is whether or not it is a religious duty.*
- D. R. Joshua b. Qorha maintains that it is a religious duty.
- E. The first Tannaite authority maintains that it is merely an option.
- F. *But that is the position of R. Simeon b. Menassia .*
- G. *At issue between them is the rule prevailing once one has heard the claims of both parties and knows to which side the judgment will incline. At that point, you are not permitted to say to them, "Go and arbitrate the matter."*

II.20 A. *There is a difference of opinion [concerning Psa. 10:3, cited above] on the part of R. Tanhum bar Hanilai. R. Tanhum bar Hanilai has said, "The cited verse of Scripture speaks only with regard to the making of the Golden Calf. For it is said, 'And when Aaron saw it, he built an altar before it' (Exo. 32: 5)."*

B. What did he see?

C. *Said R. Benjamin bar Japheth said R. Eleazar, "He saw Hur slain before him. He reasoned, 'If I do not listen to them, they will do to me what they did to Hur, and in me will be carried out the verse of prophecy, "Shall the priest and the prophet be slain in the sanctuary of God" (Lam. 2:20), and they will never have a remedy. It is better that they make the calf, since they may find a remedy in repentance.'"*

II.21 A. *Now as to the other Tannaite authorities [cited above, who favor arbitration even after a case has been heard], how do they interpret the verse, "The beginning of strife is as one that lets out water" (Pro. 17:14)?*

B. *They explain it in accord with the view of R. Hamnuna.*

C. For R. Hamnuna said, "The beginning of a person's judgment comes with the issue of study of Torah, for it is said, 'The beginning of judgment concerns the letting out of water' [and water stands for Torah]."

D. *Said R. Huna, "Strife is compared to a rush of water, that gets broader as water pushes through."*

E. *Abbaye the Elder said, "It is like [Schachter:] planks of a wooden bridge; the longer they lie, the firmer they grow."*

II.22 A. *There was a man who went around saying, "Happy is the one who hears [something] and remains indifferent. A hundred evils pass him by."*

B. *Said Samuel to R. Judah, "A verse of Scripture is written along these same lines: 'He who lets out water [of strife] causes the beginning of judgment' (Pro. 17:14). [The numerical value of the Hebrew letters for the word for judgment is a hundred], thus, it is the beginning of a hundred evils."*

C. *There was a man who went around saying, "For two or three acts of theft, the criminal is not put to death [but he ultimately will be caught]."*

- D. *Said Samuel to R. Judah, "There is a pertinent verse of Scripture: 'So says the Lord, For three transgressions of Judah but for four I will not reverse [the judgment]' (Amo. 2: 6)."*
- E. *There was a man who went around saying, "There are seven pits open for the good man, [who escapes them all], but one suffices for an evil-doer."*
- F. *Said Samuel to R. Judah, "There is a pertinent verse of Scripture: "The righteous man falls seven times but rises up again' (Pro. 24:16)."*
- G. *There was a man who went around saying, "When you go forth from a trial, take your cloak, sing a song, and go your way."*
- H. *Said Samuel to R. Judah, "There is a pertinent verse of Scripture: 'And all this people also [Schachter: including the losers] shall come to their place in peace' (Exo. 18:23)."*
- I. *There was a man who went around saying, "The woman sleeps and her basket falls."*
- J. *Said Samuel to R. Judah, "There is a pertinent verse of Scripture: 'By laziness the rafters sink in' (Qoh. 10:18)."*
- K. *There was a man who went around saying, "The man [Schachter:] on whom I relied raised his club against me."*
- L. *Said Samuel to R. Judah, "There is a pertinent verse of Scripture: 'Yes, mine own familiar friend, in whom I trusted and who ate my bread, has lifted up his heel against me' (Psa. 41:10)."*
- M. *There was a man who went around saying, "When our love was strong, we could sleep on the blade of a sword. Now that our love is not strong, a bed sixty cubits wide is not enough for us."*
- N. *Said R. Huna, "There are pertinent verses of Scripture. In the beginning, it is written, 'And I will meet with you and speak with you from above the ark cover' (Exo. 25:22). And it is taught on Tannaite authority: The ark was nine handbreadths high and the cover a handbreadth, so ten in all. Then it is written, 'As for the house which king Solomon built for the Lord, the length of it was three score cubits, the breadth twenty, the height thirty' (1Ki. 6: 2).*
- O. *"But in the end it is written, 'Thus says the Lord, The heaven is my throne and the earth my footstool. Where is the house that you can build for me' (Isa. 66: 1)."*

II.23 A. *How do we know that the word [translated above as] "be afraid" also can stand for "gather in"?*

- B. *Said R. Nahman, "Scriptures has said, 'You shall not drink of the wine, nor gather in the grapes' [using the same root] (Deu. 28:39)."*
- C. *R. Aha bar Jacob said, "Proof derives from here: 'She provides her bread in the summer and gathers [using the same root] her food in he harvest' (Pro. 6: 8)."*

- D. *R. Aha, son of R. Iqa, said, "Proof derives from here: 'A wise son gathers in summer' (Pro. 10: 5)."*

In Praise of Justice and True Judges

- II.24** A. Said R. Samuel bar Nahmani said R. Jonathan, "Every judge who renders a true and faithful judgment brings the Presence of God to rest on Israel, as it is said, 'God stands in the congregation of God, in the midst of the judges he judges' (Psa. 82: 1)."
- B. "And every judge who does not render a true and faithful judgment drives the Presence of God to abandon Israel, as it is said, 'Because of the oppression of the poor, because of the sighing of the needy, now will I arise, says the Lord' (Psa. 12: 6)."
- C. And R. Samuel bar Nahmani said R. Jonathan said, "From every judge who unjustly takes something from one party and assigns it to the other, the Holy One, blessed be he, takes away his life, as it is said "Do not rob from the poor because he is poor, nor oppress the afflicted in the gate, for the Lord will plead their cause and will despoil of life those who despoil them' (Pro. 22:22-23)."
- D. And R. Samuel bar Nahmani said R. Jonathan said, "A judge should always imagine that a sword is hanging between his loins [ready to cut him into two], and Gehenna is open beneath him, [7B] as it is said, 'Behold, it is the litter of Solomon [Schachter: standing for the presence of God], and round about it are three score of the mighty men of Israel [disciples of sages]; they all handle the sword and are expert in war, and every man has his sword upon his flank because of the dread of night' (Son. 3:7-8) — the dread of Gehenna, which is like the night."
- II.25** A. *R. Josiah, and some say. R. Nahman bar Isaac, gave an exposition, "What is the meaning of the verse of Scripture, 'O house of David, thus says the Lord, Execute justice in the morning and deliver the spoiled out of the hand of the oppressor' (Jer. 21:12)?*
- B. "Now is it only in the morning that judges work, and do they not work throughout the day?"
- C. "But if a matter is clear to you as the morning light, then state it, and if not, do not state it."
- D. *R. Hiyya bar Abba said R. Jonathan said, "Proof derives from here: 'Say to wisdom, You are my sister' (Pro. 7: 4). If the matter is as clear to you as is the fact that your sister is forbidden to you, then say it, and if not, do not say it."*
- II.26** A. Said R. Joshua b. Levi, "When ten judges go into session to judge a case, an iron chain is hanging on the neck of all of them [since responsibility for the decision is shared equally by them]."
- B. *That is self-evident.*
- C. *No, it was necessary to make it explicit, only to deal with the case of a disciple who is in session before his master.*
- D. *When a case would come to R. Huna, he would call and bring together ten rabbis from he house of a master, saying "It is so that each should carry chips from the beam."*

- E. *When a case involving a disqualified beast [brought by a slaughterer for evaluation] came to R. Ashi, he would call and bring together all of the slaughterers of Mata Mehassia, saying, "It is so that each would carry chips from the beam."*

II.27 A. *When R. Dimi came, he said that R. Nahman bar Kohen gave an interpretation, "What is the meaning of that which is written, 'The king by justice established the land, but he who loves gifts overthrows it' (Pro. 29: 4)?"*

- B. *"If the judge is like a king, who needs nothing [from anyone else but knows the law on his own], he will establish the land. But if the judge is like a priest who goes begging at the threshing places [to collect the priestly gifts], he will destroy it."*

II.28 A. *The administration of the patriarchate appointed a judge who had not studied the law. They said to Judah bar Nahmani, the spokesman for R. Simeon b. Laqish, "Stand at his side as the spokesman [who repeats in a loud voice what the master wishes to say to the assembled throng]."*

- B. *He arose and bent down to him [to hear what he wished to say], but the unqualified man said nothing.*

C. *He [Judah] commenced, saying, "'Woe to him who say to wood, 'Awake! and to the dumb stone, 'Arise!' Can this teach? Behold it is overlaid with gold and silver, and there is no breath at all in the midst of it' (Hab. 2:19).*

- D. *"The Holy One, blessed be he, is going to exact punishment from those who set [up such as this], as it is written, 'But the Lord is in his holy Temple, let all the earth keep silent before him' (Hab. 2:19)."*

II.29 A. *Said R. Simeon b. Laqish, "Whoever appoints a judge who is unworthy is as if he plants an asherah in Israel.*

- B. *"For it is said, 'Judges and offices shall you appoint' (Deu. 16:18), and, nearby, 'You shall not plant an Asherah of any kind of tree' (Deu. 16:19)."*

C. *Said R. Ashi, "And if one does so in a place in which there are disciples of sages, it is as if he planted it right next to the altar, for it is said, 'Beside the altar of the Lord your God' (Deu. 16:19)."*

II.30 A. *It is written, "You shall not make with me gods of silver or gods of gold" (Exo. 20:23). *Gods of silver and gods of gold are what one may not make, but is it permitted to make ones of wood?**

- B. *Said R. Ashi, "The verse refers to a judge who comes on account of silver or a judge who comes on account of gold."*

II.31 A. *When Rab would come to court, he would say this, "With a bitter soul he goes forth to death. The needs of his house he has not attended to. He goes home empty-handed. Would that his coming home should be as is his going forth."*

- B. *When he would see a crowd following him, he would say, "'Though his excellence mount up to the heavens and his head reach unto the clouds, yet shall he perish forever, like his own dung' (Pro. 27:24)."*

II.32 A. *When on the Sabbath that coincided with a festival people would lift up Mar Zutra the Pious onto their shoulders, he would say this, "'For riches are not for ever nor does the crown endure for all generations' (Pro. 27:24)."*

II.33 A. *Bar Qappara gave an exposition, “Whence in Scripture do we derive the basis for the rabbis’ saying, Be deliberate in judgment [M. Abot 1:1]?”*

- B. “As it is written, ‘Neither shall you go up by steps upon my altar’ (Exo. 20:26). Next comes the verse, ‘And these are the judgments’ (Exo. 20:27). [Schachter, p. 30, n. 7: The juxtaposition shows that for judgments one should proceed slowly and avoid large paces, as one does on ascending the altar.]”
- C. Said R. Eliezer, “How on the basis of Scripture do we know that a judge should not trample over the heads of the holy people?”
- D. “As it is said, ‘Neither shall you go up by steps upon my altar’ (Exo. 20:26), and next comes the verse, ‘And these are the judgments’ (Exo. 20:27).”
- E. “These are the judgments which you shall set before them” (Exo. 20:27).
- F. *What is required is*, “which you shall teach them.”
- G. *Said R. Jeremiah, and some say, R. Hiyya bar Abba, “This refers to the tools of the judges’ craft.”*
- H. *When R. Huna would go in to take up a case, this is what he said, “Bring out the tools of my craft: the rod, the strap, the ram’s horn, and the sandal [for flogging, administering the thirty-nine stripes, the rite of excommunication, and the rite of removing the shoe (Deu. 25:5-10), respectively].”*

II.34 A. “And I shall command your judges at that time” (Deu. 1:16):

- B. Said R. Yohanan, “This concerns the rod and strap, to be used cautiously.”
- C. “Hear the causes between your brothers and judge righteously” (Deu. 1:16):
- D. Said R. Hanina, “This is a warning to the court not to listen to the claim of one litigant before the other comes to court, and a warning to the litigants not to plead before the judge before the other party comes to court. *The word for ‘hear’ may also be read ‘announce.’*”
- E. *R. Kahana said, “Proof derives from here, ‘You shall not take up a false report,’ (Exo. 23: 1) may be read, ‘Do not mislead’ [Schachter, p. 31, n. 10: with reference to the litigant, that he should not attempt to win over the judge to his side by stating his case in the absence of his adversary].”*
- F. “You shall judge righteously” (Deu. 1:16):
- G. R. Simeon b. Laqish said, “First of all make sure the judgment is accurate, and then pronounce it.”
- H. “Between a man and his brother” (Deu. 1:16):
- I. Said R. Judah, “Even in cases such as dividing a house from an upper room.”
- J. “And the stranger that is with him” (Deu. 1:16):
- K. Said R. Judah, “Even a case involving division of an oven and a cooking stove.”
- L. “You shall not show recognize persons in judgment” (Deu. 1:16):
- M. R. Judah says, “You shall not recognize anyone.”
- N. R. Eleazar says, “You shall not treat anyone as a stranger [Schachter: even if he is your enemy].”
- O. *The landlord of Rab came before him with a case. he said to him, “Are you not my landlord?”*
- P. *He said to him, “Yes.” [The man continued,] “I have a case for trial.”*

- Q. *He said to him, “ [8A] I am disqualified to judge a case for you.”*
- R. *Rab said to R. Kahana, “Go, judge his case.” [Kahana] saw that the man was behaving presumptuously toward him. He said to him, “If you pay attention, well and good, but if not, I shall remove Rab from your mind.”*
- S. *“You shall hear the small and the great alike” (Deu. 1:17):*
- T. *Said R. Simeon b. Laqish, “It means that you should regard as equally valuable a case involving a penny and one involving a great fortune.”*
- U. *What is the practical use of the law? If I should say that it means one should pay close attention to the case and produce a valid judgment, that is self-evident. Rather, it means to give the case priority [if its turn should come up].*
- V. *“You shall not be afraid before anyone, for judgment is God’s” (Deu. 1:17):*
- W. *Said R. Hama, son of R. Hanina, “Said the Holy One, blessed be he, ‘It is not enough for the wicked judges unjustly to take money from this one and hand it over to that one, but they impose upon me the trouble of retrieving the money and handing it back to its rightful owner.’”*
- X. *“And the case that is too hard for you, bring to me” (Deu. 1:17):*
- Y. *Said R. Hanina, and some say, R. Josiah, “For saying this thing Moses was punished.*
- Z. *“For it is said, ‘And Moses brought their cause before the Lord’ (Num. 27: 5).”*
- AA. *To this point R. Nahman bar Isaac objected, “Is it written, ‘And I shall announce it’? What is written is, ‘I shall hear it,’ meaning, if I have learned the applicable law, I have learned it, and if not, I shall go and learn it.”*
- BB. *Now [the case of the daughters of Zelophehad involves] that which has been taught on Tannaite authority:*
- CC. **The pericope of inheritance was suitable to have been written in behalf of Moses, our Master, but the daughters of Zelophehad had the merit that it should be written in their behalf.**
- DD. **The pericope of the wood-gatherer [Num. 15:32] was suitable to have been written in behalf of Moses, our master, but the wood-gatherer was so condemned that it was written on his account.**
- EE. **This serves to teach you that [Schachter] evil is brought about through the agency of sinful men, and good through that of worthy men [T. Yoma 4:12].**
- FF. *It is written: “And I commanded you judges at that time” (Deu. 1:16) and it is written,” I commanded you at that time” (Deu. 1:18).*
- GG. *Said R. Eleazar said R. Simlai, “The first constitutes a warning to the community that reverence for the judge should govern them, and a warning to the judge to bear the burden of the community.”*
- HH. *To what extent?*
- II. *Said R. Hanan, and some say, R. Shabbetai, “‘As the nursing father carries the sucking child’ (Num. 11:12).”*
- JJ. *It is written, “You [Joshua] must go with this people” (Deu. 31: 7), and it is written, “For you shall bring the children of Israel” (Deu. 31:23). [In the first instance, Joshua is equal to the people, in the second, he is leader (Schachter)].*

- KK. Said R. Yohanan, "Said Moses to Joshua, 'You and the elders of the generation with them [shall be equal].'"
- LL. "Said the Holy One, blessed be he, 'Take a staff and browbeat them [to show your authority]. A generation has a single spokesman, not two.'"

II.35 A. *It has been taught on Tannaite authority:*

- B. A summons is by the authority of three.
- C. *What is the meaning of "summons"?*
- D. *If you wish to propose that reference is made to the call to say Grace, has it not been taught on Tannaite authority: "The summons and the call to say Grace are done by a quorum of three." And if you propose that the meaning of the Tannaite teaching, is to provide a secondary expansion of the first clause, thus, "What is a summons? it is a summons to say Grace after Meals," has it not been taught, "A summons is on the authority of three, and the summons to say Grace after Meals is on the authority of three"? Therefore, what is the sense of "summons" [in the Tannaite citation with which we began]?*
- E. It is a summons to court.
- F. *It would be illustrated by what Raba said, "If a court of three judges is in session, and the bailiff goes for the court and issues his summons in the name of only one of the judges, he has said nothing. [His summons is effective] only if he speaks in the name of all of them."*
- J. *That rule applies on a day on which a court is not in session. But on a day on which a court is in session, we have no objection [to a summons in the name of one judge only]."*

III.1 A. Cases involving twofold restitution [M. 1:1C]:

- B. R. Nahman bar Hisda sent word to R. Nahman bar Jacob, "May our master instruct us.
- C. "As to cases involving the imposition of penalties [fines], how many judges are required?"
- D. *What question did he raise before him? Lo, we have learned in the Mishnah: **It is with three judges [M. 1:1C].***
- E. *What he was asking him was about the power of an individual who was a certified expert. May such a person by himself judge a case involving penalties, or may he not do so?*
- F. *He said to him, "You have learned to repeat the passage as follows: **Cases involving twofold, four-fold and fivefold restitution are judged by three.***
- G. *"What is the sense of three? Should I say it is done by three ordinary persons? Has not the father of your father stated in the name of Rab, 'Even ten men who are common folk are disqualified to judge cases involving penalties'? Accordingly the passage must speak of certified expert. And it has specified that they too must be three."*

IV.1 A. "...cases involving him who rapes, him who seduces, and him who brings forth an evil name (Deu. 22:19), by three," the words of R. Meir. And sages say, "He who brings forth an evil name is tried before twenty-three, for there may be a capital case." [M. 1:1EA-F]:

- B. *And should a case involving a case involving a capital crime come forth, what difference would it make?* [Schachter, p. 34: Since there are no witnesses yet known to be available to corroborate the husband's suspicion, is it not merely a monetary case, involving only the payment of the marriage-settlement?]
- C. *Said Ulla, "At issue is whether or not we take account of the effect of the husband's gossip. [Schachter, p. 35, n. 1: As soon as the charge is made before the court, the report might be bruited, and witnesses, of whom the husband may at the moment be unaware, may come to support it, the charge thus becoming capital.] R. Meir takes the view that we do not take account of the possibility of gossip, [with the result that we do not suppose unknown witnesses may come forth later on.]. Sages take the view that we do take into account the possibility of gossip."*
- D. *Raba said, "All parties concur that we do not take account of the possibility of gossip [with the result that we also do not concern ourselves with the possibility that witnesses will come forth to turn it into a capital case]. At issue is whether we take account of the honor owing to the judges who were appointed at the outset [in the concern that we may have a capital case, but then dismissed later on when it turns out that we have only a property case, concerning payment of the marriage-settlement]. In what sort of case do we concern itself? In one in which a court of twenty-three judges is assembled to judge a capital case [that may be in hand], and then [when the witnesses on a capital crime do not materialize], the court breaks up. The plaintiff then claims, Let three at any rate say to judge the property claim at hand. [Schachter: The sages, in order to protect the dignity of those judges who would have left, require them to reassemble, while R. Meir does not hold this view.]"*
- E. **[8B]** *An objection was raised: And sages say, "He who brings forth an evil name [M. 1:1E], in a case in which one lays claim concerning money, is judged by three; [in a case in which the issue is] capital punishment, it is before twenty-three" [cf. M. 1:1F] [T. San. 1:ZE-G]. Now, to the position of Raba the cited passage poses no problem. If the case involved a claim for money to begin with, a court of three judges hears it. If the case involved a capital crime to begin with, even if in the end it deals only with a property claim, the case must be heard by twenty-three judges. But it poses a problem to Ulla [for in Ulla's view, rabbis' take account of the husband's suspicions alone as involving a capital charge (Schachter, p. 36, n. 9)].*
- F. *Said Raba, "I and the lion of the club explained the matter — and who is that? It is R. Hiyya bar Abin — in the following way: Here with what case do we deal? It is one in which the husband brought witnesses to testify that the wife had committed adultery, and the father [successfully] brought witnesses to prove that the husband's witnesses were perjurers. When the husband comes to collect the property claim from the husband [who now owes the value of the marriage-contract, which he had sought to gain through the perjury], the case is tried with by a court of three judges. But as to the capital charge, twenty-three judges [try the case]."*
- G. *Abbayye said, "All parties concur that we do take account of the effect of the gossip of the husband, and we further take account of the honor owing to the first*

*judges [who make up the court of twenty-three]. With what sort of case do we deal here? It is with a case in which [before the woman committed adultery, she was] warned without specification [as to the form of the death-penalty she would receive if she committed the act she planned]. [Why only three judges are required in Meir's view is now to be specified. He concurs with Yosé b. R. Judah.] The Tannaite authority at hand [opposed to Meir] concurs with that which has been taught on Tannaite authority: **As to all others liable to the death-penalty imposed by a court as listed in the Torah, they convict them only on the testimony of witnesses, after warning, and after they inform him that [what he is going to do] subjects him to liability to the death-penalty in court. R. [Yosé b. R.] Judah says, 'Only if they will inform him specifically of the sort of death-penalty to which he will be subjected,' [T. San. 11:1A-C].** [Thus, in the case at hand, the woman will not be liable to the death-penalty, so the appropriate court is one that deals only with the property claim]."*

- H. *R. Pappa said, "Here we deal with a woman who is in the status of an associate [knowledgeable in the law], and at issue is the dispute between R. Yosé b. R. Judah and rabbis. For it has been taught on Tannaite authority: R. Yosé b. R. Judah says, 'An associate [knowledgeable in the law] does not require suitable admonition [prior to a crime, so as to render him liable to punishment], because admonition is demanded only to permit a distinction between one who does the deed unknowingly and the one who does it knowingly [and the associate surely will know the law and therefore needs not be told the specific form of the death-penalty to which he will become liable should he commit the act in prospect].'"*
- I. *R. Ashi said, [9A], "We deal with a case in which people gave a warning to the woman that she would be liable to a flogging but did not warn her that she would be liable to the death-penalty. And at issue is the dispute between R. Ishmael and rabbis. For we have learned in the Mishnah: **Cases involving the penalty of flogging are before a court of three judges. In the name of R. Ishmael they said, 'Before one of twenty-three judges.'** [M. 1:2A-B]."*
- J. *Rabina said, "At issue is a case in which one of the witnesses against the woman turns out to be a relative or otherwise invalid. And the dispute concerns what is debated between R. Yosé and Rabbi in regard to the position of R. Aqiba. For we have learned in the Mishnah: R. Aqiba says, 'The mention of the third [witness] is only to impose upon him a strict rule and to treat the rule concerning him as the same as that applying to the other two. And if Scripture has imposed a punishment on someone who gets involved with those who commit a transgression precisely equivalent to that which is imposed on those who themselves commit the transgression, how much the more so will [Heaven] pay a just reward to the one who gets involved with those who do a religious duty precisely equivalent to that which is paid to those who themselves actually do the religious duty!'"* *Just as, in the case of two [witnesses], if one of them turns out to be a relative or otherwise invalid, the testimony of both of them is null, so in the case of three [if] one of them turns out to be a relative or otherwise invalid, the testimony of all three of them is null. How do we know that the same rule applies even in the case of a hundred? Scripture says, 'Witnesses.' Said R. Yosé, 'Under what*

circumstances? In the case of trials for capital crimes. But in the case of trials in property litigations, the testimony may be confirmed with the remaining [valid witnesses].’ Rabbi says, ‘All the same is the rule governing property cases and capital cases.’ This is the rule when [both witnesses] warned the transgressor. But if they had not joined in warning the transgressor, what [9B] should two brothers do who saw someone commit homicide? [M. **Mak. 1:7-L,1:8**].”

- K. *Or, if you prefer, I shall propose that the case at hand is one in which others [than the actual witness] admonished the woman, but the witnesses to the deed did not admonish the woman. And at issue is the dispute of R. Yosé and rabbis, as we have learned in the Mishnah: “R. Yosé says, ‘Under no circumstances is one put to death unless both witnesses against him have admonished him, as it is said, ‘At the testimony of two witnesses’ (Deu. 17: 6). [M. **Mak. 1:9F-G**].*
- N. *And if you prefer, I shall propose that the case at hand is one in which the witnesses were contradicted during the cross-examination [Schachter:] regarding accompanying circumstances but corroborated each other during cross-examination [on such matters as date, time, and place]. At issue, then is the dispute between Ben Zakkai and rabbis. For we have learned in the Mishnah: **There was a precedent in which Ben Zakkai investigated [the witnesses] by asking about the stalks of figs [that were on the tree under which the crime had been committed] [M. **San. 5:2B**].”***

- IV.2** A. Said R. Joseph, “If the husband brought witnesses that the wife had committed adultery, and the father brought witnesses who proved the husband’s witnesses to be perjurers, the witnesses who had testified in behalf of the husband are put to death, but they do not have to pay monetary compensation [for the loss of the marriage-contract that they had conspired to cause to the wife’s family.] If the husband then went and brought witnesses who proved the father’s witnesses to have been perjurers, the witnesses who had testified in behalf of the father are put to death but they also have to pay monetary compensation [to the husband, for having conspired to force him to pay off the marriage-settlement]. That is, they pay monetary compensation to this one [the husband] and are put to death on account of that one [the earlier witnesses].”
- B. And R. Joseph said, “If someone testified, ‘Mr. So-and-so had sexual relations with Mr. Such-and-such against the latter’s will, the victim and another party may join together to give testimony to have the criminal put to death. If he testified that it was with the assent of the victim, then the victim is wicked, and the Torah has said, ‘Do not put your hand with the wicked to be an unrighteous witness’ (Exo. 23: 1).”
 - C. Raba said, “A person is regarded as related to himself [for the purpose of giving testimony, and, consequently, someone may not so testify as to convict himself.] [Hence, the victim’s testimony about himself is null, and he may testify against the perpetrator.] [Schachter, p. 39, n. 7: Consequently, his evidence is valid only with regard to the criminal but not to himself, on the principle that we consider only half of his testimony as evidence.]”
 - D. Said Raba, “[If someone testified,] ‘[10A] ‘Mr. So-and-so has had sexual relations with my wife,’ he and another party may join together to form the requisite number

of witnesses to impose the death-penalty on the adulterer, but not to impose the death-penalty on the wife.”

- E. *Of what fact does Raba thereby propose to inform us? Is it that we recognize a division in what a person says [and so accept testimony so far as it affects one party, but not so far as it affects another]? That is what he has just said [in the case of the sodomist].*
- F. *What might you have supposed? That a person is regarded as related to himself is a principle we invoke for the person himself, but not for his wife? So we are informed [that the same principle applies to his wife].*
- G. And Raba said, “[If witnesses testified,] ‘So-and-so has had sexual relations with a betrothed girl,’ and the witnesses were proved to be perjurers, they are put to death, but they do not have to make monetary restitution to the accused [who, if found guilty, would have lost the value of the marriage-settlement that was coming to her]. [If they had testified,] ‘Mr. So-and-so’s daughter...,’ and were proven to be perjurers, they are put to death but also have to pay monetary compensation. They pay monetary compensation to the one party and are subjected to the death-penalty on account of the other party.”
- H. And Raba said, “[If witnesses testified,] ‘Mr. So-and-so committed an act of bestiality with an ox,’ and the witnesses are proven to be perjurers, they are put to death but do not have to pay monetary compensation [for the death of the ox]. ‘It was with the ox belong to Mr. So-and-so,’ if they are shown to be perjurers, they are put to death and have to pay monetary compensation. monetary compensation on this one’s account, death on that one’s account.”
- I. *But why is it necessary to provide yet another example? The same point is made in both instances.*
- J. *[Raba framed the present case] to deal with the following question. For Raba raised the following question, “[If someone testified,] ‘Mr. So-and-so committed an act of bestiality with my ox,’ what is the law? Do we maintain that a man is regarded as related to himself [for purposes of testimony, in which case, as we saw above, he may not testify to his own disadvantage], but a person is not regarded as related with regard to his property [so in the latter case, he may indeed give valid testimony as to what has taken place with his ox]? Or do we maintain that a person is regarded as related to his property?”*
- K. *After he had raised the question, he went and settled it: “A person is regarded as related to himself but a person is not regard a regarded as related to his property.”*

V.1 A. Cases of flogging [are tried by a court of] three judges [M. 1:2A]:

- B. *What is the scriptural source for this rule?*
- C. Said R. Huna, “Scripture says, ‘[The judges] judge them’ (Deu. 25: 1), the plural refers to two judges, and since a court cannot have an even number of judges, they add an additional one to the court, making three in all.”
- D. *If so, then take up the following words in the same verse, “... acquitting the innocent and condemning the guilty” (Deu. 25: 1). [Since the plural is used in both*

verbs,] shall we then say that, “acquitting” demands two more judges, and “condemning” yet two more, requiring a court of seven in all?

- E. *The cited language is needed to deal with the point of Ulla. For Ulla has said, “Whence in the Torah do we find an allusion to the disposition of perjured witnesses?”*
- F. *An allusion to the disposition of perjured witnesses?! Lo, it is written, “Then you shall do to him as he had proposed by perjury to do to his brother” (Deu. 19:19)!*
- G. *Rather, the question must be, “Whence in the Torah do we find an allusion to the fact that perjured witnesses are to be flogged?”*
- H. *“As it is written, ‘... acquitting the innocent and condemning the guilty...’ (Deu. 25: 1). [The verse continues, ‘then if the guilty man deserves to be beaten, the judge shall cause him to lie down and be beaten...’ (Deu. 25: 2). In the assumption that the reference to acquitting and condemning refers to the judges, we ask:] Merely because the judges ‘justify the righteous and condemn the wicked,’ does it follow that ‘the guilty man deserves to be beaten’? [Schachter: The text cannot therefore refer to judges,] so the case must be as follows: *We deal with witnesses whose testimony has convicted a righteous man, and other witnesses have come along and vindicated the righteous man to begin with and so turned the other witnesses into wicked men. In this case: ‘If the guilty man deserves to be beaten, the judge shall cause him to lie down and be beaten...’ (Deu. 25: 2R).’**
- I. *But why not derive the same proposition from the commandment, “You shall not bear false witness” (Exo. 20:16)?*
- J. *Because [at Exo. 20:16] you have a negative commandment in which no deed is done, and in the case of any negative commandment in which no concrete deed is carried out, you do not inflict flogging. [Hence the proof is required as given, for the proposed proof-text will not serve.]*

VI.1 A. In the name of R. Ishmael they said, “By twenty-three” [M. 1:2B].

- B. *What is the scriptural basis for the position of R. Ishmael?*
- C. *Said Abbaye, “It derives from establishing an analogy on the basis of the use of the same word, ‘guilty party,’ in two contexts, the present one and the one involving those who are condemned to be put to death. Here it is written, ‘If the guilty man deserves to be beaten’ (Deu. 25: 2), and elsewhere, ‘Who is guilty of death’ (Num. 35:31). Just as in that latter case the court that imposes the penalty must be made up of twenty-three judges, so here a court of twenty-three judges is required.”*
- D. *Raba said, “Flogging comes instead of the death-penalty.”*
- E. *Said R. Aha, son of Raba, to R. Ashi, “If so, what need is there, in the case of a flogging, to make an estimate of the victim’s health [to see whether or not he can take the flogging]? Let him be flogged, and if he dies, he dies [since the flogging is a form of the death-penalty in any event.]”*
- F. *He said to him, “Scripture has said, ‘Then your brother should be dishonored before your eyes’ (Deu. 25: 3). This means that, when the flogging is given, it is given to someone who is alive.”*

- G. *But lo, as to that which has been taught on Tannaite authority: If the physicians have estimated that he can take twenty stripes, they impose on him only a number of stripes that is divisible by three, and how many would that be? It is eighteen [T. Mak. 4:0 12]. [10B] But why not give him twenty-one, for, if he should perish because of the twenty-first lash, he still would be alive when it was inflicted?*
- H. He said to him, “Scripture has said, ‘Then your brother will be dishonored before your eyes’ (Deu. 25: 3), meaning, after he has been flogged, he must remain your brother in your sight, and that would not be the case [if he should die at the end of the twenty-first lash].”

VII.1 A. The decision to intercalate the month is before a court of three judges [M. 1:2C]:

- B. *The word choice of the Mishnah-sentence at hand is not “calculation” [of the time at which the new month begins], let alone “sanctification” [of the new month, when it begins], but rather “intercalation” [of the new month]. Let the court not sanctify [the new month on the thirtieth day], and then, on its own, it will be automatically intercalated. [Schachter, p. 42, n. 4: The commencement of the month was dated from the time when the earliest visible appearance of the new moon was reported to the sanhedrin. If this happened on the thirtieth day of the current month, that month was considered to have ended on the preceding day, the twenty-ninth, and was called deficient. But if not, announcement was made on the thirtieth day, that day was reckoned to the current month, which was then called full, and the ensuing day was considered the first of the next month.] [Why we do not speak of the calculation as to the months to be intercalated or given an additional day, since in given year, no fewer than four months nor more than eight months could be full. Again, we ask why the formal “sanctification” of the new moon by proclamation on the thirtieth day is not mentioned.]*
- C. *Said Abbaye, “Repeat the language of the Mishnah in the form: **Sanctification of the new month** [rather than intercalation, to deal with the foregoing question]. So too it has been taught on Tannaite authority: “**The sanctification of the new month and the intercalation of the year are done by a court of three judges, the words of R. Meir [T. San. 2:1A].**”*
- D. *Said Raba, “But lo, the language of the Mishnah is ‘intercalation.’”*
- E. *Rather said Raba, “The sense of the passage is that the sanctification of the new month takes place on the day of intercalation, in a court of three judges. After the day on which intercalations takes place, there is no further rite of sanctification. And whose opinion is before us? It is R. Eleazar b. Sadoq. For it has been taught on Tannaite authority: **R. Eleazar b. Sadoq says, ‘If the new moon did not appear at its proper time, they do not conduct a rite of sanctification for it, for we take for granted that in Heaven they already have conducted the rite of sanctification of the new moon.’**” [M. R.H. 2:7].”*
- F. *[Proposing a different view of the sense of the passage from that proposed by Raba,] R. Nahman said, “The rite of sanctification of the new moon takes place after the declaration of intercalation of the new month, in a court of three judges. No rite of sanctification takes place on the day on which the intercalation is pronounced. And whose view is this? It is that of Pelimo. For it has been taught*

on Tannaite authority: Pelimo says, ‘[If the new moon has appeared] at the proper time, they do not conduct a rite of sanctification for it. If it was not in its proper time, they do conduct a rite of sanctification for it.’”

- G. *R. Ashi said, “The upshot is that the language of the Mishnah refers to the calculation of the new month, and what is the sense of ‘intercalation’? It is, ‘calculation [of whether or not the month is to get an extra day]’ And [the reason that intercalation is the word used is that], since the framer of the passage planned to make reference to the intercalation of the year, he framed the passage to refer, also to the intercalation of the month. What follows is that the calculation of the month requires court action, but the sanctification of the month does not. And in accord with whom is this position? It is in line with the view of R. Eliezer, as it has been taught on Tannaite authority: R. Eliezer says, ‘Whether the new moon appears at the expected time or not at the expected time, it is not to be subjected to a rite of sanctification.’ “For it has been said in Scripture, “you shall sanctify the fiftieth year” (Lev. 25:10), which bears the implication that while you sanctify years, you are not to sanctify months.”*

VIII.1 A. Rabban Simeon b. Gamaliel says, “With three [do they begin to intercalate the year, with five more they debate the matter, and they reach a final decision with seven judges. But if they reached a decision to intercalate the year with three judges, the year is intercalated]” [M. 1:2E-F]:

- B. *It has been taught on Tannaite authority:*
- C. **How is a case in which, as Rabban Simeon b. Gamaliel has said, “With three do they begin to intercalate the year, with five more they debate the matter, and they reach a final decision with seven judges”?**
- D. **[If] one says to go into sessions, and two say not to go into session, the opinion of the individual is null as a minority.**
- E. **[If] two say to go into session, and one says not to go into session — they add two more to their number and debate the matter [with five.]**
- F. **[If] two say that it requires intercalation, and three say that it does not require intercalation — the opinion of the two is null because it is a minority.**
- G. **[If] three say it requires, and two say it does not require [intercalation], then they add two more to their number.**
- H. **[B. lacks:] Then they reach a final decision with seven.”**
- I. **For a quorum may not be less than seven” [T. San. 2:1C-I]**
- J. *As to the numbers of three, five, and seven, what do they stand for?*
- K. *There is a dispute about that matter between R. Isaac bar Nahmani and one who was with him, and who was that? It is R. Simeon b. Pazzi. Some say it was R. Simeon b. Pazzi and one who was with him, and who was that? It was R. Isaac bar Nahmani.*
- L. One said, “They stand for the number of words in the three verses of the priestly benediction (Num. 6:24-26).”
- M. The other said, “They stand for ‘the three keepers of the threshold’ (2Ki. 25:18), ‘the five of those who saw the king’s face’ (2Ki. 25:19), and the seven ‘who saw the king’s face’ (Est. 1:14).”

- N. *R. Joseph repeated the matter on Tannaite authority, "The three, five, and seven, stand, respectively, for 'the three keepers of the threshold,' five 'who saw the king's face,' and seven 'who saw the king's face.'"*
- O. *Said Abbayye to R. Joseph, "Why did you not explain this reason to us until now?"*
- P. *He said to them, "I did not know that you were wondering about the matter. Did you ever ask me something which I refused to tell you?"*

VIII.2

- A. *Our rabbis have taught on Tannaite authority:*
- B. The year is intercalated only [11A] by people who are specifically appointed for that task.
- C. There was the case concerning Rabban Gamaliel. He announced, "Call up seven [qualified persons] to the upper room [to intercalate the year]. When he got up there, he found eight. He said, "Who is the one who came up without authorization? Let him go down."
- D. Samuel the younger got up and said, "I am the one who came up without authorization. I did not come up to intercalate the year, but it was only because I needed to learn how the law is actually carried out."
- E. He said to him, "Remain seated, my son, every year is worthy to be intercalated by you. But sages have ruled, 'The year is intercalated only by people who are specifically appointed for that task.'"

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- F. *In point of fact, it was not Samuel the younger, but it was someone else, and [Samuel] acted as he did to spare embarrassment to the other.*
- G. *There was the parallel incident, in which Rabbi was in session and giving an exposition. He smelled garlic. He said, "Who ate garlic? Let him go out."*
- H. R. Hiyya got up and left.
- I. All of the others got up and left too.
- J. The next day R. Simeon, son of Rabbi, found R. Hiyya. He said to him, "Are you the one who annoyed father yesterday [by eating garlic]?"
- K. He said to him, "Let not such a thing happen in Israel."
- L. *Where did R. Hiyya learn such conduct? He learned it from the case of R. Meir.*
- M. *For it has been taught on Tannaite authority:*
- N. There was the case of a woman who came to the study-house of R. Meir and said to him, "Rabbi, one of you betrothed me through an act of sexual relations [and I do not know which one it is, but I wish a divorce]."
- O. R. Meir stood up and wrote out for her a writ of divorce and gave it to her.
- P. All of those present got up and wrote out a writ of divorce for her and gave it to her.
- Q. *And where did R. Meir learn such behavior?*
- R. *He learned it from Samuel the younger.*
- S. *And where did Samuel the younger learn it?*
- T. *He learned it from Shecaniah, son of Jehiel.*

- U. For it is written, “And Shecaniah, son of Jehiel, one of the sons of Elam, answered and said to Ezra, We [including himself] have broken faith with our God and have married foreign women of the peoples of the land; yet now there is hope in Israel concerning this thing” (Ezr. 10: 2).
- V. *And where did Shecaniah, Son of Jehiel, learn it? He learned it from Joshua, as it is written, “The Lord said to Joshua, Get you up, wherefore, now, are you fallen upon your face? Israel has sinned” (Jos. 7:10-11).*
- W. He said before him, “Lord of the world, who has sinned?”
- X. He said to him, “Am I an informer? Go, cast lots.”
- Y. *And if you wish, I shall propose that he learned it from Moses, for it is written, “And the Lord said to Moses, How long will you refuse to keep my commandments and my laws” (Exo. 16:28) [Schachter, p. 46, n. 1: Though no blame was attached to Moses, he is included to spare the offenders from humiliation].*

VIII.3 A. *Our rabbis have taught on Tannaite authority:*

- B. **[In T.’s version, which has minor differences from B.’s:] When the latter prophets died, that is, Haggai, Zechariah, and Malachi, then the Holy Spirit came to an end in Israel.**
- C. **But even so, they made them hear [Heavenly messages] through an echo.**
- D. **One time [Sages] gathered together in the upper room of the house of Guria in Jericho, and a heavenly echo came forth and said to them, “There is a man among you who is worthy to receive the Holy Spirit, but his generation is unworthy of such an honor.”**
- E. **Sages all set their eyes upon Hillel the elder.**
- F. **And when he died, they said about him, “Woe for the pious man, woe for the humble man, the disciple of Ezra” [T. [Sot. 13:3](#)].**
- G. **Then another time they were in session in Yabneh and heard a heavenly echo saying, “There is among you a man who is worthy to receive the Holy Spirit, but the generation is unworthy of such an honor.”**
- H. **Sages set their eyes upon Samuel the younger.**
- I. **At the time of his death what did they say? “Woe for the pious man, woe for the humble man, the disciple of Hillel!”**
- J. **Also he said at the time of his death, “Simeon and Ishmael are destined to be put to death, and the rest of the associates will die by the sword, and the remainder of the people will be up for spoils.**
- K. **“After this, great disasters will fall.”**
- L. **Also concerning R. Judah b. Baba they ordained that they should say about him, “Woe for the humble man, woe for the pious man, disciple of Samuel the Small.” But the times did not allow it [T. [Sot. 13:4](#)].**
- M. **For people may not make a public lamentation for those put to death by the government.**

VIII.4 A. *Our rabbis have taught on Tannaite authority:*

- B. The year is intercalated only if the patriarch approves.
- C. **There is this precedent: Rabban Gamaliel went to ask for authorization from the government in Syria, and he did not come back right away, so they intercalated the year on the condition that Rabban Gamaliel would concur.**
- D. **And when he came back, he said, “I concur.”**
- E. **So the year turned out to be deemed to have been intercalated [M. [Ed. 7:7I-K](#)].**

VIII.5 *A. Our rabbis have taught on Tannaite authority:*

- B. **They intercalate the year only when it needs it,**
- C. **because of the [condition of] the roads,**
- D. **because of the bridges,**
- E. **because of the passover ovens,**
- F. **and because of the residents of the Exile, who have left home and not been able to reach [Jerusalem].**
- G. **But they do not [intercalate the year] because of snow, cold, or the Exiles who have not year set out [for the pilgrimage].**
- H. **[T. adds:] But all of those factors do they treat as additional reason [for intercalating] the year. And if they intercalated they year [on these counts], lo, it is deemed intercalated [T. [San. 2:12](#)]**

VIII.6 *A. Our rabbis have taught on Tannaite authority:*

- B. **They do not intercalate the year because [the season of the] kids, lambs, or pigeons has not yet come.**
- C. **But in the case of all of them, they regard it as a support [for intercalating] the year.**
- D. **But if they declared the year to be intercalated [on the basis of their condition], lo, this is deemed intercalated [T. [San. 2:4](#)].**
- E. **How so?**
- F. **R. Yannai says in the name of Rabban Simeon b. Gamaliel who said [In Aramaic], “We inform you that the pigeons are tender and the spring lambs thin, and the spring season has not yet come,**
- G. **“and it is proper in my view, so I have added thirty days to this year” [T. [San. 2:5](#)].**
 - H. *An objection was raised [to the framing of G]: How long a span of time constitutes the intercalation of the year? Thirty days. Rabban Simeon b. Gamaliel says, “A month.” [How then can the foregoing assign to Simeon b. Gamaliel the language that it chooses?]*
 - I. *Said R. Pappa, “If people wish, they say, ‘A month,’ and if they wish, they say, ‘Thirty days.’”*
- J. *Come and take note of the difference between [\[11B\]](#) the arrogant ancients and the humble moderns. For it has been taught on Tannaite authority:*
- K. **Rabban Gamaliel and sages, were in session on the steps to the Temple.**
- L. **And Yohanan, the scribe, was before them, with three scrolls prepared before him.**

- M. [Gamaliel] said to [Yohanan], "Take one scroll and write:
- N. *"[In Aramaic]: 'To our brethren, residents of Upper Galilee and residents of Lower Galilee, May your peace increase. We inform you that the time for the removal has come, to set apart the tithes from the olive vats.'*
- O. *"Take the second letter and write: 'To our brethren, residents of the [upper south and residents of the lower] south, may your peace increase.' We inform you that the time for the removal has come, to set apart tithes from the sheaves of grain.'*
- P. *"Take the third letter and write: 'To our brethren, residents of the Exile of Babylonia, and residents of the Exile of Media, and of all the other Exiles of Israel, may your peace increase forever.' We inform you that the pigeons are still tender, the lambs are thin, and the spring-tide has not yet come. So as it is proper in my view and in the view of my colleagues, we have added thirty days to this year"* [T. [San. 2:6](#)].
- Q. *Perhaps [the modesty shown in this letter comes] after Gamaliel had been deposed. [Since he had lost office and regained it, he would have included reference to his associates in his letter, while Simeon b. Gamaliel need not have had to do so.]*

VIII.7 A. *Our rabbis have taught on Tannaite authority:*

- B. On account of three signs do they intercalate the year, because of the [premature state of] the grain, because of the condition of the produce of the tree[s], and because of the lateness of the spring equinox.
- C. On account of any two of these they will intercalate the year, but on account of only one of them, they will not intercalate the year.
- D. [T. adds: But if they declared the year to be intercalated, lo, this is deemed intercalated.]
- E. If the premature state of the grain was one of them, they would rejoice.
- F. R. Simeon b. Gamaliel says, "Also on account of the lateness of the spring equinox" [T. [San. 2:2](#)]. [Schachter, p. 49, n. 5, explains that the four seasons follow the solar calendar. Should the season that begins at the summer solstice, June 21, extend until after the Sukkot festival or the season that begins at the winter solstice, December 21, extend until the sixteenth of Nisan, a month would be added to the year, so that the festivals might fall in their natural seasons, Passover in spring, Sukkot in fall. That is the point of reference of Simeon b. Gamaliel.]
- G. *The question was raised: Did he mean, "On account of the lateness of the equinox they rejoiced, or on account of the lateness of the equinox they intercalated the year"?*
- H. *The question stands.*

VIII.8 A. *Our rabbis have taught on Tannaite authority:*

- B. On account of [evidence of conditions in] three regions [viewed as distinct districts] do they intercalate the year: Judea, TransJordan, and Galilee.

- C. On account of evidence produced in two of them they intercalate the year, but on account of evidence deriving from only one of them they do not intercalate the year.
- D. [T. adds:] But if they declared the year to be intercalated, lo, this is deemed intercalated.]
- E. And if the land of Judea was one of the two regions, they would rejoice,
- F. because of the first fruits of grain which come only from Judah [for the altar]. [T. [San. 2:3](#)].

VIII.9 A. *Our rabbis have taught on Tannaite authority:*

- B. They intercalate the year only in Judah,
- C. and if they intercalated in Galilee, lo, it is deemed to have been intercalated.
- D. Hananiah of Ono gave testimony [before Rabban Gamaliel], “[They intercalate they year only in Judah,] and if they intercalated the year in Galilee, it is not deemed to have been intercalated [T. [San. 2:13](#)].
- E. *Said R. Judah, son of R. Simeon b. Pazzi, “What is the scriptural basis for the position of Hananiah of Ono? Scripture states, ‘Unto his habitation shall you seek and thither shall you come’ (Deu. 12: 5). The sense is, ‘Every inquiry that you undertake shall concern only the habitation of the Omnipresent [which is Judea].”*

VIII.10 A. *Our rabbis have taught on Tannaite authority:*

- B. [The court] may intercalate the year only by day, and if they have conducted the rite at night, it is not deemed to have been intercalated.
- C. And the court may sanctify the new month only by day, and if they have conducted the rite of sanctification by night, it is not deemed to have been sanctified.
- D. *Said R. Abba, “What verse of Scripture makes that point [C]? ‘Blow the horn at the new moon, at the covering of the moon our feast day’ (Psa. 81: 4). What is the festival on which the moon is covered? One must say it is the New Year [which comes at the first of the month of Tishri. All other festivals occur on some day other than the first of the lunar month.]*
- E. “And it is written, ‘For this is a statute for Israel, a judgment of the God of Jacob’ (Psa. 81: 4).
- F. “Just as judgment takes place by day, so the sanctification of the month must take place by day.”

VIII.11 A. *Our rabbis have taught on Tannaite authority:*

- B. They do not intercalate the year [\[12A\]](#) in a time of famine.
- C. R. [B. lacks] Meir says, “Lo, Scripture says, ‘And there came a man from Baal Shalisha, and he brought the man of God bread of the firstfruits, twenty loaves of barley, and fresh ears of corn in his sack’ (2Ki. 4:42).
- D. “And is it not so that there is no place in which the produce ripens earlier in the entire Land of Israel than in Baal Shalisha? And even so, he offered as first fruits only that one species [which he had brought to the man of God].
- E. “Should you claim it was wheat? Scripture refers to barley.
- F. “Is it possible to say that he brought it before the sheaf of first grain had been offered [on the sixteenth of Nisan, so allowing the consumption of the

produce of the new year for the first time]? Scripture says, ‘And he said, Give it to the people, so that they may eat’ (2Ki. 4:43). So it was afterward.

- G. “So it follows that the year was suitable for intercalation.
- H. “Now why did Elisha not intercalate it?
- I. “Because it was a year of famine, and the whole people was running around to the threshing floors.” [T. **San. 2:9**]

VIII.12 A. *Our rabbis have taught on Tannaite authority:*

- B. They do not intercalate the year before the New Year,
- C. and if they did intercalate it, it is not deemed intercalated.
- D. But on account of necessity they do intercalate it forthwith after the New Year.
- E. Even so: they intercalate only Adar [T. **San. 2:7**].
- F. *Is this so [that the year may be intercalated only after the New Year at Tishri]?*
- G. And lo, people sent [from the Land of Israel] to Raba, “A pair [of disciples] has come from Raqqat [Tiberias], who had been taken by an eagle [Roman legion], and in their possession were things made at Luz, *such as what?* Such as purple [thus, show-fringes]. And through the merit supplied by divine mercy and through their own merit they came forth whole.
- H. “The offspring of the loins of Nahshon [the patriarch of the Land of Israel, descended from Nahshon, so Exo. 6:23] wanted to set up one nesib [bearing the dual sense of ‘officer’ and ‘month’], but that Edomite [Roman] did not give them permission. But those who belong to the gatherings got together and established a nesib in the month in which Aaron the priest died [which is the month of Ab, prior to Elul and Tishri].” [Thus we see that the year may be intercalated through the addition of a month even prior to Tishri].
- I. *To be sure, they made the calculation at that time, but they did not actually let the decision be known.*
 - J. *How do we know that the word nesib means a month?*
 - K. *It is in line with that which is written, “Now Solomon had twelve officers [nesibim] throughout Israel, who supplied the king and his staff monthly through the year” [thus the word means both officer and month] (1Ki. 4: 7).*
 - L. *But is it not written, “And one officer that was in the land” (1Ki. 4:19)?*
 - M. R. Judah and R. Nahman:
 - N. One said, “One was appointed over all the rest of them.”
 - O. The other said, “That one served for the intercalated month [in which he was to supply provisions].”

VIII.13 A. *Our rabbis have taught on Tannaite authority:*

- B. They do not intercalate a year in advance.
- C. [T. adds:] And if they did intercalate a year in advance, it is not deemed intercalated.

- D. And they do not [at one time] intercalate one year after another [successively] for three years.
- E. [T. adds:] R. Simeon says, "They do intercalate one year after another."
- F. Said R. Simeon, "There is this precedent. R. Aqiba was imprisoned, and [at one time] he intercalated three years [sequentially], one after the other."
- G. They said to him, "From there do you derive proof? But it was because the court was in session and was reckoning the need for one year after another, in its proper time" [T. [San. 2:8](#)].

VIII.14 A. *Our rabbis have taught on Tannaite authority:*

- B. They do not intercalate the year either in the case of the Seventh Year or in the case of the year after the Seventh Year.
- C. When are they accustomed to intercalate the year? In the year before the Seventh Year.
- D. Members of the house of Rabban Gamaliel would intercalate the year in the year after the Seventh Year.
- E. *And this involves the dispute of the following Tannaite authorities:*
- F. *It has been taught on Tannaite authority:*
- G. People may not import vegetables from abroad. But our rabbis permitted it [to provide for the needs of the community during the Seventh Year, when people could not farm their land].
- H. *What is the point at issue?*
- I. R. Jeremiah said, "At issue is whether we take account of the possibility that dirt [which, beyond the boundaries of the Land of Israel, is cultically unclean with corpse-uncleanness] is attached to the vegetables. [Gamaliel did not scruple, so he had no reason to worry about famine, since imported produce would be available.]

VIII.15 A. *Our rabbis have taught on Tannaite authority:*

- B. They do not intercalate the year when there is uncleanness.
- C. R. Judah says, "They do so."
- D. Said R. Judah, "There is this precedent. Hezekiah the King of Judah intercalated the year when there was uncleanness, and he prayed for mercy for himself,
- E. "for it is said, 'For a multitude of the people, even the men of Ephraim and Manasseh, Issachar and Zebulun, had not cleaned themselves, [\[12B\]](#), yet they ate the Passover otherwise than it is written. For Hezekiah prayed for them, saying, 'May the Lord in his goodness pardon every one' (2Ch. 30:18)" [T. [San. 2:10](#)]
- F. R. Simeon says, "If it was a matter of intercalating such a year when there is uncleanness, it is indeed deemed to be intercalated. But why did he pray for mercy for himself?
- G. "But [Hezekiah] intercalated Nisan in the month of Nisan itself, and they only intercalate Adar."
- H. R. Simeon b. Judah says in the name of R. Simeon, "Also: because he made Israel celebrate a second Passover" [T. [San. 2:11](#)]

- I. A master has said, “R. Judah says, “They do [intercalate the year when there is uncleanness].”
- J. *It follows that, in Judah’s view, a condition of uncleanness affecting the community is suspended [but not simply treated as null. While some hold that, when there is a condition of uncleanness affecting the community as a whole, that condition is treated as null, Judah’s position is that it is held in suspense. Therefore he intercalates the year, so as to allow for a rite of purification. In his view only if it were unavoidable would the uncleanness be treated as null.] But lo, it has been taught on Tannaite authority:*
- K. “Whether or not the front-plate is actually on the high priest’s forehead, it propitiates,” the words of R. Simeon.
- L. R. Judah says, “While it is till on his forehead, it propitiates. If it is no longer on his forehead, it does not propitiate.”
- M. Said R. Simeon to [Judah], “The condition of the high priest on the Day of Atonement will prove the matter. For on that day the front-plate is not on his forehead, and yet it serves to propitiate [and render acceptable sacrifices offered in a state of uncleanness, in line with Exo. 28:36-38].”
- N. Said R. Judah to [Simeon], “Omit reference to the Day of Atonement, on which uncleanness affecting the community is permitted [and abrogated. So the case at hand proves nothing.]” [Thus uncleanness affecting the community is treated as null, vs. J.]
- O. *But in accord with your view [that we intercalate the year so as to avoid uncleanness affecting the community as a whole on the occasion of the Passover-offering], the passage at hand contains an inner contradiction.*
- P. Specifically, R. Judah says, “They intercalate the year when there is uncleanness. And there is this precedent: Hezekiah the king of Judah intercalated the year when there was uncleanness, and he prayed for mercy for himself.” [Why pray for mercy for himself, it what he did was correct?]
- Q. *The passage is improperly formulated, and this is how it should be given:*
- R. “People may not intercalate the year on account of uncleanness, but if they have done so, it is deemed intercalated. R. Judah says, ‘It is not intercalated. And R. Judah said...’ [Now the point of praying for mercy is clear.]
- S. *If so, the following passage poses a problem, namely, R. Simeon says, “If it was a matter of intercalating such a year when there is uncleanness, it is deemed to be intercalated.” In line with the revised formulation of the passage, what he says is the same thing as what the first authority [Judah] has said!*
- T. *Said Raba, “At issue is the rule pertaining not after the fact but to begin with. [Simeon says even to begin with one may intercalate on account of uncleanness. Judah accepts after the fact what has already been done.]”*
- U. *So too it has been taught on Tannaite authority: People, to begin with, do not intercalate the year on account of uncleanness. R. Simeon says, “They do intercalate the year.”*
- V. In any event, why did [Hezekiah] pray for mercy on his account?

- W. It is because: They only intercalate the month of Adar, but he intercalated the month of Nisan in the month of Nisan itself.
- X. A master has said, “For they only intercalate the month of Adar, but he intercalated the month of Nisan in the month of Nisan.”
- Y. *But did Hezekiah not concur that the verse, “This month shall be to you the beginning of months” (Exo. 12: 2) speaks of Nisan, meaning, there is only one Nisan and not a second one? [Schachter, p. 55, n. 6: Once Nisan has been proclaimed it cannot be re-proclaimed Adar, making the ensuing month Nisan.]*
- Z. *He erred in the matter enunciated by Samuel.*
- AA. For Samuel said, “People may not intercalate the year [adding an extra month] on the thirtieth day of Adar, since it is appropriate to declare that day to be the first of Nisan [when Adar should have only twenty-nine days].”
- BB. [Hezekiah] took the view that we do not invoke the argument, “Since it is appropriate...” [with the result that on the thirtieth day of Nisan he intercalated a month into the year.] [He prayed because he later on realized his mistake].
- CC. [Supply:] *So too it has been taught on Tannaite authority:*
- DD. People on the thirtieth day of Adar may not intercalate a month into the year since it is appropriate to declare that day as the first of Nisan.**
- EE. **R. Simeon b. Judah says in the name of R. Simeon, “Also: because he made Israel celebrate a second Passover” [T. [San. 2:11D](#)].**
- FF. *How so? [Why did he think it was correct and then change his mind?]*
- GG. Said R. Ashi, “It was a case in which the Israelites were half unclean and half clean, and women [who were not unclean] completed the number of those who were clean and formed the majority of them.
- HH. *“To begin with he theorized that women were subject to the obligation to offer a Passover-offering on the first Passover. Only a minority of the women were unclean, so a minority of the women were then to be put off to make the offering on the second Passover [held a month later for those unclean on the occasion of the first].*
- II. *“Then he reached the conclusion that women offer a Passover-offering on the first Passover [not as an obligation but] only as an optional matter, so that [among those who were obligated to offer a Passover-offering on the first Passover] a majority [now, entirely males] were unclean. But if a majority of those obligated to make the offering are unclean, they are not told to postpone and*

bring their offering on the second Passover, [but they offer it on the first one].”

- JJ. *Returning to the body of the text just now discussed: Samuel said, “People may not intercalate the year [adding an extra month] on the thirtieth day of Adar, since it is appropriate to declare that day as the first of Nisan [when Adar should have only twenty-nine days].”*
- KK. *If people have actually intercalated the year on that day, what is the rule?*
- LL. Said Ulla, “On that day people do not conduct a rite of sanctification of the new month.”
- MM. If they did conduct a rite of sanctification, what is the law?
- NN. Said Raba, “The intercalation is nullified.”
- OO. R. Nahman said, “The month is both intercalated and sanctified.”
- PP. *Said Raba to R. Nahman, “Since from Purim to Passover are thirty days, and since from the advent of Purim we give public expositions of the laws of Passover, for it has been taught on Tannaite authority, **People raise questions about the laws of Passover thirty days prior to Passover, and Rabban Simeon b. Gamaliel says, ‘For two weeks’** [T. Meg. 3] —*
- QQ. *“If on the thirtieth day when the new month arrives, they postpone the new month [of Nisan], people will well end up treating with disregard the prohibition of leaven [on Passover] [having in error celebrated the Passover a month earlier]!”*
- RR. *He said to him, “People will know that the intercalation of the year depends upon calculations, and will say that it was the proper calculation that had not been reached by the rabbis until this point. [On that account the consideration raised by Raba is of no weight.]”*

VIII.16 A. Said R. Judah, said Samuel, “People intercalate the year only if the summer season is short of completion by the larger part of the month [of Tishri so that, in the year that is a candidate for intercalation, if we do not add a month, then the bulk of Tishri will pass before the autumnal equinox has been reached. In simple terms, it means that the larger part of Tishri, must fall prior to September 21.] ‘What would constitute the larger part of the month of Tishri? ‘Sixteen days,” the words of R. Judah, [so the new month of Tishri must fall by September 5]. **[13A]** R. Yosé says, ‘Twenty-one days’ [so the new month of Tishri must fall by September 13.]

- B. “Now the two of them interpret the same verse: ‘And the month of the ingathering at the season of the year’ (Exo. 34:22). [The sense is that the month of ingathering must fall within the autumnal season, beginning in Tishri]. *One authority [Judah] takes the view that the entirety of the feast of ingathering [that is, Tabernacles, from 15 to 21 Tishri] [Schachter, p. 58, n. 1: beginning with the day when the work of ingathering is permitted, the sixteenth day of the month of Tishri, the day after the Festival of Tabernacles] must be included in the autumnal season [hence if the summer season is short of completion by sixteen days, the new autumnal season begins on the seventh and will thus not include all the days when the work or ingathering is permitted (Schachter)]. The other authority takes the view that only part of the festival of ingathering [Sukkot] must be encompassed [Schachter, p. 58, n. 4: Hence its possible delay until the twenty-first of the month, but not later, because the twenty-second of Tishri is a full festival day again, on which no gathering of crops is permitted.]”*
- C. [We now raise a distinct, but related issue, on whether we assign the day on which the new season begins — that is, September 21 — to the summer season, now ending, or to the fall season, now beginning. What we wish to know is the position of the authorities at hand on that question.] *What is the theory [of the parties at hand on the issue of whether the day on which the season starts is held to belong to the season now ending or to the one now beginning]?*
- D. *If they take the view that the day on which the season shifts belongs to the completion [of the season that is ending], then even if it were not so [Schachter: short of completion as sixteen days for Judah or twenty-one days for Yosé, but fifteen or twenty days, respectively,] it will accord neither with him who requires that the entire Festival [of Tabernacles] falls within the autumnal season [thus beginning no later than sixteen days after September 21] nor with him who requires that only part of the Festival [of Tabernacles] falls within the autumnal season thus beginning no later than twenty-one days after September 21]. [Schachter, p. 58, n. 8: For even if the day marking the change in season coincides with the sixteenth or twenty-first day after September 21 the new season will commence only on the following day.]*
- E. *It must follow that both parties assume that day that marks the change in the season is assigned to the incoming season and so is joined to the beginning of the new season.*
- F. *An objection was raised: “The day marking the change in the season marks the end of the old season,” the words of R. Judah. R. Yosé says, “It marks the beginning of the new season.”*
- G. *And furthermore, it has been taught on Tannaite authority: **They intercalate the year only if the spring equinox is distant by the better part of a month. And how much is the better part of a month? Sixteen days.***
- H. **R. Judah says, “Two thirds of a month, twenty days” [so no part of Tabernacles will come into the fall]. [Schachter, p. 58, n. 11: This refutes Samuel on both points (a) R. Judah holds here that part of the Feast is sufficient; and (b) in his view the Tequfah-day commences the new season, and does not end the last.]**

- I. **R. Yosé says, “They make a reckoning of the year. If before Passover there still are lacking sixteen days of the equinox, they intercalate another month. (Schachter, p. 59, n. 2: For if not, the summer season would not end until the 21st of Tishri, the new one beginning on the 22nd. The two seasons, the spring and summer, consist of hundred and eighty-two days, and the five lunar months between Nisan and Tishri consist of hundred and forty seven days which, when added to the fourteen days of Nisan and the twenty-one days of Tishri make a total of hundred and eighty-two days. The Tishri or Fall season beginning on the 22nd of the month will thus not include any part of the Festival of Ingathering.] [If] before the Festival [there are lacking] sixteen days before the autumnal equinox, they do not intercalate it.”**
- J. **R. Simeon says, “Even if it was lacking sixteen days before the Festival [of Sukkot], they do intercalate it” [T. [San. 2:7](#)].**
- K. Others say, “[Schachter: The year is intercalated even if the season is short of completion] by less than half of the month. And how much is that? Fourteen days.”
- L. *There is indeed a problem [in contradictory statements of Judah, as explained above].*
 - M. A master has said: “R. Judah says, ‘Two thirds of a month, twenty days.’
 - N. **“R. Yosé says, ‘They make a reckoning of the year. If before Passover there still are lacking sixteen days of the equinox, they intercalate another month [T. [San. 2:70-R](#)].”**
 - O. *This is the same view as R. Judah’s! [Both authorities include only part of the Festival of Tabernacles in the autumnal season, but not the whole of it.]*
 - P. *At issue between them is the status of the day on which the seasons change. [Schachter, p. 59, n. 9: According to R. Judah, that day completes the previous *Tequfah*, consequently, if twenty days have passed and the sun has reached its new cycle on the 21st, the new season begins on the 22nd, in which case not even part of the Feast of Ingathering is included; whilst according to R. Yosé’s calculation, even if the solstice occurs on the 21st day, that day is added to the new cycle.]*
 - Q. A master has said: **R. Yosé says, [‘They make a reckoning of the year. If before Passover there still are lacking sixteen days of the equinox, they intercalate another month.] If there are lacking sixteen days before the autumnal equinox, they do not intercalate the year’ [T. [San. 2:7R](#)].”**
 - R. *In R. Yosé’s view, therefore, it is when there are sixteen days short of the day of the turning of the season do we not intercalate, but if we are seventeen or eighteen days short, we do intercalate.*
 - S. *But has he not said, “If before Passover there still are lacking sixteen days of the equinox, they do intercalate” and so, if it is less, they do not!*
 - T. *No, in neither case do people intercalate. But since in the opening clause he wished to frame matters as “sixteen days before*

Passover,” in the latter segment the passage is repeated as, “Sixteen days before the Festival” [but we do not limit the matter to sixteen, and even if the shortage is somewhat more than that, the year still does not get a new month].

- U. **R. Simeon says, “Even if it was lacking sixteen days before the Festival of Sukkot, they do intercalate it” [T. San. 2:7E].**
- V. *But is this not the view of the authority cited at the outset?*
- W. **[13B]** *At issue is whether we assign the day on which the seasons turn to the concluding season, or to the one now beginning. But we do not know which party holds which view.*
- X. Others say, “The year is intercalated even if the season is short of completion by less than half of the month. And how much is that? Fourteen days.”
- Y. *What is their view [on the matter of assigning the day of the turning of the season to the closing or the opening season]? If they maintain that the day on which the seasons change is assigned to the season now concluding, and that we insist that the entirety of the Feast of Tabernacles fall within the new [autumnal] season, then, in point of fact, it is so. [The fall season will begin on the fifteenth of Tishri, while the Festival of Tabernacles begins on the sixteenth.]*
- Z. *Said R. Samuel bar R. Isaac, “The ‘others’ speak in point of fact of the advent of the vernal season. For it is written, ‘Observe the month of Abib [that is, spring]’ (Deu. 16: 1). The meaning is, ‘Make sure that the beginning of the vernal season takes place on a day in Nisan [Schachter: when the moon is still in the process of renewal].” [Schachter pp. 60-61, n. 10: That accounts for the limit of fourteen days, after which it is on the wane.]”*
 - AA. *But why not intercalate a day in Adar [Schachter, p. 61, n. 1: Which would bring in the new season on the thirteenth day, when the moon is still waxing, rather than cause the derangement of a whole month; and though the first day of Passover must not fall on Monday, Wednesday or Friday, and the addition of a day might cause that, it would not matter, because the limitation of the days on which Passover may commence is due to the desire to avoid New Year falling on Sunday, Wednesday or Friday, and that could be avoided by adding a day to one of the normally defective months between Nisan and Tishri.]*
 - BB. *Said R. Aha b. R. Jacob, “The Tannaite authority counts from higher to lower numbers and frames matters as follows: One may intercalate only in the lesser part of the month [down to the fourteenth day of the month]. [Schachter, p. 61, n. 3: But if there is actually a shortage of fourteen days, only the month of Adar is intercalated.] And how much is that? It is fourteen days.”*

- CC. *Rabina said, "In point of fact 'others' do refer to Tishri [and not to Nisan, as Samuel bar Isaac has claimed]. And 'others' take the view that we require the entirety of the Festival of Tabernacles to fall within the autumnal season, on the one side, and also that the first day of the Festival likewise. [Schachter, p. 61, n. 5: And being of the view that the seasonal day completes the season, if there is a shortage of fourteen days, in which case the new autumnal season will begin on the fifteenth day, the first day of the Feast will not be included in it, so that intercalation is justified.]"*
- DD. But it is written, "The Feast of Ingathering" (at the season of the year) [Exo. 34:22, meaning that the Feast must fall within the autumnal season, after September 21!] [Schachter: meaning the day on which ingathering is permitted.]
- EE. [They understand the sense as], "The Feast which occurs in the season of ingathering."

IX.1 A. "The laying of hands [on a community sacrifice by elders and the breaking of the heifer's neck are done by three judges," the words of R. Simeon. R. Judah says, "By five," [M. 1:3A-B]:

- B. *Our rabbis have taught on Tannaite authority:*
- C. [With reference to Lev. 4:15: "And the elders of the congregation shall lay their hands upon the head of the bull before the Lord...":] Since it says, "And the elders... shall lay hands," is it possible to suppose that elders from any source whatsoever [will suffice]?
- D. Scripture says, "of the congregation."
- E. Since it says, "Of the congregation," is it possible to suppose that unimportant members of the congregation [will suffice]?
- F. Scripture says, "The congregation," meaning, "those who are distinguished in the congregation."
- G. And how many are they to be?
- H. "...shall lay hands..." [in the plural] indicates that two are required, and 'elders of...' indicates that two are required, and since there cannot be an even number in a court, another is to be added to the lot, yielding five in all," the words of R. Judah.
- I. R. Simeon says, "'Elders of...' indicates that two are to do it, and since there cannot be an even number in a court, another is to be added, yielding three in all."
- J. *But so far as R. Simeon is concerned, is it not written, "...shall lay hands..."?*
- K. *That is required to make its own point [indicating what the elders in fact are to do].*
- L. And R. Judah?
- M. *No statement of the sort is required, for if it is the case that "...shall lay hands..." does not serve the purpose of providing an occasion for deriving an exegetical lesson, it would have been sufficient for the text to state, "As to the elders of the congregation, their hands shall be on the head of the bull."*

- N. And R. Simeon?
- O. *If that is how the matter were written, I might have reached the conclusion that the meaning of “on” was “nearby” [and not right on the head, as the verse’s present formulation makes explicit].*
- P. And R. Judah?
- Q. *That lesson is to be derived from the use of the word “head” in the present case and the similar usage in reference to the burnt-offering [Lev. 1:4 being explicit that one lays his hand on the head of the burnt-offering].*
- R. And R. Simeon?
- S. *He derives no lesson from the appearance of the word “head” both here and in reference to the burnt-offering.*

IX.2 A. *It is taught on Tannaite authority:*

- B. **Laying on of hands and laying on of hands for elders are done with three [judges] [T. San. 1:1E].**
- C. *What is the meaning of “laying on of hands,” and what is the meaning of “laying on of hands for elders”?*
- D. *Said R. Yohanan, “It means the laying on of hands for the designation of elders [as authorized judges].”*
- E. *Said Abbaye to R. Joseph, “Whence in Scripture do we derive proof that the laying on of hands for the designation of elders is done by a court of three judges?”*
- F. *“Should one propose that the proof derives from the following text, ‘And he laid his hand upon him’ (Num. 27:23), then it should be sufficient for a single sage to lay hands. And should you claim that Moses [in the cited verse] stood in the stead of the seventy-one, then seventy-one should be required for the laying on of hands.”*
- G. *It is an unsolved problem.*
 - H. *Said R. Aha, son of Raba, to R. Ashi, “Is it necessary to lay hands in a physical sense?”*
 - I. *He said to him, “One ‘lays hands’ by calling the candidate master [rabbi] and assigning him authorization to judge cases involving penalties.”*

IX.3 A. *[Since the Mishnah-rule states that the laying on of hands is done by three, we now ask:] And can not a single individual lay hands?*

- B. And lo, said R. Judah said Rab, “Now may that man’s memory be blessed, and his name is R. Judah b. Baba. For if it were not for him, the laws of penalties would be forgotten in Israel.”
- C. “Be forgotten”?! *But people would have learned them afresh! Rather: [14A]* “The laws of penalties would have been nullified.
- D. “For once the evil government made a decree against Israel, that whoever laid hands would be killed, whoever had hands laid on would be killed, a town in which there was a rite of laying on hands would be wiped out, and the boundaries within which such a rite took place would be uprooted.
- E. “What did R. Judah b. Baba do? He went and took up a position between two high hills, between two large towns, and between the Sabbath limits of two towns

[so that the penalty would not apply to either one of them, thus sparing them the effects of the decree], between Usha and Shefaram. There he laid hands on five elders. And these are they: R. Meir, R. Judah, R. Simeon, R. Yosé, and R. Eleazar b. Shammua.”

F. R. Avia adds to the list the name of R. Nehemiah.

G. [Judah in Rab’s name continues,] “When the enemies found out about them, he said to them, ‘My sons, run.’

H. “They said to him, ‘Master, what will happen to you?’

I. “He said to them, ‘Lo, I am set firm before them like a stone that no one can turn over.’

J. “People say that [the enemy] did not move from there until [Schachter:] they had driven three hundred iron spear-heads into his body, making it like a sieve.”

K. *[The story does not prove that a single individual may lay on hands because there were others with him, but the reason that they were not taken into account is on account of the honor owing to [the Martyred] R. Judah b. Baba.*

L. *And was R. Meir subject to the laying on of hands of R. Judah b. Baba? And lo, said Rabbah bar bar Hana said R. Yohanan, “Whoever says that R. Meir was not subject to laying on of hands by R. Aqiba merely errs.”*

M. R. Aqiba laid hands on him but [others] did not accept [the validity of the act], while R. Judah b. Baba laid hands on him and [others] did accept the validity of the act.

IX.4 A. Said R. Joshua b. Levi, “The rite of laying on of hands does not apply outside of the Land.”

B. *What is the meaning of, “The rite of laying on of hands does not apply...”? If one should propose that judges outside of the Land in no way judge cases involving penalties, lo, we have learned in the Mishnah: **The sanhedrin applies both in the Land and outside of the Land [M. Mak. 1:10E].***

D. *Rather, it is that, outside of the Land, there is no rite of laying on of hands.*

E. *It is self-evident that if those who lay hands are outside of the Land, and those on whom hands are to be laid are inside the Land, lo, we have said that one does not [lay hands]. But if those who lay hands are inside the Land and those on whom hands are to be laid are outside of the Land, what is the law?*

F. *Come and take note: R. Yohanan was distressed concerning R. Shemen bar Abba, because he was not with them so as to have hands laid on [in the Land].*

G. *As to R. Simeon b. Zerud, and another was with him, namely, R. Jonathan b. Akmai, and some say, it was R. Jonathan b. Akmai, and one who was with him, namely, R. Simeon b. Zerud, one who was with him received the laying on of hands, and one who was not with him did not receive laying on of hands. [A disciple outside of the Land cannot receive the laying on of hands.]*

IX.5 A. *R. Hanina and R. Hoshaia did R. Yohanan aim to subject to the laying on of hands, but the opportunity did not arise. This bothered him very much. They said to him, "Let the master not be troubled about this."*

B. *"[Why not? Because] we come from the house of Eli, concerning which R. Samuel bar Nahman said R. Jonathan said, 'How do we know that members of the house of Eli are not subject to the laying on of hands? As it is said, "And there shall be no elder in your house forever" (1Sa. 2:32). Now what is the meaning of the word "elder"? If one should propose it literally means an old man, lo, it is said, "And all the increase of your house shall die as young men" (1Sa. 2:32). Therefore it must speak of the laying on of hands."*

IX.6 A. *R. Zera would hide himself so as not to have hands laid on. For R. Eleazar said, "Always be accepting [the authority of others] and so endure."*

B. *When he heard the following statement of R. Eleazar, "A man does not rise to a position of greatness unless all of his sins are forgiven," he made himself available.*

C. *When they laid hands on R. Zera, they sang this to him: "Not with paint, nor with rouge, nor with dyed hair, but full of charm."*

IX.7 A. *When they laid hands on R. Ammi and R. Assi, they sang this to them: "Only people of this sort, only people of this sort. Do not lay hands to rule over us [Schachter:] half-wits and third-wits."*

IX.8 A. *When R. Abbahu came from the Torah-session to the emperor's house, the ladies of the emperor's house came forth and sang in his honor, "Master of his people, spokesman of his nation, torch of light."*

B. *"Blessed be your coming in peace."*

X.1 A. **The breaking of the heifer's neck [as prescribed at Deu. 21:1-9] is done by a court of three [judges, "the words of R. Simeon. R. Judah says, "By five"] [M. 1:3A-B].**

B. Our rabbis have taught on Tannaite authority:

C. *"Then your elders and your judges shall come forth' (Deu. 21:1-2):*

C. *"Your elders' indicate that two are required.*

D. *"Your judges' indicates that another two are required.*

E. *"A court cannot be of an even number, so they add on to their number yet another, lo, there are five," the words of R. Judah.*

F. *R. Simeon says, "Your elders' indicates that they are two, and a court cannot be an even number, so they add to them yet another, lo, three in all."*

G. *But R. Simeon also has to deal with the fact that "Your judges" also has been written.*

H. *That he requires to prove a different point entirely, namely, to indicate that they must be the select among the judges.*

I. *And R. Judah derives that fact from the use of the word "your elders."*

J. *And R. Simeon? [He argues as follows:] "If the All-Merciful had written, 'Elders,' I might have reached the conclusion that even ordinary elders of the market place [would suffice]. So the All-Merciful wrote, 'Your elders.' And if*

the All-Merciful had written merely, 'Your elders,' I might have reached the conclusion that even members of a lesser sanhedrin would suffice. Accordingly, the All-Merciful wrote, 'Your judges,' to indicate that they are to be among the select of your judges."

- K. *And R. Judah derives the lesson from the use of "elders," in the verse, "The elders of the congregation" (Lev. 4:15) [as well as in the present context]. Just as, at that passage, the reference is to select among the congregation, so here too it must be the select among the congregation.*
- L. *But if in such a way one can derive the besought lesson for the entire rule from the cited passage, then what need is there to say, "Your elders and your judges"? [That is, if Judah can derive from Lev. 4:15 the rule that five elders are necessary, why introduce the exegesis of "and your judges" for proof that five judges are necessary? He has made that point quite admirably on the basis of a different verse.]*
- M. *But the use of the word "and" in the word "and your judges" is what serves to indicate the number [of judges that are required].*
- N. *And R. Simeon? In his view the use of the word "and" bears no supererogatory implications whatsoever.*
- O. *But then how do you deal with the possibility of the following: "And they shall come forth" (Deu. 21: 2) means that two must do so, "and they shall measure" (ibid.) means that two must do so In the view of R. Judah, then, there should be nine, and in the view of R. Simeon, lo, there are seven. [That is, the verbs appearing in the same verse appear to add another four judges to the requisite number. The problem confronts both authorities.]*
- P. *[No, in the view of neither party should that conclusion be drawn. For] the cited language is required for the following purpose. As it has been taught on Tannaite authority: "And they shall go forth" (Deu. 21: 2) means, they and not their agents.*
- Q. *"And they shall measure" indicates that even if the corpse is found **[14B]** within the limits of a particular town [in which case there is no reason to measure between one town and another], they still should take the measurement.*
- R. *For it is a religious duty to take up the task of measuring.*
- X.2 A.** *[The formulation of] the Mishnah-paragraph at hand [when it specifies that we deal with members of the sanhedrin] does not accord with the view of R. Eliezer b. Jacob.*
- B. *For it has been taught on Tannaite authority: R. Eliezer b. Jacob says, "'Your elders' refers to the sanhedrin.*
- C. *"Your judges' refers to the king and the high priest."*
- D. *"The king,' as it is written, 'Your king by judgment establishes the land' (Pro. 29: 4).*
- E. *"And the high priest,' as it is written, 'And you shall come to the Levitical priests and to the judge who will be...' (Deu. 17: 9)." [Cohen, *Sotah*, p. 227, n. 9: "And" is understood as "even," therefore the priests acted as judges, and since one in particular is specified in "the judge" it must be the high priest.]*
- F. *The following question was raised: Is it solely with reference to the king and high priest that R. Eliezer b. Jacob differs, but, so far as the sanhedrin is concerned,*

he concurs with either R. Judah or R. Simeon? Or perhaps he differs also with respect to the sanhedrin [insisting that] all those who are present must be members of the sanhedrin?

- G. *Said R. Joseph, "Come and take note [of the following relevant case]. "[If] the whole of the great sanhedrin was found in Bethpage by a rebellious elder and he rebelled against them [in their entirety], is it possible to suppose that his rebellion is taken into account? [That is, if a local judge rejected the decision of the great sanhedrin and went and ruled contrary to their decision, what is the rule?] Scripture states, "And you will arise and go up to the place..." (Dec. 17: 8) [at which the great sanhedrin is located]. This teaches that it is the location which indicates [where the rebellion is to be punished. If the ruling of the great sanhedrin did not come from Jerusalem, rebellion against that ruling is null. Now what has happened is that a rebellious elder has come across the great sanhedrin. He can be declared rebellious only by the court of seventy-one. He asked the court at hand — which just happens to be the same membership as the high court in Jerusalem — and then he rejected their ruling. What did he do? He went home and instructed the people to act as he had originally done, without taking account of the ruling of the high court. But if the court did not issue its decision in Jerusalem, the matter is null, as shown in the proof-text.] Now exactly how many [members of the great sanhedrin] had gone forth from Jerusalem? If we say that only part of the court had gone forth, [in such a case can there be a ruling that the man is a rebellious elder? Surely not, for] some of those who had remained behind may be of the same view as the accused. [In the case he can claim minority support. Accordingly, we can invoke the possibility of the man's being condemned as a rebellious elder] only if, as is self-evident, the whole of the court [great sanhedrin] had gone forth. [So that is the supposition at hand.] Now for what purpose will the court have gone forth? If it is for a merely optional matter [and not an obligatory one] can the entire court leave its chambers in such a way? And is it not written, "Your navel is like a round goblet, wherein no mingled wine is wanting" (Son. 7: 3). [This is regarded as referring to the sanhedrin and is understood as requiring that at least a third of the sanhedrin must be present at any session.] This indicates, then, that if one of the members has to go forth [e.g., to the toilet], if there are remaining twenty-three members, equivalent to an ordinary, small sanhedrin, he may do so. But if not, he may not do so. Accordingly, it is self-evident that the entire court could have gone forth only to carry out a religious obligation. And for what purpose? Is it not for the purpose of taking the measurements in connection with a heifer whose neck was to be broken because of the discovery of a neglected corpse? And this would then represent the theory of R. Eliezer b. Jacob [who thus would require the presence of the entire sanhedrin]. [The question raised above thus has been answered.]"*
- H. *Said Abbaye to [Joseph, who has supplied the proof], "Perhaps it was an exodus from the city in order to add to the territorial limits of the city and the courtyards. For we have learned in the Mishnah: **Only a court of seventy-one may add ground to the city and to the courtyards [M. Shebu. 2:2].**"*
- I. *But it has been taught on Tannaite authority in accord with the view of R. Joseph: If [a rebellious elder] found the court at Bethpage and rebelled against them, for*

instance, if the court had gone forth to measure the distance in connection with the breaking of the neck of a heifer or in order to add to the territory of the city and the courtyards, is it possible that his act of rebellion should take effect? Scripture says, “And you will arise and you will go up to the place” (Deu. 17: 8), which teaches that it is the location that causes [the law at hand to take effect. If the act of rebellion does not involve a decision reached by the high court in its proper meeting place, which then is rejected by the elder at hand, the act of rebellion is null.]

XI.1 A. The evaluation of fruit of fourth-year plantings [which is to be redeemed (Lev. 19:23-250] and of second tithe [Deu. 14:22-26], the value of which is not known, is done before three judged [M. 1:3D]:

- B. *Our rabbis have taught on Tannaite authority:*
- C. **What is the definition of second tithe, the value of which is not known? It is, for example, wine which has formed a film, produce which has begun to rot, or coins which are rusty [M. M.S. 4:26].**
- D. *Our rabbis have taught on Tannaite authority:*
- E. **Produce in the status of second tithe, the value of which is not known is redeemed according to the valuation of three bidders and not according to the valuation of three who are not bidders even if one of the bidders is a non-Israelite, even if one of the bidders is the owner of the produce [T. M.S. 3:5A-D].**
- F. *R. Jeremiah raised the question, “What is the law applying to three bidders who are in partnership?”*
- G. *Come and take note: A man and his two wives may bid for the redemption of produce in the status of second tithe, the value of which is not known. [So partners may do so.]*
- H. *But perhaps it involved a case such a R. Pappa and [his wife, who was] daughter of Abba of Sura, [who was an independent business woman].*

XII.1 A. Assessment of the value for purposes of redemption of things which have been consecrated is done before three judges [M. 1:3E]:

- B. *Our version of the Mishnah-law does not accord with the version of the following Tannaite authority. For it has been taught on Tannaite authority: R. Eliezer b. Jacob says, “Even the assessment for purposes of redemption of a hook that belongs to the sanctuary must be a court of ten men.”*
- C. *Said R. Pappa to Abbaye, “Now there is no problem in explaining the position of R. Eliezer b. Jacob, for he has ruled in accord with the view of Samuel. For Samuel said, ‘The word “priest” occurs ten times in the chapter [on redeeming various things in that have been sanctified to the Temple, Lev. 27:8, 11-13, 14, 18, 23. Hence ten must be on the court that assesses the value of the property and determines the monetary equivalent to be paid to the Temple.]’ But how do the rabbis find evidence that three will suffice for that task? And should you say that it is because the word ‘priest’ appears three times in relationship to [one of the components of the cited chapter], the word ‘priest’ occurs four times with respect to the redemption of real estate, on which account, by that reasoning, it should be necessary to have only four on the court to evaluate real estate. And if you*

should claim that that is indeed the case, have we not learned in the Mishnah: Evaluation of property pledged as security for vows for valuation in the case of real estate is done by nine and a priest [M. 1:3H]. So what is there to say? That with the item at hand the number of ten allusions to the priest is complete? Then in the case of the other consecrated objects [which have to be assessed,] if there are six references to priests, then six judges should be on the court for the purpose of assessing those objects!"

F. *The question stands over.*

XIII.1 A. Property pledged as security for vows of valuation, in the case of movables, is evaluated by three judges [M. 1:3F]:

- B. *What is the meaning of evaluating property pledged as security for vows in the case of movables?*
- C. Said R. Giddal said Rab, "We deal with a case in which someone says, 'The valuation of this object is incumbent on me.'"
- D. For said R. Giddal said Rab, "[15A] He who says, 'The valuation of this utensil [which is not subject to valuation at all] is incumbent on me' must pay the value of the utensil."
- E. *What is the reason? A person knows that a Valuation does not pertain to a utensil. The donor therefore deliberately made the declaration [using the language of Valuations but] intending to pay the actual market worth of the object.*
- F. *Then the language at hand, ...vows of valuation, in the case of movables..., should rather be, "the assessment of the Valuation-vow covering movables."*
- G. *Then repeat the version as, The assessment of the Valuation-vow covering movables.*
- H. R. Hisda said Abimi [said], "It speaks of one who has paid over movables in payment of a vow of Valuation."
- I. *If so, ... valuation in the case of movables... should be "movables in the status of Valuation."*
- J. *Then repeat the version, as, ... movables in the status of Valuation.*
- K. R. Abbahu said, "We deal with a case of one who has said, 'My valuation is incumbent on me.' When the priest comes to collect, then movables are assessed by a court of three judges and real estate by one of ten judges."
- L. *Said R. Aha of Difti to Rabina, "Now to be sure, to remove property from the category of what has been sanctified, we require a court of three judges. But why do we need a court of three judges to bring into the possession of the sanctuary this same property?"*
- M. *He said to him, "It is a matter of logic. What difference is there between bringing property into the possession of the sanctuary and taking it out of the possession of the sanctuary? What is the reason for having such a court to withdraw property [by redeeming it for cash] from the possession of the sanctuary? It is because one might make an error. The same consideration applies to bringing property into the domain of the Temple.!"*

XIV.1 A. R. Judah says, "[One of them must be a priest" [M. 1:3G]:

- B. *Said R. Pappa to Abbaye, "Now there is no problem to the position of R. Judah in Scripture's referring to a priest in this connection. But as to rabbis [who do not require a priest on the board of assessors], why should Scripture have referred to a priest?"*
- C. *It is a question.*

XV.1 A. And evaluation of property pledged as security for vows for valuation in the case of real estate is done by nine ordinary men and a priest [M. 1:3H]:

- B. *Whence in Scripture do we derive this rule?*
- C. *Said Samuel, "The chapter at hand [Lev. 27] makes reference to priest ten times. One serves for supplying the law [that a priest must be included]. The others serve to exclude non-priests, in sequence. But since one exclusion in sequence with another serves not to limit but to encompass, the result is that a valuation may be made by nine non-priests and one priest."*
- D. *R. Huna, son of R. Nathan, objected, "But then might I say that five must be priests and five Israelites [treating each set of references as a distinct entity, so the first reference to a priest excludes an Israelite, the second, which is redundant, encompasses an Israelite, and so on down]."*
- E. *That is a question.*

XVI.1 A. And so for the evaluation-vow covering men [M. 1:31]:

- B. *But can a man be declared sanctified [for purposes of evaluation for dedication of his value to the Temple]?*
- C. *"[Indeed so,]" said R. Abbahu, "In a case in which one says, 'My worth is incumbent upon me [to pay to the Temple].'"*
- D. *So it has been taught on Tannaite authority:*
- E. *He who says, "My worth is incumbent on me" — they make an estimate of his value in accord with that of a slave sold in the market.*
- F. *And a slave is in the classification of real estate.*

XVI.2 A. R. Abin raised the question, "As to hair that is ready for shearing, how is it assessed? Is it assessed as if it were already sheared, and therefore by a court of three assessors? Or is it regarded as fully attached [as immovable property] and therefore assessed by a court of ten?"

- B. *Come and take note of the following: He who declares his slave to be sanctified — the laws of sacrilege do not apply [to the slave].*
- C. *Rabban Simeon b. Gamaliel says, "The laws of sacrilege do apply to his hair."*
- D. *And the passage reaches us with the obiter dicta that at issue in the dispute is hair that is ready to be shorn.*
- E. *That proves the point.*
- F. *May we say, further, that the Tannaite authorities to be cited below debate about the same point as the Tannaite authorities just now cited:*
- G. *For we have learned in the Mishnah:*
- H. **R. Meir says, "There are things which are tantamount to being in the ground but still are not deemed to be immovable property like the ground."**
- I. **And sages do not concur with his view.**

- J. How so?
- K. “Ten fruit-laden vines I handed over to you” —
- L. and the other says, “They were only five” —
- M. R. Meir imposes an oath.
- N. And sages say, “Whatever is attached to the ground is like the ground” [M. [Shebu. 6:5A-G](#)].
- O. *In this connection, said R. Yosé bar Hanina, “We deal in the dispute at hands with grapes that are ready to be harvested. One party takes the view that they are in the status of already having been cut. The other party maintains they they are not regarded as if they have already been cut.”*
- P. *[No, the two cases are not comparable], for you may say that even R. Meir [would not see them as parallel]. R. Meir maintains his position in the cited case because, so long as people leave the grapes, if they are not gathered they deteriorate. But in the case of one’s hair, so long as one leaves it, it continues to improve in value, [so the cases are not comparable, since one man may not cut the hair].*

XVII.1 A. Cases involving the death-penalty [are judged before twenty-three judges. The beast who commits or is subjected to an act of sexual relations with a human being is judged by twenty-three...] [M. [1:4A-B](#)]:

- B. *The framer of the passage states as a final judgment that there is no distinction between the case of a beast having sexual relations as with a man and one having sexual relations a with a woman.*
- C. *Now in regard to the case of a beast’s having sexual relations as with a woman, there is no difficulty, for it is written, “And you shall slay the woman and the beast.” (Lev. 20:16) [so the mode of trial for the beast is the same as the mode of trial for the woman]. But how do we know that [the mode of judging the case of] a beast who had sexual relations as with a man [is the same as the mode of judging when the man is on top]?*
- D. It is written, “Whoever lies with a beast shall surely be put to death” (Exo. 22:18). Now [since we know that fact from Lev. 20:16], if the passage cannot serve for the case in which a man has sexual relations with the beast [as the activity party, for that is covered by Lev. 20:15], apply it to one in which he is the passive party.
- F. *The All-Merciful has framed matters using the language of man as the active party to establish an analogy between the passive and the active participant. Just as, in the case of a man who has sexual relations with a beast as the active party, the man and the cow are judged by a court of twenty-three judges, so in the case of a man as a passive party with whom a beast has sexual relations, he and the ox are judged by a court of twenty-three judges.*

XVIII.1 A. An ox that is to be stoned is judged by a court of twenty-three, since it is said, “And the ox will be stoned and also its master will be put to death” (Exo. 21:29). Just as the case of the master, leading to the death-penalty, is judged so is the case of the ox, leading to the death-penalty [judged by a court of twenty-three judges] [M. [1:4E-G](#)].

- B. Said Abbaye to Raba, “How do we know that the verse, ‘And the ox will be stoned and also its master will be put to death’ (Exo. 21:29) serves to make the

point that **just as the case of the master, leading to the death-penalty, is judged, so is the case of the ox, leading to the death-penalty is judged by a court of twenty-three judges?** [15B] *Might I rather say that it indicates only that the owner of the ox is to be put to death?"*

- C. *If so, Scripture should have written, "And also its owner" and then said nothing more [so indicating that the owner is to be executed].*
- D. *But had the All-Merciful phrased matters in this way, I might have supposed that the owner should be put to death through stoning.*
- E. *How could anyone make such a supposition! If the owner had killed someone, he is put to death by the sword. If his property is stoned, [should he then be stoned also]? [Stoning is regarded as a more severe mode of inflicting the death penalty, and will not be assigned to the owner in the present circumstance.]*
- F. *Then might one suppose that the reason that the All-Merciful has written, "He will be put to death" is to assign to him an easier mode of execution, removing from him the penalty of death by the sword and applying to him instead death by strangulation [regarded as less painful]?*
- G. *Well, that possibility would pose no problems to one who maintains that strangulation is the more severe mode of execution [for the owner will not suffer more than his beast], but in the view of him who has said that strangulation is the less severe mode of execution, what is there to say?*
- H. *Do not let the matter come to mind! For it is written, "If there be laid on him a ransom" (Exo. 21:30), and, if you should imagine that he is liable to the death-penalty, it is not written, "You shall not take a ransom for the life of a murderer" (Num. 35:31)? [Schachter, p. 74, n. 13: And surely if he is to be executed he is considered as such].*
- I. *To the contrary, that is the very point of the text. If the man commits murder, it is not enough for him to pay a ransom, but he is put to death. If his ox has killed someone, however, he then shall redeem his soul with a mere money-payment. [Schachter, p. 74, n. 14: And where there is no offer of a ransom, he is to be put to death. And the question, "Perhaps the verse means to indicate capital punishment for the owner" remains.]*
- J. *Rather, said Hezekiah, and so did a Tannaite authority of the house of Hezekiah say, "Scripture has said, 'He who smote [a human being] shall surely be put to death, he is a murderer' (Num. 35:31). For a murder he has carried out you put him to death, but you do not put him to death for a murder committed by his ox."*

XVIII.2 A. *The question was raised, "An ox [that sinned by coming near] Mount Sinai [cf. (Exo. 19:13)] — by what sort of court was it judged?*

- B. *"Do we derive the rule applicable to that specific circumstance from the rule applicable for the oncoming generations, or do we not do so?"*
- C. *Come and take note: Rami b. R. Ezekiel taught on Tannaite authority, "'Whether it be beast or man, it shall not live' (Exo. 19:13). Just as a man is judged by a court of twenty-three judges, so a beast is judged by a court of twenty-three judges."*

XIX.1 A. *The wolf, lion [bear, a panther, leopard, and snake — a capital case affecting them is judged by a court of twenty-three] [M. 1:4H]:*

- B. Said R. Simeon b. Laqish, “[Eliezer’s view applies to] a case in which they have killed someone, but otherwise that is not [the rule].” *Therefore he takes the view that these beasts are capable of being trained and also are subject to ownership.*
- C. R. Yohanan said, “[Eliezer holds the position he states] even if they did not kill anymore.” *Therefore he takes the position that they are not capable of being trained and also are not subject to ownership.*”
- D. *We have learned in the Mishnah: R. Eliezer says, “Whoever kills them first acquires merit” [M. 1:41]: Now from the viewpoint of R. Yohanan, what is the meaning of “acquires merit”? It means that he acquires the merit of owning their hides. But as to R. Simeon b. Laqish, of what does one acquire merit? Since they have killed someone [as is Simeon b. Laqish’s postulate], the rabbis treat them as equivalent to one who has been found guilty [of the death penalty], and no benefit may be derived from such a one.*
- E. *What merit is then acquired? It is merit vis a vis Heaven.*
- F. *A Tannaite teaching has been repeated in accord with the view of R. Simeon b. Laqish:*
- G. **An ox which caused death — all the same [is the law for] an ox which caused death and any other sort of domestic or wild beast [T.: or fowl] which caused death — their [trial for the penalty of] death is [before] twenty-three [judges].**
- H. R. Eliezer says, “An ox which caused death — its death is before twenty-three judges.
- I. “But as to any other sort of domestic or wild beast or fowl which has caused death — whoever comes along and kills them first has acquired merit in Heaven,
- J. [T. adds:] “as it is said, ‘And you will kill the woman and the beast,’ and it is said, ‘And the beast you will kill (Lev. 20:16, 20:15)” [cf. **M.1:41I**] [T. **San. 3:1A-D**].

XX.1 A. R. Aqiba says, “Their capital case is judged by twenty-three” [M. 1:4J]:

- B. *R. Aqiba says the same thing as the first authority [at M. 1:4H]?*
- C. *At issue between them is the case of the snake.*

XXI.1 A. They judge a tribe, a false prophet, and a high priest only on the instructions of a court of seventy-one members [M. 1:5A]:

- B. *As to the tribe at hand, what was the sin that it committed? If I should propose that it is a tribe that violated the laws of the Sabbath, while one can concede that the All-Merciful has made a distinction between trials for individuals and those for whole communities, that distinction applies to cases involving idolatry. But in cases involving the violation of other religious duties, did the law make such a distinction? Rather the trial [of M. 1:5A] concerns a tribe that was misled [to commit idolatry].*
- C. *This then implies that the community at large is tried under the procedures applying to a very large group of people [but not a whole community]. But that accords with the views of neither R. Josiah nor R. Jonathan. For it has been taught on Tannaite authority:*

- D. How large a town is subject to the law applying to a town that is to be wiped out [on grounds of communal guilt for idolatry]?
- E. “From ten to a hundred [male inhabitants],” the words of R. Josiah. [The town of Deu. 13:14 may not be a village, involving fewer than ten adult males, nor more than a hundred, which would be too large a metropolis for the present context.]
- F. R. Jonathan says, “From a hundred up to the greater part of a tribe.”
- G. *Now even R. Jonathan takes the view that it is the greater part of the tribe, but he does not apply the law [of Deu. 13:14] to the entirety of a tribe!*
- H. *Said R. Mattenah, “We deal here [at M. 1:5A] [16A] with a case in which the head of a tribe has sinned. Has not R. Ada bar Ahbah said, ‘Every great matter they shall bring to you’ (Exo. 18:22), means every matter concerning a great man’?” Here too, [the head of the tribe] falls into the category of a great man, [and if such a one has committed idolatry, he is tried before a sanhedrin of seventy-one members].”*
- I. [Proposing a different point of reference for M. 1:5A:], Ulla said R. Eleazar [said], “It is a case in which people come to court concerning the division of the tribal inheritances. This must be as at the first division of the Land of Israel. Just as, in the original division of the Land, disputes came to a court of seventy-one, so for generations afterward the rule is the same.”
- J. Then may one say that just as the original division took place through the use of the urn, the Urim and the Thummim, with all Israel present, so nowadays such disputes are settled by appeal to the urn, with the Urim and Thummin, and with all Israel present?
- K. *Rather, the answer given in accord with R. Mattenah is superior.*
- L. *Rabina said, “In point of fact the Mishnah-rule speaks of the case of a tribe that was misled into idolatry. And as to your question that we should judge such a case in accord with the law applying to a large community, that indeed is so. Even though we put them to death as individuals, we do judge them in a court that serves for a large community. Has not R. Hama, son of R. Yosé, said R. Oshaia said, “‘You shall bring forth that man and that woman’ (Deu. 17: 5) — a man or a woman do you bring out to your gates, but you do not bring out the entirety of a town to your gates’? Here too a man or a woman you bring forth to your gates, but you do not bring the entirety of a tribe to your gates.”*

XXII.1 A. A false prophet [M. 1:5A]:

- B. *What is the scriptural source for this rule?*
- C. Said R. Yosé b. R. Hanina, “We draw an analogy based upon the occurrence of the word ‘presumption’ both in the present context and in that of the rebellious elder.
- D. “Just as, in the latter case, the trial is before a court of seventy-one, so here too the trial is before a court of seventy-one.”
- E. *But lo, when the word “presumption” occurs, it refers to a capital case, and a capital case is tried before a court of twenty-three judges.*
- F. Rather, said R. Simeon b. Laqish, “We establish an analogy based on the use in common of the word ‘word’ both in the present context [Deu. 18:20: ‘The prophet that shall speak a word’], and in that of the rebellious elder [Deu. 17:10: ‘And you shall do according to the word’]. [Schachter, p. 77, n. 10: The need of

seventy-one for the false prophet, therefore, is derived from the passage relating to the rebelliousness of the elder, which must be directed against the major sanhedrin.]”

- G. *But why not reverse the argument and derive the rule governing the rebellious elder by analogy through the common use of the word “presumption” from the case of the false prophet?*
- H. *One may establish an analogy based on the common use of the word “word,” and one may not derive the rule by establishing an analogy based on the common use of the word “presumption.”*

XXIII.1 A. The high priest [M. 1:5A]:

- B. *What is the scriptural source of this rule?*
- C. Said R. Ada bar Ahbah, “It is as Scripture says, ‘Every great matter they shall bring to you’ (Exo. 18:22). [The meaning is] matters involving a great [man] [in high office].”
- D. *An objection was raised on the basis of the following: “A great matter” (Exo. 18:22) speaks of a difficult one.*
- E. You say it refers to a difficult matter. But perhaps it refers only to matters pertaining to a great man.
- F. When Scripture says, “Hard cases they brought to Moses” (Exo. 18:26), a clear reference to a difficult case is at hand. [So the proof-text just now adduced cannot serve, as we have claimed, for another verse has made that point so the proof-text at hand makes a different point, as specified.]
- G. *[Ada b. Ahbah’s proof] accords with the view of the following Tannaite authority. For it has been taught on Tannaite authority:*
- H. “A great matter” (Exo. 18:22) refers to matters pertaining to a great man [e.g., a high priest].
- I. You say that reference is to matters affecting a great man, but perhaps it means only a difficult matter.
- J. When Scripture refers to “a difficult matter” [at Exo. 18:26], lo, there is clear reference to a difficult matter. How, then am I to interpret “great matter” [at Exo. 18:22]? It can speak only matters affecting a great man.
- K. *And according to [the first of the two] Tannaite authorities [who has “great matter” speak of difficult cases,] what need is there for Scripture to refer to the same matter [difficult cases] twice?*
- L. *One provides the commandment, the other addresses the carrying out of the commandment.*
- M. *And the other [Tannaite authority]?*
- N. *If that were the case, Scripture should have written the word “great” two times or the word “difficult” two times. Why does it refer on one occasion to “great” [matter] and the other to “difficult” matter?*
- O. *Two lessons derive from [the variation in word-choice].*

XXIII.2 A. R. Eleazar raised the question, “What sort of court would be required to judge the case involving the ox of a high priest [that had gored and killed a man]? Do we place it into the classification of the court involving the trial for

the death-penalty of its master? Or do we place it into the category of the court involving the trial for the death penalty of any sort of master [without reference to the status of the high priest]?”

- B. *Said Abbaye, “Since [Eleazar] raises the question with reference to the high priest’s ox, it would follow that the question involving the property of the high priest is self-evident to him. [Such a matter would come before a court of three judges.]”*
- C. *But surely that is self-evident!*
- D. *[Nay it had to be made explicit.] What might you have said? Since Scripture states, “Every matter pertaining to the great man” (Exo. 18:22), it would mean, “all matters pertaining to a great man.” Lo, we are informed [otherwise, namely, that too is an issue].*

XXIV.1 A. They bring forth the army to a war fought by choice only on the instructions of a court of seventy-one [M. 1:5B]:

- B. *What is the scriptural source for this rule?*
- C. *Said R. Abbahu, “Scripture says, ‘And he shall stand before Eleazar the priest, [who shall inquire for him by the judgment of the Urim before the Lord. At his word shall they go out and at his word they shall come in, both he and all the children of Israel with him, even all the congregation]’ (Num. 27:21-22).*
- D. *“‘He’ speaks of the king.*
- E. *“‘And all the children of Israel with him’ refers to the priest anointed for war.*
- F. *“‘And even all the congregation’ refers to the sanhedrin.”*
- G. *But perhaps it is the sanhedrin that is instructed by the All-Merciful to inquire of the Urim and Thummim?*
- H. *Rather, the proof derives from what R. Aha bar Bizna said R. Simeon the Pious said, “There was a harp suspended over David’s bed. At midnight a north wind would blow through it, and it would play on its own. David would get up right away and take up Torah-study until dawn. At dawn the sages of Israel would come in to him. They said to him, ‘Our lord, king, your people Israel need sustenance.’*
- I. *“He said to them, ‘Make a living off one another.’*
- J. *“They said to him, ‘A handful of meal is not enough for a lion, and a pit cannot be filled up by its own dirt.’*
- K. *“He said to them, ‘Go and organize marauders.’*
- L. *“Forthwith they took counsel with Ahitophel and ask advice of the sanhedrin and address questions to the Urim and Thummim.”*
- M. *Said R. Joseph, “What verse of Scripture shows this?”*
- N. *“[16B] ‘And after Ahitophel was Benaiah, son of Jehoiada, and Abiathar, and the captain of the king’s host was Joab’ (1Ch. 27:34).*
- O. *“‘Ahitophel’ is the adviser, and so it is written, ‘And the counsel of Ahitophel which he counselled in those days was as if a man inquired from the word of God’ (2Sa. 16:23).*
- P. *“‘Benaiah son of Jehoiada’ speaks of the Sanhedrin.*
- Q. *“‘Abiathar’ refers to the Urim and Thummim.*

- R. “And so it is written, ‘And Benaiah, son of Jehoiada, supervised the Kerethites and Pelethites’ (1Ch. 18:17).
- S. “Why were they called ‘Kerethites’ and ‘Pelethites’?
- T. “Because they gave definite instructions [a play on the word KRT, which is the root for cut, hence, ‘speak decisively,’ and also for the name of the group], and because they did wonderful deeds [a play on the root PL, wonder], respectively.
- U. “After this: ‘And the captain of the king’s host was Joab’” (1Ch. 27:34). [Schachter, p. 80, n. 13: Only after the Sanhedrin had authorized a war was there any need for Joab, the chief general.]”
- V. *Said R. Isaac, son of R. Ada, and some say R. Isaac bar Abodimi, “What verse of Scripture, [supports the view that there was a harp over David’s bed]? ‘Awake my glory, awake psaltery and harp, I will wake the dawn’ (Psa. 57: 9).”*

XXV.1 A. They make additions to the city of Jerusalem [and to the courtyards of the Temple only on the instructions of a court of seventy-one] [M. 1:5C]:

- B. *What is the scriptural basis for this rule?*
- C. Said R. Shimi bar Hiyya, “Scripture has stated, ‘According to all that I show you, the pattern of the tabernacle [and the pattern of all the furniture thereof] even so shall you make it’ (Exo. 25: 9) — in the coming generations. [Schachter, p. 81, n. 2: Just as the position and bounds of the tabernacle were regulated by Moses, representing the Great Sanhedrin, so must the boundaries of the city and Temple Courts be decided upon by the Great Sanhedrin.]”
- D. *Raba objected, “As to all the utensil that Moses made, the act of anointing them served to sanctify them, while, in the future, the act of making use of them served to dedicate them. Now why should that be the case? Why not invoke the principle, ‘ — in the coming generations’ [the same procedures must be followed as in the time of Moses]?”*
- E. *That case is different, for Scripture has said [explicitly in their regard], “And he had anointed them and sanctified them [in particular]” (Num. 7: 1), meaning, them in particular did he consecrate through anointing, and not the ones that would be used in coming generations [which did not require] anointing.*
- F. *May I propose, “... them by means of anointing, and also for coming generations, it may be done either by anointing or by actual use in the liturgy.”?*
- G. Said R. Pappa, “Said Scripture, ‘... wherewith they shall minister in the sanctuary’ (Num. 4:12). Scripture has assigned their [sanctification] to the actual ministry to the Temple.”
- H. *Why then lay special emphasis upon “them” [at Num. 7:1] [which appears to serve as an exclusion, which in face of the said verse is unnecessary (Schachter, p. 81, n. 9)]?*
- I. *If Scripture had not referred to them, in particular, I might have concluded that, for the generations to come, [these utensils would be consecrated] both by anointing and also by actual use in the sacred service, for so it is written, “So shall you make it” (Exo. 25: 9) [even in coming generations]. Accordingly, the All-Merciful wrote, them meaning, “those objects in particular are consecrated*

through anointing, and those used in coming generations will not be consecrated through anointing.”

XXVI.1 A. They set up sanhedrins for the tribes [only on the instructions of a court of seventy-one] [M. 1:5D]:

- B. *What is the basis for this rule?*
- C. *It is in accord with the fact that we find that Moses founded sanhedrins, and [as before] Moses acted in the place of a court of seventy-one.*
- D. *Our rabbis have taught on Tannaite authority:*
- E. How on the basis of Scripture do we know that judges are to be appointed for Israel?
- F. It is on the basis of the verse, “Judges you shall make for yourself” (Deu. 16:18).
- G. As to officers [to carry out the court’s decrees]?
- H. Scripture says, “Officers you shall appoint...” (Deu. 16:18).
- I. Judges for each tribe?
- J. ‘From the statement, “Judges... for your tribes’ (Deu. 16:18).
- K. “Officers for each tribe?
- L. “Officers... for your tribes.” (Deu. 16:18).
- M. Judges for each town?
- N. “Judges in all your gates.”
- O. ‘Officers for each town?
- P. Officers in all your gates” (Deu. 16:18).
- Q. R. Judah says, “One person is appointed above all the rest of them, as it is said, ‘You will make for yourself’ (Deu. 16:18).”
- R. Rabban Simeon b. Gamaliel says, “‘For your tribes’ and ‘they shall judge’ means that it is a religious duty for a tribe to judge cases involving its own tribe.” [T. **San. 3:10E**].

XXVII.1 A. They declare a city to be “an apostate city” only on the instructions of a court of seventy-one [M. 1:5E]:

- B. *What is the scriptural basis for this rule?*
- C. Said R. Hiyya bar Joseph said R. Oshaia, “It is because Scripture has said, ‘Then you shall bring forth that man or that woman’ (Deu. 17: 5), meaning an individual man or woman you bring forth to your gates [where there is an ordinary court to try capital cases, namely a court of twenty-three judges], but you do not bring an entire town to your gates [to such an ordinary court. An entire town has to be tried before seventy-one judges].”

XXVIII.1 A. And they do not declare a city to be an apostate city if it is on the frontier [M. 1:5F]:

- B. *What is the Scriptural basis for this rule?*
- C. *Because the All-Merciful has said, “In your midst” (Deu. 13:14) — and not on the frontier.*

XXIX.1 A. Nor do they declare three apostate cities in one locale [M. 1:50]:

- B. For it is written, “Concerning one of the cities” (Deu. 13:13 — but they do declare one or two, as it is written, “of your cities” (Deu. 13:13).
- C. *Our rabbis have taught on Tannaite authority.*
- D. “[Concerning] one [of the cities]” (Deu. 13:13) — one, but not three.
- E. You say the sense is one but not three. But perhaps it means only one but not two?
- F. When Scripture says, “Your cities,” lo, it has made reference to two. How, then, am I to interpret, “One”? It is one, and not three.
- G. *On some occasions Rab said, “It is in one court that one does not declare three cities to be apostate, but two or three courts do so [to three].”*
- H. *And sometimes Rab said, “Even in the case of two or three courts they may not do so. Under no circumstances may they do so.”*
- I. *What is the reason behind Rab’s view?*
- J. *It is because [one does not make the Israelite settlements of the Land] bald [by wiping out too many towns].*
- K. Said R. Simeon b. Laqish, “That rule pertains to a single locale, but in the case of two or three distinct locales, courts may declare [several] towns to be apostate cities [and subject to destruction].”
- L. R. Yohanan said, “They do not declare [two or three towns, even in diverse areas, to be apostate] so as not to make the Land bald.”
- M. *It has been taught on Tannaite authority in accord with the view of R. Yohanan:*
- N. **They do not declare three towns to be apostate towns in the Land of Israel, so as not to wipe out [Israelite] settlement in the Land of Israel.**
- O. **But they declare one or two (to be apostate cities).**
- P. [T. adds:] R. Simeon says, “Even two they may not declare, but they may declare one town in Judah and one town in Galilee [to be apostate towns].”
- Q. **And near the frontier they may not declare even one town to be an apostate town.**
- R. **so that gentiles will not break through and wipe out settlement in the Land of Israel. [T. San. 14:1D-H].**
- S. *What is the reason?*
- T. So that gentiles will not hear of the matter and destroy the Land of Israel.
- U. *But can we not adduce the rule [that one should not declare a border town to be apostate] from the statement of the All-Merciful, “From your midst” (Deu. 13:14) — and not from the border?*
- V. *It is the view of R. Simeon, who explains the reason behind the ruling of Scripture.*

XXX.1 A. The great sanhedrin was made up of seventy-one members [M. 1:6A]:

- B. *What is the reason for the position of rabbis [who hold that it was seventy-one, as against Judah, who says that it was only seventy], for they say that **Moses was in addition to them** [M. 1:6E]?*
- C. Scripture has said, "That they may stand there [17A] with you" (Num. 11:16), meaning, "*And you with them*" [and in addition to them].
- D. And R. Judah?
- E. "With you" is on account of the Presence of God [Schachter, p. 83, n. 9: In order to deserve that the Presence should rest on them.... But it does not teach that Moses was to be counted in addition to them].
- F. And rabbis?
- G. Scripture has said, "And they shall bear the burden of the people with you" (Num. 11:17) — *and you with them*.
- H. And R. Judah?
- I. "With you" means people who are equivalent to you.
- J. And rabbis?
- K. *They derive that same point from the verse.* "So shall they make it easier for you and bear the burden with you? (Exo. 18:22) [speaking of the lesser sanhedrin, of twenty-three], and the large sanhedrin [of seventy-one] is derived from the rule governing the lesser one.

XXX.2 A. *Our rabbis have taught on Tannaite authority.*

- B. "But there remained two men in the camp" (Num. 11:26).
- C. But there are those who say, "Their names, [Eldad's and Medad's] remained in the urn."
- D. For when the Holy One, blessed be he, said to Moses, "Gather to me seventy of the elders of Israel" (Num. 11:16), Moses thought to himself, "How shall I do it? If I choose six from each [of the twelve] tribes, there will be two extra. If I choose five from each tribe, there will be ten too few. If I choose six from one tribe and five from another, I shall cause jealousy among the tribes."
- E. What did he do? He chose six from each tribe and took seventy-two slips. On seventy of them he wrote, "Elder," and two he left blank. He mixed them up and put them in an urn. He said to them, "Come and take your slip." To each in whose hand the slip marked "Elder" came up, he said, "Heaven has already sanctified you for the task."
- F. To each whose slip came up blank, he said, "The Omnipresent has not chosen you, and what for my part can I do?"
- G. Along these same lines, you find in Scripture, "You shall take five shekels apiece by the poll" (Num. 3:47).
- H. Said Moses, "Now what shall I do with the Israelites? If I say to someone, 'Pay off the price of your redemption and go forth,' he will say to me, 'The son of Levi has already redeemed me.'"
- I. What did he do? He took twenty-two thousand slips and wrote on each of them, "Son of Levi," and on two hundred seventy-three he wrote, "Five shekels." He mixed them together and put them into an urn.

- J. He said to them, "Take your slips." To him in whose hand a slip marked, "Son of Levi" came up, he said, "The son of Levi has already redeemed you."
- K. To whom in whose hand "Five shekels]" came up, he said, "Pay your redemption-price and go."

XXX.3 A. R. Simeon says, "They remained in the camp. When the Holy One blessed be he said to Moses, 'Gather for me seventy men' (Num. 11:16), Eldad and Medad said, 'We are not worthy of that high position.'

- B. "Said the Holy One, blessed be he, 'Since you diminished yourselves, lo, I shall add greatness to your greatness.'
- C. "What is the greatness that he added to them?
- D. "It was that all the others prophesied and then ceased to prophesy, but they prophesied and did not cease to prophesy."
- E. And what was the prophesy that they delivered?
- F. They said, "Moses is going to die and Joshua will bring Israel into the Land."
- G. Abba Hanin says in the name of R. Eliezer, "They prophesied concerning the matter of the quail: 'Arise, quail, arise, quail.'"
- H. R. Nahman says, "They prophesied concerning Gog and Magog, as it is said, 'So says the Lord God, Are you he of whom I spoke in olden time by my servants, the prophets of Israel, that prophesied in those days for many years that I would bring you against them? (Eze. 38:17). Instead of 'years' read 'two' [using the same consonants but different vowels].
- I. "And who are the two prophets who prophesied the same message in the same prophesy? You have to say it was Eldad and Medad."
- J. A master said, "All of the other prophets prophesied and then ceased to prophesy, but they prophesied and did not stop.
- K. *"How do we know that the others stopped? If you might wish to propose that it is on account of the verse of Scripture, 'They prophesied but did so no more' (Deu. 5:19), then take note of the verse, 'A great voice that did not cease' (Deu. 5:19). Does this too bear the meaning that it went on no more? Rather, it must have the sense of 'it did not cease,' and so too in the proof-text.*
- L. *"Rather the proof derives from here. It is written, 'And they prophesied' (Num. 11:25), but in the case of Eldad and Medad it says, 'They were going on prophesying (Num. 11:27), that is, continuing to prophesy."*
- M. *Now from the viewpoint of him who said that they prophesied, "Moses will die," that is in line with [Joshua's request], "My lord, Moses, forbid them."*
- N. *But from the viewpoint of him who said that they prophesied about the other two matters, [either the quail or about Gog and Magog], why did Joshua say, "My lord, Moses, forbid them"?*
- O. *It was because it was improper conduct, because it was as if a disciple were making a decision of law in the presence of his master [which is not to be done].*

- P. *Now from the viewpoint of those who hold the other two positions [that the prophesy had to do with the quail or with the coming of Gog and Magog], that is why it is written, "Would that all the Lord's people were prophets" (Num. 11:29).*
- Q. *But from the viewpoint of him who said that the prophesy was, "Moses will die," did this please him? [Why did he praise such a prophesy?]*
- R. *In his presence they did not complete their prophesy [so he did not hear that part of it].*
- S. *What is the sense of "forbid them" [as Joshua said]?*
- T. [Joshua] said to them, "Lay on them public responsibilities, and they will stop [their prophesying] on their own."

XXXI.1 A. And how do we know that we should add three more [to the two 'congregations of ten judges each]? [M. 1:6J]:

- B. *But in the end [in a sanhedrin of twenty-three judges] you will never come up with a majority of two for a verdict of guilt. If eleven vote for acquittal and twelve for guilt, still it is a majority of one one [and that is null, since two are needed for a verdict of guilty]. If ten vote for innocence and thirteen for guilt, there is a majority of three for guilt.*
- E. Said R. Abbahu, "You find [a majority of two] only where they add to the court, and this represents the opinion of all parties.
- F. *"In the case of a large sanhedrin [of seventy] it would be possible to produce such a majority in accord with the opinion of R. Judah, who has said that such a court has seventy [not seventy-one] members. [Schachter, p. 86, n. 7: It might happen that thirty-six condemn and thirty-four acquit.]"*
- G. And R. Abbahu said, "When they add to the court, a court with an even number of judges may emerge to begin with."
- H. *That is self-evident. [If one judge is in doubt, then there are only twenty-two judges to participate. If you add two, there will be twenty-four judges.]*
- I. *What might you have said? The one who has said, "I do not know" is in the status of one who is present, so that, if [later on] he makes a statement, we pay attention to him.*
- J. *So we are informed that the one who has said, "I do not know, is as if he is not present at all, and if he were to state an opinion, we do not pay any attention to him.*

XXXI.2 A. Said R. Kahana, "A sanhedrin every member of which reached the conclusion that the accused is guilty must dismiss the accused [right away].

- B. *"What is the reason? We have learned that one has to keep the case over night, so as to discover grounds for acquitting the accused. But in this case the participants will not see any grounds to acquit the accused."*

XXXI.3 A. Said R. Yohanan, "They seat on a sanhedrin only people of stature, wisdom, good appearance, mature age, who can recognize sorcery, and speak seventy

languages, so that there should be no need of a sanhedrin to listen to testimony through an interpreter.”

- B. Said R. Judah said Rab, “They seat in a sanhedrin only people who can find arguments to declare a dead creeping thing clean on the basis of the law of the Torah.”
- C. Said Rab, “I shall provide an argument that it is clean. [17B] Now if a snake, which by killing a human being may increase uncleanness, is not unclean, a dead creeping thing, which cannot kill a person and so increase uncleanness, surely should be clean as well.”
- D. *But that is not a sound argument, as we see from the case of an ordinary thorn [about which the same argument can be constructed, but no one can imagine that it is unclean].*

XXXI.4 A. Said R. Judah said Rab, “In any town in which there are not two who can speak and one who can understand [seventy languages] people may not set up a sanhedrin.”

- F. In Betar there were three [such linguists]. In Yavneh, there were four: R. Eliezer, R. Joshua, and R. Aqiba, and Simeon of Teman gave arguments before [the court] [while sitting on] the ground [Schachter, p. 88. n. 1: because he was as yet unqualified owing to his immaturity, yet he was allowed to take part in the discussion].
- G. *An objection was raised:* [A sanhedrin] with three [linguists is characterized by] wisdom, and if there is yet a fourth [linguist], there is no more exalted court.
- H. *[Rab, who requires two linguists] accords with this Tannaite authority. For it has been taught on Tannaite authority:* [A sanhedrin with] two [linguists is characterized by] wisdom and if there is a third, there is no more exalted court.

XXXI.5 A. “Those who derive arguments before sages” refers to Levi before Rabbi.

- B. “Those who argue before sages” refers to Simeon b. Azzai and Simeon b. Zoma, Hanan the Egyptian and Hananiah b. Hakhinai.
- C. *R. Nahman bar Isaac repeated the matter in terms of five names:* Simeon, Simeon, Simeon, Hanan, and Hananiah.
- D. “Our rabbis in Babylonia” refers to Rab and Samuel.
- E. “Our rabbis in the Land of Israel” refers to R. Abba.
- F. “The judges of the Exile” refers to Qarna.
- G. “*The judges of the Land of Israel*” refers to R. Ammi and R. Assi.
- H. “*The judges of Pumbedita*” refers to R. Pappa bar Samuel.
- I. “*The judges of Nehardea*” refers to R. Adda bar Minyomi.
- J. “*The elders of Sura*” refers to R. Huna and R. Hisda.
- K. “*The elders of Pumbedita*” refers to R. Judah and R. Ina.
- L. “*The sharp wits of Pumbedita*” refers to Ipah and Abimi, sons of Rahbah.
- M. “*The Amoraim of Pumbedita*” refers to Rabbah and R. Joseph.
- N. “*The Amoraim of Nehardea*” refers to R. Hama.
- O. “*Those of Neharbela taught*” refers to Rammi bar Berabi.
- P. “*They say in the master’s house*” refers to R. Huna.

- Q. But did not R. Huna himself say, "They say in the house of the master"?
- R. Rather, it is R. Hamnuna.
- S. "*They say in the West*" refers to R. Jeremiah.
- T. "*They sent from there*" refers to R. Yosé bar Hanina.
- U. "*They ridiculed that statement in the West*" refers to R. Eleazar.
- V. And lo, "They sent from the West in accord with the opinion of R. Yosé bar Hanina" [is an available formulation]?
- W. *Rather, reverse matters:*
- X. "*They sent from there*" refers to R. Eleazar.
- Y. "*They ridiculed that statement in the West*" refers to R. Yosé bar Hanina.

XXXII.1 A. And how many residents must there be in a town so that it may be suitable for a sanhedrin? One hundred twenty [M. 1:6Q-R]:

- B. *What do these one hundred twenty do?*
- C. **Twenty-three are there for a lesser sanhedrin, and there have to be three rows of twenty-three [behind the court], lo, ninety-two.**
- D. **There have to be ten men employed full time in the synagogue and otherwise unemployed, lo, a hundred and two.**
- E. [B. lacks: R. Judah says,] **"There have to be two scribes, two court officers, two litigants, two witnesses, two prepared to prove the witnesses are perjurers, two further witnesses to testify as to the perjury of the ones who are to testify against the original witnesses" [T. San. 3:9D] — lo, a hundred and fourteen.**
- F. *And it has been taught on Tannaite authority:*
- G. In any town in which there are not the following ten officials a disciple of a sage is not permitted to live: a court inflicting the penalty of flogging and [other sorts of] penalties, a charity fund collected by two officials and divided up by three, a synagogue, a bath house, a privy, a physician, an expert [at circumcision], a notary, and a teacher of children.
- H. In the name of R. Aqiba they have said, "Also various kinds of produce, because various kinds of produce keep the eyes bright."

XXXIII.1 A. R. Nehemiah says, "Two hundred thirty [residents]" [M. 1:6S]. [T. adds:] and the law is in accord with his opinion.

- B. **Rabbi says, "Two hundred and seventy-seven" [T. San. 3:9F-G].**
- C. But has it not been taught on Tannaite authority:
- D. Rabbi says, "Two hundred seventy-eight"?
- E. There is no contradiction, the one represents the view of R. Judah, the other of rabbis. [Judah wants seventy on the sanhedrin, rabbis, seventy-one.]

XXXIII.2 A. Our rabbis have taught on Tannaite authority:

- B. "And place such over them to be rulers of thousands, rulers of hundreds, rulers of fifties, and rulers of tens" (Exo. 18:21):
- C. "The rulers of thousands" were six hundred.
- D. "The rulers of hundreds" were six thousand.
- E. "The rulers of fifties" were twelve thousand.

- F. “The rulers of tens” were sixty-thousand.
- G. The total number of judges in Israel was seventy-eight thousand six hundred. The Mishnah-chapter consists of three catalogues of the sorts of courts competent to try various kinds of cases, specifically, courts of three judges (M. 1:1-3), of twenty-three (M. 1:4), and of seventy-one (M. 1:5, 6). Cases involving civil law fall into the first list, a catalogue of twelve entries; those involving capital punishment into the second, a list of three entries; and matters of public policy, five in all, constitute the third list. M. 1:6 complements M. 1:4, 5, by explaining the numbers of judges required to make up courts of seventy-one and twenty-three, respectively. The relationship between the Talmud and the Mishnah is spelled out in Chapter Twelve.