

# VII

---

## BAVLI BABA BATRA CHAPTER SEVEN

### FOLIOS 102B-108A

7:1

- A. He who says to his fellow, “I am selling you a kor’s area of arable land —
- B. [if] there were there crevices ten handbreadths deep,
- C. or rocks ten handbreadths high,
- D. they are not measured with [the area].
- E. [If they were] less than [the stated measurements],
- F. They are measured with [the area]
- G. And if he said to him, “Approximately a kor’s area of arable land [I am selling to you],”
- H. even if there were there crevices more than ten handbreadths deep, or rocks more than ten handbreadths high,
- I. lo, they are measured with [the area].
- I.1** A. [He who says to his fellow, “I am selling you a kor’s area of arable land — [if] there were there crevices ten handbreadths deep, or rocks ten handbreadths high, they are not measured with the area:] *There we have learned in the Mishnah: He who sanctifies his field at the time of the Jubilee’s [being in effect] pays the fifty sheqels of silver [for every part of a field that suffices for] the sowing of a homer of barley. [If] there were there crevices ten handbreadths deep or rocks ten handbreadths high, [103A] they are not measured with it. [If they were in height] less than this, they are measured with it [M. Ar. 7:1E-H]. But why should that be the case? Let them be considered as sanctified as autonomous areas [of the field, since they are not regarded as part of the arable field for purposes of redemption, and let them be redeemed on their own].*
- B. *And if you wish to propose that, since they do not take a kor of seed, they are not subject to consecration, has it not been taught [to the contrary]:*
- C. “A field...” (Lev. 27:16).
- D. Why does Scripture say, “A field”?

- E. Since it is said, "Fifty sheqels of silver for every part of a field that suffices for the sowing of a homer of barley" (Lev. 27:16), I know only that [the law applies] to a case such as is specified [in Scripture, that is, to a field of the specified size]. How do I know that the law encompasses a field suitable for sowing only a letekh of seed or a half letekh, a seah of seed or a tirqab or a half-tirqab?
- F. Scripture says, "A field" — of any dimensions. [Accordingly, the question phrased at B is a valid one.]
- G. *Said Mar Uqba bar Hama, "Here we deal with crevices filled with water, which are not available for sowing seed anyhow. You may closely examine the language of the Mishnah to see that point, since it speaks of things that are similar to rocks."*
- H. *That does indeed prove it.*
- I. *But then, if that is the case, smaller [areas than ten handbreadths] should be subject to redemption as well.*
- J. *They are called small clefts of the earth or spines of the earth [and are taken into account as part of the field].*

**I.2.** A. *Here what is the law [in the case of a sale]?*

- B. Said R. Pappa, "Even though they are not filled with water [they are not included in the implicit terms of the sale]. *How come?* Someone doesn't want to pay out money for one plot that looks like two or three plots.
- C. *Objected Rabina to that statement, "But lo, the Tannaite formulation draws the comparison to rocks: just as a rocky area is excluded because it is not suitable for sowing, so these areas should be excluded from the sale when they are unsuitable for sewing."*
- D. *When the Tannaite formulation drew the analogy to a rocky area, the intent was to refer to a case of an area of rocks less than ten handbreadths.* [Slotki: included in the field is an area even though it is full of water and unsuitable for sowing as a rocky area; but Pappa excludes clefts ten handbreadths deep even though they are not full of water.]

**I.3.** A. Said R. Isaac, "The clefts [of less than ten handbreadths] of which they have spoken must not all together cover an area more than would require four qab of seed."

- B. Said R. Uqba bar Hama, "And that is the case only if they are distributed over an area that requires no less than five qabs of seed." [Slotki: but if their distribution is over a smaller area, they are regarded as one big ravine or rock and are excluded from the measurements of the field.]
- C. R. Hiyya bar Abba said R. Yohanan [said], "And that is the case only if the four qab of rocks or clefts are distributed over the greater part of the field [not all in one corner]." [Slotki: contrary to Uqba's view, it is not enough for the clefts and rocks to be distributed over an area of five qab; if they are distributed over an area that does not represent the greater part of the field, they are regarded as one big ravine or rock, not included in the land that is sold.]

**I.4.** A. *R. Hiyya bar Abba raised the question: "If the greater part of the corks is distributed over the smaller part of the field and the smaller part of the rocks over the greater part of the field, what is the law?"*

B. *The question stands.*

**I.5.** A. R. Jeremiah raised the question: “[103B] If the rocks are arranged like a ring, a straight line, in the shape of a stadium, or in the shape of a crooked road, what is the law?”

B. *The question stands.*

**I.6.** A. A Tannaite statement:

B. If there was a free-standing rock, it is not measured with the field, however small the rock is; and even if it was in the field but near the boundary, it still is not measured with the field, however small the rock may be.”

**I.7.** A. R. Pappa raised the question, “If earth intervened between the rock and the boundary, what is the law?”

B. *The question stands.*

**I.8.** A. R. Ashi raised the question, “If there was earth below the rock near the border and rock above, or earth above and rock below, what is the law?”

B. *The question stands.*

I.1 serves Mishnah-tractate Arakhin, as is clear from I-J, which focus on the issue of redemption, not on the sale that is before us, and is inserted here as filler, having no direct bearing on the problem before us. No. 2 makes that fact certain and turns to our situation in particular. Once No. 3 has clarified our Mishnah-rule, Nos. 4, 5 raise theoretical questions generated by the explanation. No. 6 then sets the stage for the theoretical refinements of Nos. 7, 8. We certainly have nothing like a sustained and ample talmud for this Mishnah-paragraph.

## 7:2

- A. [If he said to him,] “A kor’s area of arable land I am selling to you, as measured by a rope,”
- B. [if he gave him] any less, [the purchaser] may deduct [the difference].
- C. [If he gave him] any more, [the purchaser] must return [cash or additional land].
- D. If he said, “Whether less or more,”
- E. even if he gave him a quarter-qab’s space less for a seah’s area, or a quarter qab’s space more for a seah’s area,
- F. it belongs to [the purchaser].
- G. [If it was more] than this, let him make a reckoning.
- H. What does he pay back to him?
- I. Cash.
- J. But if he wanted, he gives him back land.
- K. And why have they said, “He pays back cash”?
- L. To improve the claim of the seller,
- M. for if he left in a field [of a kor’s space] nine qabs of space,
- N. or in a vegetable patch, an area of a half-qab —
- O. (in the opinion of R. Aqiba, a quarter-qab — )
- P. [the buyer] will pay him back in land [and not money].

**Q. And not only the quarter-qab of area alone does he return, but all the extra land.**

**I.1 A.** [If he said to him, “A kor’s area of arable land I am selling to you, as measured by a rope,” if he gave him any less, the purchaser may deduct the difference. If he gave him any more, the purchaser must return cash or additional land. If he said, “Whether less or more,” even if he gave him a quarter-qab’s space less for a seah’s area, or a quarter qab’s space more for a seah’s area, it belongs to the purchaser. If it was more than this, let him make a reckoning:]

B. *The question was raised:* What is the law if the seller said only, “I sell you an area requiring a kor of seeds” [not using the language, **as measured by a rope**]?

C. *Come and take note:* If he said to him, “A kor’s area of arable land I am selling to you, as measured by a rope,” **[104A]** if he gave him any less, the purchaser may deduct the difference. If he gave him any more, the purchaser must return cash or additional land. *Therefore, it follows, if he made the statement without further clarification, it would have been equivalent to the language, “more or less.”*

D. *Well, then, what about the further articulation of the same rule:* If he said, “Whether less or more,” even if he gave him a quarter-qab’s space less for a seah’s area, or a quarter qab’s space more for a seah’s area, it belongs to the purchaser. *Therefore, it follows, if he made the statement without further clarification, it would have been equivalent to the language, **as measured by a rope**. So it must follow that no inference is to be drawn from the formulation of the Mishnah’s rule.*

E. *Come and take note:* “A kor’s area I am selling to you,” “About a kor’s area I am selling to you,” “...more or less...,” even if he left out land sufficient for a quarter-qab of seeds per seah or added to the sale more than that area of ground, the sale is final. *It therefore follows that if the formula is stated without further specification, it is tantamount to use of the expression “more or less.”*

F. *In that case, to the contrary, what we have is amplifying language, bearing the sense: if someone used the language “a kor’s area,” when is it equivalent to the language, “about a kor’s area”? When someone said, “more or less.”*

G. *Objected R. Ashi, “If so, what is the purpose of using the formula, ‘...I am selling to you...I am selling to you...’? Rather, is it not proper to infer that even where there was no further articulation of the conditions of sale, it is tantamount to saying, ‘more or less’?”*

H. That certainly follows.

**II.1 A.** What does he pay back to him? Cash. But if he wanted, he gives him back land. And why have they said, “He pays back cash”? To improve the claim of the seller:

B. *So is our concern only to improve the claim of the seller, and not also to improve the claim of the buyer?! But hasn’t it been taught on Tannaite authority: if the land that was transferred turned out to be less than seven and a half qab per kor or more than seven and a half qab per for, the transaction is confirmed. If it*

was more than that, the seller has to sell, and the buyer has to buy [which shows that the seller has no advantage over the buyer (Slotki)]?

- C. *That case refers to a situation in which the land to begin with was high but has now become cheap. Then the seller is instructed, "If you want to give him the land, give it to him at the prevailing, cheaper rate."*
- D. *But hasn't it been taught on Tannaite authority: When he hands it over to him, he hands it over to him at the price at which he purchased it from him to begin with?*
- E. *That rule deals with a case in which to begin with it was cheap and has now become costly.*

**III.1 A. ...for if he left in a field [of a kor's space] nine qabs of space, or in a vegetable patch, an area of a half-qab — (in the opinion of R. Aqiba, a quarter-qab — ) [the buyer] will pay him back in land:**

- B. Said R. Huna, "The specified measure of nine qabs of which they spoke pertains even to a large valley." [Slotki: provided there was a surplus of nine qab, the area of the sold field does not matter; however large it may be, the surplus of nine qab or more must be returned, since such a surplus may be regarded as an independent field.]
- C. And R. Nahman said, "He allows him seven and a half qab for every kor. [Slotki: whether the surplus is returnable depends on its proportion to the area of the field sold. If the surplus is no more than seven and a half qab per kor or 1/24th of the area of the field, it need not be returned, however large that surplus may be; the larger the field, the larger the surplus allowed.] *And if there is a surplus to the extent of nine qab, it is to be returned.*"
- D. **[104B]** *Raba objected to R. Nahman by citing the language of our rule: "...for if he left in a field [of a kor's space] nine qabs of space — does this not refer to a case in which a two kor area was sold?"* [Slotki: an area of nine qab in two kor is less than a twenty-fourth and it is to be returned, so how can Nahman say a twenty-fourth is allowed?]
- E. *No, it refers to a case in which he sold him one kor only.*
- F. **...or in a vegetable patch, an area of a half-qab — does this not refer to a case in which an area of two seah was sold?**
- G. *No, it refers to a case in which he sold him an area of only one seah.*
- H. **...in the opinion of R. Aqiba, a quarter-qab — does this not refer to a case in which an area of one seah was sold?**
- I. *No, it refers to a case in which he sold him only half a seah's area.*

**III.2. A. R. Ashi raised this question: "If it was a field and was converted into a garden, or a garden that was converted into a field, what is the law?"**

- B. *The question stands.*

**III.3. A. A Tannaite statement:**

- B. If the field that was sold was adjacent to another field of the seller's, even if the surplus was miniscule, the land must be returned [not cash, since the seller can use the land better than the buyer; the buyer cannot be required to buy the tiny strip of land].

- C. *R. Ashi raised the question: “What is the law on a water cistern’s marking out a division? What is the law on a water channel’s marking a division? What is the law on a public way’s marking a division? What is the law on [Slotki:] a nursery of young inoculated palm-trees’ marking a division?”*
- C. *The question stands.*

**IV.1 A. And not only the quarter-qab of area alone does he return, but all the extra land:**

- B. [Since the language, not only...,’ implies that the prior law stated, ‘the quarter had to be returned and not the surplus above it, we point out that the prior law was that the quarter did not have to be returned, so we ask:] *isn’t it ass-end backward?*
- C. *Rabin bar R. Nahman repeated the Tannaite formulation in the following way: Not only the surplus is to be returned, but all of the quarter-qabs as well [Slotki: over and above the one twenty-fourth of the area that is otherwise allowed, all the quarter-qabs as well are encompassed in the return. One the twenty-fourth that is allowed is exceeded, all the one/twenty-fourth and the surplus over and above it must be returned.]*

I:1 asks about the excluded middle, namely, the rule that governs when the operative language has been omitted altogether; we then seek to find in the language before us the implications for the case that is bypassed. II:1 asks an obvious and necessary question of equity. III:1 presents a dispute to clarify the details of the law. III.2 and III.3 raise secondary questions of refinement. IV:1 examines the somewhat odd wording of the Mishnah and rephrases matters properly.

**7:3A-D**

- A. “[If he said], ‘I am selling you [a kor’s space of ground] measured by a rope, whether it is less or more,’
- B. “[the use of the expression] less or more nullifies the reference to measuring by a rope.
- C. “[If he said, ‘I am selling you a kor’s space of ground], more or less, measured by a rope,’
- D. [105A] “[the use of the expression] measured by a rope nullifies the reference to less or more,” the words of Ben Nannos.

- I.1** A. Said R. Abba bar Mammal said Rab, “Ben Nannos’s colleagues disagreed with him.”
- B. *What of consequence does he propose to tell us, since in the Mishnah we have a Tannaite statement to the same effect, namely: **M’S H B: In Sepphoris a person hired a bathhouse from his fellow for twelve golden [denars] per year, at the rate of one golden denar per month [and the year was intercalated]. The case came before Rabban Simeon b. Gamaliel and before R. Yosé. They ruled, “Let them divide the month added by the intercalation of the year” [M. B.M. 8:8G-I].** [Ben Nannos holds that the final language that is used is binding, so in this case, a full month’s rent would have had to be paid. Sages obviously reject Ben Nannos’s rule.]*

- C. *Had I had in hand only the latter case, I might have supposed that in that case in particular the rule is as stated, since there is the possible of maintaining that the owner had retracted, and, further, the second language might be interpreted to serve as an amplification of the first. But here, in a case in which the seller obviously has changed his mind, one might have supposed that rabbis do not differ from Ben Nannos's position, so it was necessary for Rab to make explicit the difference in both cases.*

**I.2.** A. Said R. Judah said Samuel, "This represents the position of Ben Nannos — but sages say, 'The language that confers the least advantage upon the buyer [following Slotki] is what governs.'"

- B. [Since Samuel's statement uses the emphatic,] "this," *does Samuel himself not take the same position? And lo, both Rab and Samuel say, "[If the seller used the language,] 'A kor for thirty selas I am selling to you,' he may withdraw even up to the payment of the last seah [Slotki: because the terms of the offer implied that he wanted to sell the entire kor; therefore so long as the buyer has not acquired every fraction of the kor, the purchase is not completed.] If he said, 'A kor for thirty, a seah per sela, I am selling to you,' he acquires the land step by step [every seah per sela as it is measured out]."* *Does this show that when he uses "this" Samuel means to concur with Ben Nannos?*

- C. *But does he concur with the other's position? And didn't Samuel say, "[With reference to the decision of Simeon b. Gamaliel and Yosé,] we deal in that decision with a case in which the landlord comes to lay claim at the middle of the month, but if he should come and lay claim at the beginning of the month, the whole of the fee for the month is assigned to the landlord. Should he come at the end of the month, the whole of it is to the tenant."* [Possession establishes title. If the landlord demands rent in the middle of the extra month, the tenant has the first half rent free; he pays for the second; the house belongs to the landlord, and ownership for the next half month is subject to dispute.]

- D. **[105B]** *Rather, in point of fact, since Samuel's statement uses the emphatic,] "this," Samuel himself does not take the same position. And the reason for dividing the rent of the bath house is that each of the parties exercises possession of the bathhouse for part of the period subject to dispute, and here too, the reason that the buyer acquires the seah as it is measured out to him in sequence is that it is at that point that he exercises possession of it.*

**I.3.** A. Said R. Huna, "They say in the household of Rab, 'If one said he would sell something for 'an istira [=96 copper maahs] a hundred maah,' he gets a hundred maah; if he says, 'a hundred maah, an istira' he gets an istira.'"

- B. *What of consequence does he propose to tell us? Is it that we are guided by the final statement that the man has made? Lo, Rab has already made that statement once, for said Rab, "If I had been there [in Sepphoris], I would have assigned the whole return to the owner [the second formulation nullifying the first]."*

- C. *What might you otherwise have supposed? He took that view because he thought that the second formulation served only to articulate the sense of the first, so it was necessary for Rab to introduce the case at hand to avoid that false assumption.*



I.1 links our case to another one in the Mishnah and compares the implications of each, and No. 2 does the same. This is Mishnah-exegesis at the Talmud's highest level. No. 3 continues the same inquiry.

### 7:3E-F

E. [106A] [If he said, "I will sell you a kor's area of ground as measured] by its marks and boundaries," and the difference [between the space thus measured and a kor] was less than a sixth, it belongs to [the purchaser] [=the sale is confirmed].

F [If it was] more than a sixth, the purchaser deducts [the difference from the price].

I.1 A. *It has been stated:*

B. R. Huna said, "If the difference was exactly a sixth, it is equivalent to a difference of less than a sixth."

C. R. Judah said, "If the difference was exactly a sixth, it is equivalent to a difference of more than a sixth."

D. R. Huna said, "If the difference was exactly a sixth, it is equivalent to a difference of less than a sixth:" *this is the sense of the language of the Mishnah:* **and the difference [between the space thus measured and a kor] was less than a sixth, inclusive of exactly a sixth, it belongs to [the purchaser]. [If it was] more than a sixth, the purchaser deducts [the difference from the price].**

E. R. Judah said, "If the difference was exactly a sixth, it is equivalent to a difference of more than a sixth:" *this is the sense of the language of the Mishnah:* **and the difference [between the space thus measured and a kor] was less than a sixth, it belongs to [the purchaser]. [If it was] more than a sixth, inclusive of exactly a sixth, the purchaser deducts [the difference from the price].**

F. *An objection was raised [to Huna's position]: [If he said to him, "I will sell you a kor's area of ground as measured by its marks and boundaries" [M. B.B. 7:3E], even if he provided a sixth too little or a sixth too much, it is equivalent [to an error produced by] a judge's [appraisal, in error], [and the land] belongs to [the purchaser] [T. B.B. 6:26A-C]. And lo, an error of one sixth that is produced by a judge's appraisal is equivalent to an error greater than a sixth [contrary to Huna's position].*

G. *R. Huna will say to you, "And lo, according to your reading of matters, the Tannaite formulation states, the land] belongs to [the purchaser]. [Slotki: and if it is to be compared in all respects to the case of judicial appraisal, the transaction should be invalidated.] Rather, the matter is comparable to an error produced by a judge's appraisal but also not comparable to such an error. It is comparable to a judicial error in respect to the meaning of 'a sixth' [off of true value] but it is not comparable to a judicial error, for in that case the purchase is invalidated but here it is valid."*

I.2. A. *R. Pappa bought a field from someone, [106B] who stated, "It contains an area of twenty griva," but it encompassed only fifteen. [Pappa] came before Abbayye, who ruled, "You understood the situation and accepted it."*



- B. *"But have we not learned in the Mishnah: the difference [between the space thus measured and a kor] was less than a sixth, it belongs to [the purchaser] [=the sale is confirmed]. [If it was] more than a sixth, the purchaser deducts [the difference from the price]?"*
- C. *"That rule pertains where the buyer did not actually know the field, but where he knew the field, he understood and accepted the conditions."*
- D. *"But lo, he said to me that it covers twenty!"*
- E. *He said to him, "The sense was, it is as good as a field of twenty."*

## **Topical Appendix:**

### **The Process of the Disposition and Transfer of Property**

Because of 4.G, which goes over ground treated in the prior Talmud-composite, this free-standing inquiry into the stated question is interpolated.

#### **I.3.** A. *It has been taught on Tannaite authority:*

- B. R. Yosé says, "Brothers who divided an estate — once the lot for one of them has been cast, all of them have acquired title to their shares."
- C. How come?
- D. Said R. Eleazar, "It is comparable to the division of the land of Israel to begin with. Just as at the beginning of the division of the land, acquisition was effected by casting lots, so here too acquisition is effected by casting lots."
- E. Then how about this argument: just as later on, dividing property was by the ballot box and by consulting the Urim and Thummim, so now too it should be through the same means?
- F. *Said R. Ashi, "Because of the benefit of mutual agreement [that is gained], here the lot suffices, and the brothers decide to allow one another to acquire title by the lot alone."*

#### **I.4.** A. *It has been stated:*

- B. Two brothers who divided up an inherited estate, and a third brother later on came from overseas —
- C. Rab said, "The division is annulled."
- D. And Samuel said, "The two brothers give up [each one third of his share and give it to the third brother]."
- E. *Said Raba to R. Nahman, "In the view of Rab, who has said, The division is annulled, it follows that the decision is reversed. But then what about the following matter: in a case in which a partnership of three was in being, and two members dividing the property, there too the division should be annulled [on the same principle]? [But in fact, that is not the rule.]"*
- F. *But how are the cases comparable? In that case, to begin with the partners entered into the transaction with the intention of dividing the profits among three, but here they did not enter into the transaction to begin with intending to divide the estate among the three. [Slotki: they*

ignored the just claims of the absent brother and the division may be cancelled.]

- G. *Said R. Pappa to Abbaye, "In the view of Samuel, who has said, The two brothers give up [each one third of his share and give it to the third brother], that is to say that the decision once reached is to be confirmed. But lo, both Rab and Samuel have said, 'A kor for thirty zuz I am selling you' – he can retract even up to the delivery of the last seah. 'A kor for thirty, a seah for a sela,' the buyer acquires possession of every seah as it is measured out for him." [Slotki: if decisions are to be adhered to, why should the buyer be obliged to return that portion of the purchase that by mutual agreement had passed over into his possession?]*
- H. **[107A]** *In that case, rabbis have made a decision that is agreeable for the seller [who can withdraw even at the last minute should the price go up (Slotki)], and also for the buyer [for the same consideration, mutatis mutandis].*

**I.5.** A. *It has been stated:*

- B. Two brothers who divided an estate, and a creditor came and attached the share of one of them —
- C. Rab said, "The original division of the estate is null."
- D. And Samuel said, "He has waived his share."
- E. R. Assi said, "The portion is compensated either a quarter in land or a quarter in money."
- F. Rab said, "The original division of the estate is null:" *he takes the view that brothers who have divided an estate remain co-heirs no matter what.*
- G. And Samuel said, "He has waived his share:" *he takes the view that brothers who have divided an estate are in the status of purchases, specifically, like purchasers who have made the deal without the right of claiming an indemnity in such a case as this.*
- H. R. Assi said, "The portion is compensated either a quarter in land or a quarter in money:" *he takes the view that it is a matter of doubt whether brothers who have divided an estate remain co-heirs no matter what or whether brothers who have divided an estate are in the status of purchases. That is why compensation is either a quarter in land or a quarter in money.*
- I. Said R. Pappa, "The decided law in all of these traditions is that they give up [each one third of his share and give it to the third brother]."
- J. Amemar said, "The division is nullified."
- K. *And the decided law is, the division is nullified.*

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

- B. Three experts who under court assignment went to the estate of male orphans to assess it [for funds to maintain the widow and daughters of the deceased] — one says, "It is worth a maneh [one hundred zuz]," and the other two say, "It is worth two hundred," [or] one says, "It is worth two hundred zuz," and two say, "It is worth a maneh," the opinion of the

minority is overridden. If one says, "It is worth a maneh," and one says, "It is worth twenty [selas, eighty zuz]," and one says, "It is worth thirty [selas, 120 zuz]," it is valued at a maneh.

- C. R. Eliezer b. R. Sadoq says, "It is valued at ninety."
- D. Others say, "They make a calculation of the difference and divide by three."
- E. *The one who said, it is valued at a maneh, takes the middle course.*
- F. R. Eliezer b. R. Sadoq says, "It is valued at ninety" — *he takes the view that this land [107B] is worth ninety zuz, and as to the one who said that it was worth twenty, he underestimated it by ten, and the one who said it was worth a maneh [a hundred] overestimated it by ten.*
- G. *To the contrary! this land was really worth one hundred and ten zuz, and the one who said it was worth a maneh has underestimated its true value by ten zuz, and the one who said thirty has overestimated it by ten zuz.*
- H. *One way or the other, take the estimate of the first two, since both estimates do not exceed the sum of a maneh. [Slotki: it is preferable to adopt the two valuations that have in common the point of not exceeding the sum of a maneh and to ignore the third, rather than adopt the valuations that have nothing in common.]*
- I. Others say, "They make a calculation of the difference and divide by three" — *they take the view that this land has a true value of ninety-three and a third zuz, and that the one who estimated the value at twenty selas [eighty zuz] underestimated it by thirteen and a third, while the one who valued it at a maneh [100 zuz] overestimated it by thirteen and a third zuz. And, further, the later really ought to have given a higher estimate [one hundred six and two-thirds zuz], and the reason that he didn't is that he thought, "It suffices to exceed my colleagues' valuation by so much."*
- J. *To the contrary, the land had a true value of a hundred and thirteen and a third zuz. The one who valued it at a maneh has underestimated by thirteen and a third zuz, the one who valued it at thirty selas overestimated it by thirteen and a third zuz, and he really ought to have assigned a higher value, and the reason that he didn't is that he thought, "It suffices to exceed my colleagues' valuation by so much."*
- K. *One way or the other, take the estimate of the first two, since both estimates do not exceed the sum of a maneh.*
- L. Said R. Huna, "The decided law is in accord with the position of 'others.'"
- M. Said R. Ashi, "If we don't know the operative consideration behind the position of 'others,' should we go and carry out the law in accord with their position?"
- N. *The judges of the exile stated as a Tannaite ruling, "They calculate the difference among them and divide by three."*

- O. Said R. Huna, "The decided law is in accord with the position of the judges of the exile."
- P. *Said R. Ashi, "If we don't know the operative consideration behind the position of the judges of the exile, should we go and carry out the law in accord with their position?"*

I.1 raises the excluded middle that the Mishnah has omitted. No. 2 illustrates the practical application of the Mishnah's rule. No. 3 introduces a topical appendix devoted to a problem distinct from the Mishnah's. The unitary composite includes at No. 4 the datum involving Rab and Samuel that figured earlier, M. 7:3A-D.I.2. So the whole is tacked on solely for that reason. Nos. 5, 6 proceed to work on the same general theme, though the principle of composition of the entire composite, Nos. 5-7, hardly is obvious.

## 7:4

- A. **He who says to his fellow, "Half a field I am selling to you" —**
- B. **they divide [the field] between them [into portions of equal value],**
- C. **and [the purchaser] takes a half of his field.**
- D. **[If he said], "The half of it in the south I am selling to you,"**
- E. **they divide between them [the field into portions of equal value],**
- F. **and [the purchaser] takes the half at the south.**
- G. **And [the seller] accepts [responsibility for providing ground for] the place in which the fence is to be located, and for large and small ditches.**
- H. **How large is a large ditch? Six handbreadths.**
- I. **And a small ditch? Three.**

- I.1** A. **He who says to his fellow, "Half a field I am selling to you" — they divide the field between them into portions of equal value, and the purchaser takes a half of his field. If he said, "The half of it in the south I am selling to you," they divide between them the field into portions of equal value, and the purchaser takes the half at the south:**
- B. Said R. Hiyya bar Abba said R. Yohanan, "The buyer takes the poorer side of the field" [and the prior owner chooses the fertile side].
- C. *Said R. Hiyya bar Abba to R. Yohanan, "But lo, don't we learn in the Mishnah, they divide [the field] between them [into portions of equal value], [so they come to some sort of compromise between them, and the buyer should have the same choice as the seller]?"*
- D. *He said to him, "While you fellows in Babylonia were out eating date-berries, I was explaining this matter in light of the concluding clause, in which we learn in the Mishnah: If he said, "The half of it in the south I am selling to you," they divide between them the field into portions of equal value, and the purchaser takes the half at the south. But why should this be the case? After all, they divide [the field] between them [into portions of equal value]! But lo, he said to him, The half of it in the south I am selling to you. So you must conclude, just as in that case, the language refers to the price [Slotki: by "the southern*

side,” not the actual spot was meant but the value of that spot in any part of the field], *so here too, the language that is used refers to the price.*” [Slotki: then the compromise consists in this, that the buyer gets land equal to the full value of half the field, while the seller has the choice of giving the land on any side, even on the worst, provided the value of it is not less than half the price of the entire field.]

**II.1 A. And he accepts responsibility for providing ground for the place in which the fence is to be located, and for large and small ditches. How large is a large ditch? Six:**

- B. *A Tannaite statement:*
- C. The larger ditch is outside and the smaller ditch is inside, and both are made behind the wall [on the outer side], [108A] of a breadth such that an animal can't jump over the wall.
  - D. *But why not make a big ditch but not a little one?*
  - E. *Since it is wide, the animal may just stand in it and jump over.*
  - F. *Why not make a small ditch and not a big one?*
  - G. *Since it's small, the animal might just stand on the edge and jump.*
- H. And how large a space is between the bigger and the smaller ditch?
- I. A handbreadth.
  - I.1 provides a close reading of the Mishnah-rule and contributes a subtle interpretation of its sense, and II.1 adds a Tannaite complement, with its own talmud.