

VI.

BAVLI BABA MESIA CHAPTER SIX

FOLIOS 75B-83A

6:1

- A. He who hires craftsmen,
- B. and one party deceived the other —
- C. one has no claim on the other party except a complaint [which is not subject to legal recourse].
- D. [If] one hired an ass driver or wagon driver to bring porters and pipes for a bride or a corpse,
- E. or workers to take his flax out of the steep,
- F. or anything which goes to waste [if there is a delay],
- G. and [the workers] went back on their word-
- H. in a situation in which there is no one else [available for hire],
- I. he hires others at their expense,
- J. or he deceives them [by promising to pay more and then not paying up more than his originally stipulated commitment].

6:2

- A. He who hires craftsmen and they retracted —
- B. their hand is on the bottom.
- C. [76A] If the householder retracts,
- D. his hand is on the bottom.
- E. Whoever changes [the original terms of the agreement] —
- F. his hand is on the bottom.
- G. And whoever retracts —
- H. his hand is on the bottom.
- I.1 A. *What is stated here is not “one or another retracted” [on the agreement] but rather, **one party deceived the other**, bearing the sense that the workers were all together deceived . But how can such a situation be imagined?*
- B. *It is a case in which the householder told the major domo, “Go, hire me workers,” and he went and deceived them.*

- C. *But what can that possibly mean? If the householder had said to the major domo, "Go and hire them for four," and he went and said to them, "For three," what complaint do they have? They have understood the offer and accepted it. And if the householder had said to the major domo, "For three," and he went and said to the workers, "For four," what can be at stake here? If the major domo said to them, "I bear responsibility for your wages," then he has to pay them out of his own pocket. For it has been taught on Tannaite authority: He who hires workers to work on his property but directs them to his neighbor's must pay him [the worker] in full and then collect from the owner of the field where the work was done for the value of the benefit he has received.*
- D. *The present case is required to deal with a case in which he had said to them, "The householder bears responsibility for his wages."*
- E. *But then let us see at what rate the workers were employed?*
- F. *The rule is required since there are those who are hired out at four and some at three. So they can say to him, "If it were not that you said to us, 'four,' we would have taken the trouble to find a job that paid four."*
- G. *If you wish, further, I shall propose yet another explanation, specifically: here we deal with a householder, and he can say to him, "If you had not promised me four, it would have been cheap for me to accept employment at all."*
- I. *If you wish, further, I shall propose yet another explanation, specifically: in point of fact we deal with the workers, and they have said to him, "Since you promised us four, we worked hard and produced for you worth of the highest quality."*
- J. *But then let us examine the work [Freedman: to see whether it is really worth the higher wage, in which case the employer must pay four, whatever instructions he gave].*
- K. *It was work on a dike.*
- L. *Even in the case of a dike, it is possible to see the quality of the work.*
- M. *It is one that was filled with water, so we cannot tell.*
- N. *If you wish, further, I shall propose yet another explanation, specifically: in point of fact, we deal with a case in which the householder said to the major domo to pay four, and he went and said to them that he would pay three. And as to your argument, They have understood the offer and accepted it, they can argue back, "Don't you believe, 'Do not withhold good from those to whom it is due' (Pro. 3:27)."* [Freedman: Though they undertook to work for three, they are justified in resenting the fact that the employer's agent offered them less than he might have.]
- I.2.** A. *It is self-evident that if the employer said to the major domo to hire workers for three zuz a day, and he went and said to them, four, but they said to him, "It is with the stipulation that we are paid in accord with what the major domo has said," then they have in mind the one who has engaged them [and did not stipulate to work for less]. But what is the rule if the householder said to hire workers at four zuz a day, and he went and said to them, "for three," and they said, "it will be as the householder has stipulated"? What is the upshot? Do we maintain that it was in reliance upon what the major domo has said, so that they*

have said to him, "You are reliable for us that that is what the householder has said to you," or perhaps the workers rely on the statement of the householder?

B. *Come and take note of the following case:*

C. [If a wife said to a man,] "Bring me my writ of divorce," and the man said to the husband, "Your wife has said, 'Receive my writ of divorce in my behalf,'" and the husband said, "Here it is, in accord with what she has said" —

C. R. Nahman said Rabbah bar Abbuha said Rab said, "Even should the writ of divorce reach her possession, she is not deemed to have been divorced."

D. *This proves, therefore, that it is in reliance upon the statement of the intermediary that the husband has relied, for, if you should imagine that it is upon reliance of the wife's statement that the husband has relied, then when the writ of divorce actually reaches her possession, nonetheless, she should be deemed divorced.*

[Freedman: a woman is divorced only when the divorce writ actually reaches her hand or the hand of an agent appointed by her for the express purpose of accepting it on her behalf; an agent's powers are strictly limited to the terms of his appointment and he may not exceed them. In this case the wife merely authorized the agent to bring her the writ, while the agent told the husband that he was delegated to accept it on her behalf. The husband in handing the divorce said he was giving it in accordance with her instructions. No man can take a divorce to a woman on her husband's behalf unless the husband appoints him for that purpose, and the husband cannot authorize the man to accept the divorce on his wife's behalf, that is, that by his acceptance she shall be divorced, for such appointment is the wife's prerogative. So when the husband said, "Take it in accordance with her instructions," he must have meant, "I believe that she appointed you to accept it on her behalf, that by your acceptance she should become divorced. Consequently he did not appoint him as agent to take it to his wife. So the woman is divorced neither by the agent's acceptance, since she did not authorize him to accept it, nor by her own, since the agent has not been appointed by the husband to take it to her. This holds good on the hypothesis that the husband relied on the agent's statement only. But if it is assumed that he meant, "I give it to you exactly in accordance with her instructions and not with what you have said, that is the same as saying, "As she has instructed you to be her agent to bring it to her, so I instruct you to be my agent to carry it to her." Therefore when the writ reaches the wife, she should be divorced. The upshot is that the husband has relied on the agent's statement only, and, by analogy, the workers rely upon the major domo.]

E. *Said R. Ashi, [76B] "How now! [Are the cases truly parallel?] That conclusion would follow if the opposite were the rule, namely: [if a woman said to a man,] 'Accept in my behalf my writ of divorce,' [and the agent said to the husband, 'Your wife has instructed me,] "Bring me my writ of divorce,'" and the husband said, "Here it is, in accord with what she has said" — and R. Nahman said Rabbah bar Abbuha said Rab said, 'When the writ of divorce reaches her possession, she is then deemed to have been divorced.' That then would yield the conclusion that it was in reliance upon what the wife has said that the husband has made his decision. Or had the matter been formulated, when the writ of divorce reaches her possession, she is deemed to have been divorced, then we could have drawn the conclusion that it was in reliance upon the statement of the agent that the*

husband has relied. But there [in the context in which the ruling as we have it is stated], the reason for the ruling is that the agent has utterly defied the terms of his mission by stating, 'I am willing to be an agent for acceptance, but not for delivery of the writ of divorce.'" [Freedman: by claiming that he was an agent for acceptance when in fact he was merely authorized to bring her the divorce, he showed unwillingness to take all that trouble and so he has cancelled his own authority. Therefore even if the husband's statement meant that he relied upon his wife and the agent changed his mind and did deliver the writ, the delivery is invalid, since the agent himself has destroyed his own authority. But in the hypothetical case posited by Ashi, the agent's statement that he was empowered only to bring it to the wife when in fact he was authorized actually to accept it in her behalf did not annul his powers, if he was willing to go so far as to deliver it, he was certainly prepared for the lesser service of accepting it in the wife's behalf.]

- I.3.** A. [Reverting to I.1.A: *What is stated here is not "one or another retracted" [on the agreement [but rather, **one party deceived the other**, bearing the sense that the workers were deceived,] — if you prefer, I may say that the Tannaite authority treats reversion as equivalent to deception. For if has been taught on Tannaite authority:*
- B. **He who hires workers and they deceived the householder, or the householder deceived them, they have no claim on one another except a complaint. Under what circumstances? When the workers did not show up.**
 - C. **But if ass-drivers came but did not find grain, workers but found the field too wet to work and not suitable for ploughing, he pays them their wages in full.**
 - D. **But one who actually travels with a load is not the same as one who travels empty-handed, and one who does the work is not treated as equivalent to one who comes and sits and does nothing.**
 - E. **Under what circumstances? It is in a case in which they did not actually begin the work. But if they had actually begun the work, lo, they make an estimate for him of how much work had actually been done.**
 - F. **How so? If one undertook for the householder to cut down his standing grain for two selas, and he had cut down half of it but left half of it, or if he undertook to weave a cloak for two selas, and had woven half of it but left half of it, the portion that is done is assessed.**
 - G. **How so? If what he had made was worth six denars, they hand over to him a sela [four denars] or he completes the work. And if it was worth a sela, they hand over to him a sela.**
 - H. **R. Dosa says, "They make an estimate of the value of what is going to be made. If that which was going to be made was worth five denars, they give him a sheqel or he finishes the work. And if it was worth a sheqel, they give him a sheqel."**
 - I. **Under what circumstances? If it is a case of something that does not go to waste. But in the case of something that goes to waste if there is a delay, he hires others at their expense or deceives them by promising to pay more and then not paying up more than his originally stated commitment.**

- J. How so? He says to the worker, “I agreed to pay you a sela. Lo, I’m going to give you two.” He then goes and hires workers from another location and comes and takes the money from this party and hands it over to that party. To what extent? Even up to forty or fifty zuz.
- K. Under what circumstances? In a situation in which he comes to an agreement with him while he cannot find others to hire. But if he saw ass-drivers coming along, the worker may say to him, ‘Go and hire one of these for your needs,’ and the employer has no claim on him except a complaint [T. B.M. 7:1A-LL].

I.4. A. *A Tannaite authority repeated before Rab, “he pays them their wages in full.”*

B. *He said to him, “My uncle said, ‘If it were I, I would have paid them only at the rate of unemployed workers,’ and yet you say, he pays them their wages in full? But surely it has been taught in this same connection, But one who actually travels with a load is not the same as one who travels empty-handed, and one who does the work is not treated as equivalent to one who comes and sits and does nothing.”*

C. *[The Tannaite authority] had not completed the recitation of the passage before him [and that accounts for the difficulty that Rab found in the version that he criticized].*

D. *There are those who say that the Tannaite authority had completed the recitation of the passage before him, and this is what he said: “My uncle said, ‘If it were I, I would have paid them nothing at all,’ and yet you say, he pays them their wages in full?”*

E. *But this cited Tannaite teaching presents a contradiction.*

F. *There is no contradiction: the latter ruling covers a case in which the worker [or: householder] had examined the field the previous evening, the former treats a situation in which he had not done so. [Freedman/Rashi: if the worker inspected the field the previous evening, he has no claim now, for when he undertook to plow the field, he saw the condition of the field.]*

I.5. A. *This is in line with what Raba said, “One who hires workers to cut dykes, and it rained and filled the land with water [making the work impossible], if he had examined the field the previous evening, [77A] then the loss is assigned to the workers, while if he had not examined the field in the previous evening, the loss is assigned to the employer, and he has to pay them as unemployed workers.”*

B. *And Raba said, “One who hired workers for irrigation and it rained — the loss is assigned to the workers. But if the river overflowed, the loss is assigned to the employer, and he has to pay them as unemployed workers.”*

- B. *And Raba said, "One who hired workers for irrigation and the water supply failed by noon — if the failure is uncommon, the loss is assigned to the workers. But if it is common, then, if the workers come from that place, the loss is assigned to the workers, but if they are not from that town, then the loss is assigned to the employer, [and he has to pay them as unemployed workers]."*
- C. *And Raba said, "One who hired workers to do a particular piece of work, and the work was done by noon, if he has other work to do that is easier than that, he may assign it to them, or even if it is of equal difficulty, he can assign it to them, but if it is more difficult, he cannot order them to do it, and he must pay off in full."*
- D. *How come? Let him pay them as unemployed workers!*
- E. *When Raba made the statement that one pays the workers as unemployed workers are paid, he spoke of the workers of Mahoza, who, if they do not work, feel faint [and so are entitled to full pay, being very good workers].*

I.6. A. The master has said, **"But if they had actually begun the work, lo, they make an estimate for him of how much work had actually been done. How so? How so? If what he had made was worth six denars, they hand over to him a sela [four denars]:"**

B. *Rabbis take the view that the hand of the worker is on top.*

I.7. A. **...or he completes the work and gets two selas:**

- B. *That is self-evident!*
- C. *No, it was necessary to state the rule to cover the case in which the value of the labor rose, and the workers retracted, so the householder went and appeased them.*
- D. *What might you have thought? The workers can say to the householder, "When we allowed ourselves to be appeased, it was in the assumption that you would add to our salary"?*
- E. *So we are informed that the householder may say to them, "I was assuming that it would be all right if I went to some extra trouble for you with respect to food and drink."*

I.8. A. **And if it was worth a sela, they hand over to him a sela:**

- B. *That is self-evident.*
- C. *No, it is necessary to make that point to cover the case in which the value of the labor went down from the rate at which he had hired them. He had hired them for a zuz above the usual cost, and then the value went up and was for more than a zuz.*
- D. *What might you have thought? The workers can claim, "You promised us a zuz above the usual wage, so now give us a zuz more than was promised, since that is now the usual wage"?*

- E. *So we are informed that the householder may say to them, "I promised you the extra zuz only when you did not agree [to work for the usual wage]. But now you have agreed."*

I.9. A. R. Dosa says, "They make an estimate of the value of what is going to be made. If that which was going to be made was worth five denars, they give him a sheqel or he finishes the work. And if it was worth a sheqel, they give him a sheqel."

- B. *In his theory, the worker's hand is on the bottom.*

I.10. A. or he completes the work and get two selas:

- B. *That is self evident!*
C. *No, it was necessary to state the rule to cover the case in which the value of labor went down, so the householder retracted and the workers went and appeased him.*
D. *What might you have thought? He may say to them, "I reemployed you in the understanding that you would allow a deduction on your wages"?"*
E. *So we are informed that the workers may say to him, "It was on the assumption that we would do the work particularly zealously."*

I.11. A. And if it was worth a sela, they hand over to him a sela:

- B. *That is self-evident.*
C. *Said R. Huna b. R. Nathan, "It was necessary to give the rule to cover a situation in which to begin with the workers agreed to work for a zuz less than the usual price, and then the value of the work went down. What might you have said? That the employer may claim, 'You agreed to work for a zuz less than the usual wage, so now I can pay you a zuz less than the prevailing wage'?"*
D. *"So we are informed that the workers may say to him, 'When we said to you that we would work for a zuz less, it was because you would not agree to pay the prevailing rate, but now you have agreed to pay just that.'"*

I.12. A. Rab said, "The law accords with the opinion of R. Dosa."

- B. *But did Rab make such a statement? And has not Rab said, "A worker can retract even at noon!" And should you then say that R. Dosa distinguishes between work by the hour and contract-work by the piece [so that if one works by the day or week he can retract and lose nothing but if he works by the hour, he is at a disadvantage], does he really make such a distinction?*
C. *And has it not been taught on Tannaite authority:*
D. **He who hires a worker, who suffers a bereavement [and cannot continue] or who suffers heat-prostration — lo, they make an estimate for him of the work already done. How do they make an estimate for him? If he had been hired for a month, [77B] they pay him off in accord with his salary [proportion to the part of the month he has worked]. If he had been hired by the piece as a contractor, they pay him off in proportion to the part of the job he has completed [T. B.M. 7:3A-F].**

- E. *Now who is the authority of this rule? Should we say it is the rabbis, why then do we specify, **who suffers a bereavement [and cannot continue] or who suffers heat-prostration**, so that he is subject to constraint in interrupting his work? Even if he were not subject to constraint, have not the rabbis said that the hand of the worker is on top? Rather, is this not the position of R. Dosa, and does not the passage yield the inference that R. Dosa does not make any distinction at all between work by the hour and contract work by the piece?*
- F. Said R. Nahman bar Isaac, "The passage speaks of work on something that can yield a loss [if the work is not completed] and therefore it represents the views of all parties."
- G. *We have learned in the Mishnah: **Whoever changes [the original terms of the agreement] — his hand is on the bottom. And whoever retracts — his hand is on the bottom.** Now there is no difficulty in concluding that the clause, **Whoever changes [the original terms of the agreement] — his hand is on the bottom** represents the Tannaite authority's presenting as anonymous, and therefore authoritative, the opinion of R. Judah. But as to the statement, **And whoever retracts — his hand is on the bottom** — what is this meant to add to the equation anyhow? Is it not to encompass the case of the worker, and that would then be in accord with the position of R. Dosa?*
- H. *Rather, R. Dosa refers to both cases, and while Rab concurs with his position in one, he differs in the other.*
- I.13. A.** *If you prefer, I may claim that the phrase, **And whoever retracts — his hand is on the bottom**, refers to the following teaching on Tannaite authority:*
- B. **And whoever retracts** — how so?
- C. Lo, if one sold his field to his fellow for a thousand zuz and the other paid a deposit of two hundred zuz, if the seller retracts, the purchaser's hand is on the top. If he wanted, he may say to him, "Give me my money back or give me the land up to the value of my money." And from what part of the land does he collect it? From the best quality land.
- D. But when the purchaser is the one who retracts, the hand of the seller is on top. If he wants, he may say to him, "Here is your money back." If he wants, he may say to him, "Here is the land to the value of your money." And from what part of the land does he collect it? From the worst quality land.
- E. Rabban Simeon b. Gamaliel says, "But they instruct them so that they will not retract. How so? He writes a bond for the purchaser as follows, 'I have sold such and such a field to so and so for a thousand zuz, on which he has paid me two hundred zuz, and now I am his creditor for the sum of eight hundred zuz.' Then the buyer acquires the title to the field and must repay the rest of what is owing, even after many years."

I.14. A. The master has said, "And from what part of the land does he collect it? From the best quality land."

- B. *Now we have assumed that the sense is, “from the best property that he owns.” But let the deceived purchaser not enjoy a status superior to that of a creditor in general, concerning whom we have learned: **A creditor is entitled to compensation in land of medium quality [M. Git. 5:1B].***
- C. *And furthermore, here is the land for which he paid out money [so we compensate him from land he never imagined purchasing anyhow]?*
- D. Said R. Nahman bar Isaac, “It is, ‘from the best quality property that is in the field that has been purchased or from the worst.’”
- E. *R. Aha b. R. Iqa said, “You may even maintain that the land derives from the best quality real estate that the seller owns. For an ordinary person, when he buys a field for a thousand zuz, has to sell off other property at forced sale prices, so he is as one who has sustained damage [in the sale that did not produce a new piece of ground]. And we have learned in the Mishnah: **For damages they pay compensation out of the highest quality real estate [M. Git. 5:1A].**”*

- I.15.** A. Rabban Simeon b. Gamaliel says, “But they instruct them so that they will not retract. How so? He writes a bond for the purchaser as follows, ‘I have sold such and such a field to so and so for a thousand zuz, on which he has paid me two hundred zuz, and now I am his creditor for the sum of eight hundred zuz.’ Then the buyer acquires the title to the field and must repay the rest of what is owing, even after many years.”
- B. *So it follows that the operative consideration is that he has made such a commitment in writing [through the bond]. Lo, if he had not written such a bond, he does not effect acquisition. Yet it has been taught on Tannaite authority:*
 - C. “He who hands over a pledge [equivalent to a deposit] to his neighbor and says to him, ‘If I retract, the object I have left as a pledge is forfeited to you,’ and the other said, ‘If I retract, I shall double for you the value of your pledge,’ the stipulations are binding,” the words of R. Yosé.
 - D. *R. Yosé is consistent with his general position, for he has said, “An assurance that one will forfeit something in case of non-fulfillment of a condition that one is sure he will be able to carry out has the power to effect the transfer of title.”*
 - E. R. Judah says, “It suffices that it has the power to effect the transfer of title only to that which is equivalent to the value [of the pledge that has been put up for forfeit].”
 - F. Said R. Simeon b. Gamaliel, “Under what circumstances? When the depositor had said to him, ‘Let my pledge effect the purchase.’ But if one sold a house or field for a thousand zuz, and the buyer paid out five hundred, he has acquired title to the whole and must repay the balance, even after many years.” [The transaction is therefore binding even though there is no bond that covers the balance as an ordinary debt.]
 - G. *There is no contradiction between the two positions [assigned to Simeon b. Gamaliel]. The former speaks of a case in which the seller has again and again asked the buyer for his money [Freedman: proving that he sold*

the field on account of financial pressure, and, unless he explicitly arranged for the balance to be treated as an ordinary loan, he can cancel the sale if full payment is delayed], *the latter deals with a case in which the seller did not demand payment again and again.*

- H. *For said Raba, “He who sells something to his fellow and demands payment again and again — the object does not become the property of the buyer. But if not, the object does become the property of the buyer.”*

I.16. A. *Raba also said, “One who lent a hundred zuz to his fellow, and the other paid him back one zuz at a time — this does constitute a valid repayment, but the other has a righteous complaint against the borrower, saying to him, ‘You have caused me to lose my capital.’”*

I.17. A. *Someone once sold an ass to his neighbor, and the other failed to pay one zuz. The seller repeatedly asked for his zuz.*

- B. *R. Ashi went into session and investigated the question: “In a case such as this, what is the ruling? Has the purchaser effected ownership or not?”*

C. *Said R. Mordecai to R. Ashi, “This is what Abimi of Hagronia said in the name of Raba, “One zuz is no different from many zuz, and he does not effect ownership [because of yet owing one zuz, which the seller has repeatedly demanded].””*

D. *Said R. Aha b. R. Joseph to R. Ashi, “And lo, we have said in the name of Raba, ‘He who sells something to his fellow and demands payment again and again — the object does not become the property of the buyer. But if not, the object does become the property of the buyer.’”*

E. *He said to him, “You must explain your teaching to refer to one who sells his field [78A] on account of its miserable quality [so the man willingly sold the field, and repeated demands for payment are not because of financial need but fear the buyer may retract (Freedman)].”*

I.18. A. *In line with the foregoing, it is self-evident that if one wanted to sell a small field for a hundred zuz, but since he found no buyer, went and sold a much larger field for two hundred zuz, and then repeatedly asked for his money, the purchaser has not made acquisition of the field [not having paid the money that the seller required]. But if someone wanted to sell a field for a hundred and could not find a purchaser, though if he had tried to find a purchaser of such a field for such a price, he could have, and then having not gone to look, he sold a field for two hundred, and now he demands*

payment for his money, what is the rule? Is he or is he not in the category of someone who has sold a field because of its poor quality?

B. *The question stands.*

II.1 A. If one hired an ass driver or wagon driver to bring porters and pipes for a bride or a corpse, or workers to take his flax out of the steep, or anything which goes to waste if there is a delay, and the workers went back on their word — in a situation in which there is no one else available for hire, he hires others at their expense, or he deceives them by promising to pay more and then not paying up more than his originally stipulated commitment:

B. To what extent may he hire others at their expense?

C. Said R. Nahman, “Up to the salary that the others would have been paid.” [Freedman: If the first workers had done part of the work but not yet been paid, he may offer the whole sum to fresh workers and pay the first ones nothing.]

D. *Raba objected to R. Nahman, “Up to forty or even fifty zuz!”* [Reference is made to the following: **He says to the worker, “I agreed to pay you a sela. Lo, I’m going to give you two.” He then goes and hires workers from another location and comes and takes the money from this party and hands it over to that party. To what extent? Even up to forty or fifty zuz.**(T. **B.M. 7:1L**)].

E. He said to him, “When that Tannaite teaching was repeated, it had reference only to a case in which the deceived employer was actually in possession of a bundle of the workers’ tools].”

At I.1 the close reading of the language of the Mishnah yields a clarification of the principle at issue. And this broadens the discussion to an analysis of the rules of agency, encompassing an analysis of the delivery of a writ of divorce through an agent. The upshot is that the Talmud links case to case via a shared principle of law, so showing the fundamental unity of the law. The analysis carried forward from I.1 continues at I.3-12, and then I.13 then moves on to another matter, which itself is then subjected to sustained analysis in its own terms. So the entire discussion proves well-crafted and cogent; we can explain why each item is in its position and how all entries hold together. II.1 then briefly examines the language of the remainder of the Mishnah-paragraph. To classify this sustained discussion as Mishnah-commentary seems to me somewhat asymmetrical with the character of the passage, though, clearly, what has guided the framer of the whole is amplification of the Mishnah-paragraph and pertinent complementary materials of Tannaite attribution.

6:3

A. **He who rents out an ass to drive it through hill country but drove it through a valley,**

B. **to drive it through a valley but drove it through the hill country,**

C. **even though this route is ten mils and that route is ten mils,**

D. **and [the ass] died —**

E. **[the one who rented it is] liable.**

- F. He who rents out an ass to drive it through hill country, but he drove it through a valley.
- G. if it slipped, is exempt.
- H. But if it suffered heat prostration, he is liable.
- I. [If he hired it out] to drive it through a valley, but he drove it through hill country,
- J. if it slipped, he is liable.
- K. And if it suffered heat prostration, he is exempt.
- L. But if it was on account of the elevation, he is liable.
- M. He who rents out an ass, and it went blind or was seized for royal service —
N. [the one who provided it has the right to] say to [the one who rented it], “Here’s yours right before you” [and he need not replace it for the stated period].
- O. [If] it died or broke a leg,
- P. [the one who provided it out] is liable to provide him with another ass.

- I.1 A. *What is the difference between the first case [A-E], in which no distinction among causes of death is drawn, and the second case [F-I], in which a distinction is drawn among the causes of death?*
- B. *Said the household of R. Yannai, “In the first case the ass died on account of the air, so we say, it was the air of the mountain that killed or, or we say, the air of the plain killed it.”*
- C. *R. Yosé bar Hanina said, “For example, it died through fatigue” [Freedman: if it was driven on the mountain instead of on the plain, the owner can plead that the ascend had overtaxed its strength. If driven through the plain instead of on the mountain, he can be said that the bracing air of the mountain, lacking on the plain, would have revived it.]*
- D. *Rabbah said, “For instance, it was bitten by a snake [so the owner can claim, had you taken it where you said you would, this would never have happened].”*
- E. *R. Hiyya bar Abba said R. Yohanan [said], “Who is the authority of this Mishnah-paragraph? It is R. Meir, who has said, ‘Whoever [Freedman:] disregards the householder’s stipulation [78B] is called a robber.’”*
- F. *Which teachings of R. Meir yields that judgment? Shall we say it is the R. Meir of the ruling on the dyer? For we have learned in the Mishnah: **He who gave wool to a dyer to dye it red, and he dyed it black, or to dye it black, and he dyed it red — R. Meir says, “The dyer pays him back the value of his wool.” And R. Judah says, “If the increase in value is greater than the outlay for the process of dyeing, the owner pays him back for the outlay for the process of dying. And if the outlay for the process of dyeing is greater than the increase in the value of the wool, the dyer pays him only the increase in the value of the wool” [M. B.Q. 9:4G-K]. But on what basis do you appeal to that precedent, for perhaps that case is to be distinguished from this one, since the artisan has acquired ownership of the wool by reason of a deed that changes the wool’s character [and so he really is in the status of a robber. But here, is***

a mere change in the locality in which the ass is employed of equivalent consequence?

- G. *Rather, the pertinent parallel is the view of R. Meir expressed in connection with the collection of funds on Purim. For it has been taught on Tannaite authority: **The collection of alms for Purim must be distributed on Purim. And the collection of alms for a given town must be distributed in that town. They do not investigate too closely to see whether or not the poor are deserving. But they buy calves for the poor and slaughter them, and the poor consume them. And what is left over should not fall to the fund for charity. “Out of funds collected for Purim a poor person should not make a strap for his sandal, unless he so stipulated in the council of the citizens of that town,”** the words of R. Jacob stated in the name of R. Meir. But Rabban Simeon b. Gamaliel imposes a lenient ruling in this matter. [The passage continues: But they should be used only for food for the holiday.” R. Meir says, “He who borrows money from his fellow to purchase produce with it should not purchase utensils with it. If he borrowed money for the purchaser of utensils, he should not buy produce with it, for he thereby deceives the lender.” (T. [Meg. 1:5A-K](#))] But here too, the reason is that the donor gave with the intention of assisting the poor observe Purim, but he did not give with any other intention at all.*
- H. *Rather, the pertinent parallel is the view of R. Meir expressed in connection with the following: **R. Simeon b. Eleazar says in the name of R. Meir, “He who borrows money from his fellow to buy a shirt should not buy a cloak. If he borrowed money to buy a cloak, he should not buy a shirt, for he thereby deceives the lender”** [T. [Meg. 1:5A-K](#)].*
- I. *But here too, the case is not to be compared, for the man may become suspect. People may say, “So and so promised to buy a shirt for that poor man but he has not bought it,” or, “So and so promised to buy a cloak for that poor man, but he has not bought it.”*
- J. *But if so, the passage should read, “on account of the possibility of suspicion [as to reneging on a promise].” What is the sense of, **for he thereby deceives the householder?** It is because he has made a change [in the original agreement], from which it follows that “Whoever disregards the householder’s stipulation is called a robber.”*

II.1 A. He who rents out an ass, and it went blind:

- B. *What is the meaning of the word translated, “it went blind”?*
- C. *Here in Babylonia it is explained with a word meaning “it suffered an affliction of the eye-sight caused by lightning.”*
- D. *Raba said, “[Freedman:] paralysis of the feet.”*

II.2. A. Somebody once said, “I saw vermin in the king’s garments.”

- B. *They said to him, “In linen or in wool ones?”*

- C. *Some say, “He answered, ‘In linen ones,’ and they forthwith put him to death.” [Freedman: worms do not attack linen garments, so the man said what he did only to insult the king.]*
- D. *Others say, “He said, in wool ones,’ and they set him free.”*

III.1 A. ...or was seized for royal service — [he one who provided it has the right to say to the one who rented it, “Here’s yours right before you” and he need not replace it for the stated period]:

- B. Said Rab, “That statement [he one who provided it has the right to say to the one who rented it, “Here’s yours right before you” and he need not replace it for the stated period] pertains only to the case in which the ass was seized for royal service and is going to be returned, but if it was seized for royal service and is not going to be returned, the owner does have to replace the ass.”
- C. And Samuel said, “Whether it is seizure for royal service involving return of the ass or not involving return of the ass, if the ass is taken in its normal course, the owner can say to him, ‘Here’s yours right before you,’ but if it was not taken in its normal course, the owner cannot say to him, ‘Here’s yours right before you’ but is liable to provide another beast in its stead.”
- D. *An objection was raised on the basis of the following passage: **He who hires an ass and it went blind or grew weak, the one who rented it out — he may say to him, “Here is your’s before you” [and he is not liable to provide him with another ass.] If it died or was seized for royal service, the one who rented it out is liable to provide him with another ass [T. B.M.7:7G-J].***
- E. *Now from the perspective of Rab, who has said, pertains only to the case in which the ass was seized for royal service and is not going to be returned, but if it was seized for royal service and is going to be returned, the owner does have to replace the ass] there is no problem here. In the one case we deal with an ass seized for royal service that is going to be returned, in the other, an ass seized for royal service that is not going to be returned.*
- F. *But from Samuel’s perspective, there really is a contradiction!*
- G. *And should you claim that, from Samuel’s perspective too there is no contradiction, since in the one case the ass is taken in its normal course, [so the owner can say to him, “Here’s yours right before you,”] and in the other case, it was not taken in its normal course, [so the owner cannot say to him, “Here’s yours right before you”], lo, since the concluding passage has the following: **R. Simeon b. Eleazar says, “If it was in its normal course that it was seized, the one who rented it out may say to him, “Here is yours before you [and is not liable to provide him with another ass. If it was not in its normal course that it was seized, the one who rented it out is liable to provide him with another ass,” it must follow that the first authority of the passage does not represent that position.***
- H. *Samuel will respond to you, “Is there not R. Simeon b. Eleazar, with whom I stand in agreement, for my ruling accords with that of R. Simeon b. Eleazar.”*
- I. *And if you wish, I shall say that the entire passage just now cited accords with R. Simeon b. Eleazar, but there is a lacuna in the text, and this is the sense of the passage: **“He who hires an ass and it went blind or grew weak, the one who***

rented it out may say to him, 'Here is your's before you' [and he is not liable to provide him with another ass.] If it died or was seized for royal service, the one who rented it out is liable to provide him with another ass. Under what circumstances? If it was seized not in the normal course of its journey. But if it was seized in the normal course of its journey, he may say to him, 'Lo, here is yours before you,' [79A] the words of R. Simeon b. Eleazar, for so did R. Simeon b. Eleazar say, "He who says to his fellow, 'Rent me your ass, and I'll ride on it from here to such-and-such a place,'" and it went blind or grew weak, if this took place in the normal course of its journey, the one who rented it out is liable to supply him with another. If he said, 'Rent me this ass of yours,' even if it died, even if it was seized for royal service, if this did not take place in the normal course of its journey, he is not liable to supply him with another ass."

- J. *But can you really assign the whole of the ruling to R. Simeon b. Eleazar? And lo, the opening clause states, He who hires an ass and it went blind or grew weak, the one who rented it out may say to him, 'Here is your's before you' [and he is not liable to provide him with another ass]. But, by contrast, R. Simeon b. Eleazar takes the view, He who hires an ass to ride on it and it went blind or grew weak — the one who rented it out is liable to provide another ass.*
- K. *Said Rabbah bar R. Huna, "A case in which it is stipulated that he is hiring the ass in order to ride on it is different."* [Freedman: a blind or weak animal is fit to carry burdens but not to be ridden upon.]
- L. *Said R. Pappa, "And hiring an ass to carry glass utensils is in the class of hiring it for riding."*

- III.2. A. *Said Rabbah bar R. Huna said Rab, "He who rents an ass to ride on it and the ass dies on him in the middle of the journey must pay the fee for half the journey and has no complaint against the one who hired the ass out other than a mere gripe."*
- B. *But how then can we imagine such a case [in which one might have a gripe]? If there is another ass for rent, then what has the original one who rented out the ass does to merit a gripe from the other? And if there is no other ass for rent, then does the other have to return the money to him?*
- C. *In point of fact, we deal with a case in which there is no other ass available for rent, and the operative consideration is that the owner of the deceased ass says to him, "If you had wanted to come just this far [to the point at which the ass had died], would you not have had to pay?*
- D. *And how can we imagine such a case? If the man had said to the owner, "an ass," without further stipulations, then he is liable to replace it, but if he promised him this ass in particular, then if the value of the carcass is enough to buy another ass, let him buy one. [Freedman: since he hired him this particular ass it is pledged for the journey, and therefore, if with the value of the carcass one can buy another, even such a poor one that it is fit only to complete the journey, the purchase should be made.]*
- E. *It is necessary to give this ruling to cover a case in which in the value of the carcass is not sufficient another ass.*

- F. If in the value of the carcass is sufficient to rent an ass, one should rent an ass.
- G. *Rab is consistent with views held in other contexts, for Rab has said, "We do not destroy the principal."* [Freedman: when an animal is hired for a certain task, e.g., to take a man on a journey, one cannot demand that the whole capital of the animal shall be lost in order to fulfil the engagement. Hence when the Mishnah states that if the animal died, another must be provided in its place, it means that more money must be added to that realized by the carcass and another bought, so that the value of the carcass ultimately remains with the owner. But he is not bound to hire an animal for the money realized by the carcass for the completion of the task, the whole principal thus being lost to the owner.]
- H. *For it has been stated:*
- I. He who hires an ass and it dies on him at the half-way point in the journey —
- J. Said Rab, "If in the proceeds of the carcass there is enough money to buy another ass, he must buy one; if it is only enough to rent one, the one who engaged the ass may not rent out an ass with the proceeds [since the principal must be protected for the owner of the ass]."
- K. And Samuel said, "Should there be enough money even only to rent another ass, he may do so."
- L. *What is at issue here? Rab takes the view that we do not destroy the principal, while Samuel holds that we do destroy the principal.*
- M. *An objection was raised:* If a tree was mortgaged, with the creditor enjoying the usufruct for some years, after which the tree would revert to the debtor without further payment, and then] the tree dried up or was cut down, both parties are forbidden to make use of it. What is to be done? Land must be bought with the proceeds, and the creditor takes the usufruct.
- N. *Now in this case, as soon as the Jubilee arrives, the land reverts to its owner, so the principal is going to be lost anyhow [and nothing will be left of the tree by the time it has to revert to the debtor, should the Jubilee come first].*
- O. *What is at issue here? It is a case in which there was a purchase-agreement for sixty years.*
- P. For said R. Hisda said R. Qattina, "How do we know that if someone sells his field for a span of sixty years, it does not revert to him in the Jubilee year? As it is said, 'The land shall not be sold in perpetuity' (Lev. 25:23). This refers to a sale which, in the absence of the law of Jubilee, would be for ever, but, in the presence of the law of Jubilee, is not forever, excluding the present case, in which, even though the Jubilee is not present, still is not forever. [The Jubilee therefore does not affect it, and when the mortgage expires, it reverts to the debtor, and his principal is not destroyed (Freedman)]."
- Q. *So, after all, at the end of the sixty years, the land reverts to the original owner and the principal is destroyed!*
- R. *Rather, what is at issue here? It is a case that takes place in the age in which the Jubilee is not valid. And that is a quite reasonable supposition, for if you should imagine that it is a time in which the Jubilee is in force, and that we destroy the principal, then let the creditor cut up the wood and take it [before losing his*

investment, this will at least compensate for the usufruct, so why require buying a field?]

- S. *But if that is the main consideration, there is no difficulty, since the period of the mortgage might expire before the advent of the Jubilee, or the debtor might get the money and pay off and redeem the tree four or five years before the Jubilee* [Freedman: so that even if the Jubilee is in force and the principal may be destroyed, it is still preferable to buy a field].

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

- B. He who rents a boat and it sank in mid-journey —
- C. R. Nathan says, “If he has paid the rent for the boat, he cannot retrieve it, but if not, he does not have to pay it.”
- D. *What can be the situation here? Should we say that the contract covered this particular ship but an unspecified cargo of wine as freight, if he has paid the fee, why should he not retrieve his money? Let him say, “Give me that ship and I will provide the wine.”* [Freedman: “Since you undertook to carry any cargo of wine in this particular ship, I can bring another, the first having sunk, but you must furnish the same ship for the entire journey; since you cannot do so, you must return the hire.”]
- E. *And if the case involves a ship that is not specified but a particular cargo of wine, then even if he has not paid the fee, why should he not pay it? [79B] Let the ship-owner say to him, “Hand over that particular wine, and I’ll bring a ship to carry it.”*
- F. *Said R. Pappa, “The ruling would apply only to a case in which the man specified, ‘this ship and this wine,’ but if the ship was left unstipulated and the wine unstipulated, they divide the fee equally.”*

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

- B. One who rents a ship and then unloads it at the midway point on the journey pays him the fee for half of the journey and [the ship-owner] has against him only a gripe.
- C. *What is the situation to which this ruling pertains? If we say that there is the possibility of renting it to someone else, why should he have a gripe against the original renter? And if not, then the other has to pay the whole of the stipulated fee.*
- D. *In point of fact the case involves the possibility of renting to someone else, so why does he have a gripe against the original lessor anyhow? It is because of the wear and tear on the ship [involved in unloading and reloading].*
- E. *If that is at stake, then the gripe is a just complaint, and he has the right to claim compensation!*
- F. *But what is the sense of “he unloaded it”? It is that he unloaded more of his cargo within the ship.* [Freedman/Rashi: He loaded it with a great cargo. Though he is bound to pay the ship-owner extra, since the agreement is based on the freightage, yet the latter has cause for resentment, in that the journey occupies a longer time than he had expected.]
- G. *Then what is the basis for the complaint?*

- H. *It is because of the change in plans [involved in a slower journey], or because of the additional cordage necessary for the extra load.*

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

- B. **One who rents a an ass to ride on it may also load on it his clothing, water bottle, and provisions for that journey. If it was to be more than this, the ass-driver may stop him. The ass-driver may load on it barley, straw, and provisions enough for one day [Tosefta: to reach a lodging]. If it was to be more than this, the householder stops him [T. B.M. 7:11A-E].**
- C. *What is the situation to which this ruling pertains? If there is the possibility of buying food, then the ass-driver should be able to stop him from bringing provisions, and if there is no possibility of buying food, then the lessor should not be able to stop the a-ss-driver from overloading the ass.*
- D. *Said R. Pappa, “The ruling is necessary to cover a case in which provisions can be gotten, but only after some trouble, from stage to stage. Now as to an ass-driver, it is usual for him to take the trouble and buy his stores at various points on the way, but that is not the case for the lessor.”*

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

- B. **One who rents an ass to give a man a ride should not give a woman a ride. If he hired it to give a woman a ride, it may be used by a man. [As to giving a ride to a woman], the ass gives her a ride without regard to whether she is large or small, and even whether she is pregnant or nursing [T. B.M. 7:10G-H].**
- C. *Now if you specify that she may be nursing, why have you to make explicit that even a pregnant woman may get a ride?*
- D. *Said R. Pappa, “The sense is, ‘if she is pregnant who also is nursing.’”*
- E. *Said Abbaye, “That then infers that [Freedman:] the weight of a wish depends on the size of its belly.”*
- F. *So what?*
- G. *Buying and selling [Freedman: if one buys a fish by weight, he should first have the belly removed].*

I.1, predictably, analyzes the Mishnah’s language in formulating its principle and rule. This leads us to a protracted inquiry into the position of Meir on the matter. That discussion focuses upon Meir, not upon our passage, but it surely has been composed with the issues of Mishnah-commentary in mind; now the interest is in the authorities of the document and the consistency of their application of their rules. II.1 deals with the language of the Mishnah-sentence that is under analysis. III.1 likewise undertakes the exegesis of the Mishnah-passage. The remainder of III.1-2 proceeds to analyze ancillary but relevant cases. To me the discussion seems run-on and not so sharp as those that precede. III.3-6 conclude with a sequence of Tannaite formulations of parallel laws, and these are given appropriately routine comments.

- A. [80A] He who hires a cow to plough in the hill country but ploughed in the valley,
- B. if the plough-share was broken,
- C. is exempt.
- D. [If he hired the cow to plough] in the valley and ploughed in the hill country,
- E. if the plough-share was broken,
- F. he is liable.
- G. [If he hired a cow to] thresh pulse and he threshed grain,
- H. [if the cow slipped and fell],
- I. he is exempt.
- J. [If he hired it] to thresh grain and he threshed pulse,
- K. [if the cow slipped and fell],
- L. he is liable,
- M. because pulse is slippery.

I.1 A. *If the lessor did not change the conditions of the agreement, who must pay?*
 [Freedman: Two workers were needed for plowing, one who used the goad to direct the animal, one who forced the coulter into the earth. These workers were furnished by the owner. If the agreement was not broken, so that the lessor is free from liability, then which of the two workers is liable?]

- B. *Said R. Pappa, "The one who handles the share is the one who must pay."*
- C. *R. Sheshet b. R. Idi said, "The one who handles the coulter must pay."*
- D. *And the decided law is that the one who handles the coulter must pay.*
- E. *But if it was a place that people knew had a lot of stony clods, both pay.*

I.2. A. Said R. Yohanan, **"He who sells a cow to his fellow stipulating that there are blemishes on it, saying to him, 'She is a gorer,' 'she is a biter,' 'she is a butter,' 'she is prone to lie down,' if there was some other blemish on it and he inserted it in the listing of the other blemishes, lo, this is a purchase made in error. But if he told him about that blemish and did not refer to any other blemish, this is not a purchase made in error [T. B.B. 4:6A-F]."**

- B. *It has been taught on Tannaite authority along these same lines:*
- C. **He who sells a slave-girl to his fellow, stipulating that there are blemishes on her, and he said to him, "She is sick," "she is an idiot," "she is epileptic," "she is dull," and there is on her yet another blemish, and he inserted it when listing the other blemishes — lo, this is a purchase made in error. If he specified that blemish and did not specify any other blemish along with it, this is not a purchase made in error [T. B.B. 4:5A-F].**
- D. Said R. Aha b. Raba to R. Ashi, "If all of these blemishes did pertain to her, what is the law?"
- E. *Said R. Mordecai to R. Ashi, "This is what we say in Raba's name: 'If all of these blemishes did pertain to her, then it is not a purchase made in error.'"*

The amplification of the Mishnah's law at No. 1 is sound and sensible, since we are given details that the Mishnah requires but omits. But how No. 2 is pertinent I cannot

say. The Mishnah-paragraph deals with changing the terms of a rental agreement, not with a sale under false pretense. This segment seems to me simply out of place here. Then, if at some point Nos. 1 and 2 were deliberately joined together, it must be to serve the interest of a discussion of a legal principle, transcending the cases of the Mishnah, having to do with fraud in contracts and sales.

6:5

- A. **He who hired an ass to carry wheat on it and he carried barley on it**
- B. **is liable.**
- C. **[If he hired it to carry] wheat and carried straw on it,**
- D. **he is liable,**
- E. **since the [greater] bulk is hard to carry.**
- F. **[If he hired it] to carry a letekh of wheat and it carried a letekh of barley, he is exempt.**
- G. **But if he added to its burden, he is liable.**
- H. **And how much does he add to its burden so as to be liable?**
- I. **Sumkhos says in the name of R. Meir, “A seah for a camel, and three qabs for an ass.”**

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

- B. Abbayye said, “The correct formulation of the Mishnah-passages [at E] is, **is as great a strain as weight.**”
- C. Raba said, “The correct formulation of the Mishnah-passages [at E] is, **is a strain when added to weight.**”
- D. Abbayye said, “The correct formulation of the Mishnah-passages [at E] is, **is as great a strain as weight**, *bulk is the same as weight, so if he added three qabs [and the bulk is equal] he is liable.*”
- E. Raba said, “The correct formulation of the Mishnah-passages [at E] is, **is a strain when added to weight**, *and since the weight is equal, the greater bulk is an additional strain.*”
- F. *We have learned in the Mishnah, [If he hired it] to carry a letekh of wheat and it carried a letekh of barley, he is exempt. But if he added to its burden, he is liable. Now does this not mean, by three qabs?*
- G. *No, it means by a seah.*
- H. *But have we not learned on Tannaite authority in this same connection, And how much does he add to its burden so as to be liable? Sumkhos says in the name of R. Meir, “A seah for a camel, and three qabs for an ass”?*
- I. *This is the sense of the statement: in a case in which he did not vary from the stipulated terms, for instance, if he hired the beast to bring wheat and he brought wheat, or to bring barley and he brought barley, then And how much does he add to its burden so as to be liable? Sumkhos says in the name of R. Meir, “A seah for a camel, and three qabs for an ass.”*
- J. *Come and take note of the following: He who hires an ass to carry a letekh [fifteen seahs] of wheat and he brought [80B] sixteen of barley, is liable for damage done to the ass [T. B.M. 7:10A-C]. Then it follows that if he had*

added merely three qabs, he would be exempt [and that contradicts Abbayye's position on the meaning of the Mishnah's language].

K. *Abbayye interpreted the passage to speak of levelled measures of grain.*

I.2. A. *Our rabbis have taught on Tannaite authority:*

- B. For a porter, a qab is an overload [and makes one culpable for damages], for a canoe, an *artaba*, for a ship, a kor, and for a large *liburna*, three kors.
- C. The master has said, "For a porter, a qab is an overload [and makes one culpable for damages]."
- D. *But if it is in fact too heavy for him, is he not smart enough to put it down? [Why should the lessor or employer be liable for damages?]*
- E. *Said Abbayye, "We deal with a case in which the weight crushed him forthwith. "*
- F. *Raba said, You may even say that it is a case in which the weight did not crush him forthwith. The rule deals with a case in which the employer promised extra pay for the extra burden. "*
- G. *R. Ashi said, "The worker might have thought that he was weak [and that is why he did not put the load down right away; he thought the fault was his own weakness, not realizing that the weight was greater than stipulated (Freedman)]."*
- H. "for a ship, a kor, and for a large *liburna*, three kors:"
- I. *Said R. Pappa, This implies that an ordinary ship can bear thirty kors."*
- J. *So what?*
- K. *The practical difference has to do with buying and selling [Freedman: if one sells a ship without specifying the capacity, it must be able to bear thirty kors, and if not the sale is invalid].*

The bulk of the discussion centers on the correct formulation of the language of the Mishnah and its meaning. No. 2 is a routine complement, such as the Tosefta would commonly provide.

6:6

- A. **All craftsmen are in the status of paid bailees [responsible for both negligence and theft].**
- B. **But any of them who said, "Take what is yours and pay me off [because the job is done]" [enters the status of] an unpaid bailee [responsible for negligence but not theft].**
- C. **[If one person said to another], "You keep watch for me, and I'll keep watch for you," [both are] in the status of a paid bailee.**
- D. **"Keep watch for me,"**
- E. **and the other said to him, "Leave it down before me,"**
- F. **[the latter] is [in the status of] unpaid bailee.**

6:7

- A. **[If one made] a loan and took a pledge, he is in the status [as to care of the pledge] of a paid bailee.**
- B. **R. Judah says, "[If] he lent him money, he is in the status of an unpaid bailee.**
- C. **"[If] he lent him produce, he is in the status of a paid bailee."**

- D. Abba Saul says, “It is permitted for a person to put out on hire a pledge left by a poor man,
- E. “and so reduce [the debt] on its account little by little,
- F. “for he is like one who gives back what someone has lost.”

- I.1 A. *May we then conclude that our Mishnah-paragraph does not accord with the position of R. Meir? For it has been taught on Tannaite authority:*
- B. One who rents a beast — under what classification does he pay restitution [if the beast is damaged or lost]?
- C. R. Meir says, “He is in the status of an unpaid bailee.”
- D. R. Judah says, “He is in the status of a paid bailee.” [Freedman: Since the man pays for the benefit he receives, he is taking care of the beast gratuitously, while Judah holds that since the beast benefits the man, he is a paid bailee, even though he is paying for the benefit.]
- E. *You may even say that the Mishnah-paragraph [All craftsmen are in the status of paid bailees responsible for both negligence and theft] accords with the position of R. Meir. For the benefit that the man receives when the householder turns from all others and hires him to do the work, he enters the category of a paid bailee.*
- F. *But the same conception surely pertains to the one who rents out the beast! For the benefit that the man receives when the householder turns from all others and hires the beast to him, he enters the category of a paid bailee.*
- G. *Rather: you may even say that the Mishnah-paragraph [All craftsmen are in the status of paid bailees responsible for both negligence and theft] accords with the position of R. Meir. For the benefit that he pays him a bit more than is coming to him, he enters the category of a paid bailee.*
- H. *But the same conception surely pertains to the one who rents out the beast! Are we not dealing with a case in which he pays him a bit more?*
- I. *Rather: you may even say that the Mishnah-paragraph [All craftsmen are in the status of paid bailees responsible for both negligence and theft] accords with the position of R. Meir. For the benefit that he holds it against his pay and does not have to go find ready cash, he enters the category of a paid bailee.*
- J. *But if you prefer, I shall say that the reversal of attributions set forth by Rabbah b. Abbuha applies, for we have learned on Tannaite authority:*
- K. One who rents a beast — under what classification does he pay restitution [if the beast is damaged or lost]?
- L. R. Meir says, “He is in the status of a paid bailee.”
- M. R. Judah says, “He is in the status of an unpaid bailee.”

- II.1 A. **But any of them who said, “Take what is yours and pay me off [because the job is done]” [enters the status of] an unpaid bailee [responsible for negligence but not theft]:**
- B. *We have learned in the Mishnah:*
- C. **If the borrower said, “Send it along,” and he did send it along, but it died, the borrower is liable. And so is the rule as to returning the beast [M. B.M. 8:3J-M].** [Freedman: A gratuitous borrower is liable for every mishap. If

he explicitly instructs the lender to send it to him, he is responsible for it as soon as the lender entrusts it to a person for delivery, and therefore if it perishes on the road, he must make it good. Likewise, if the borrower entrusts it to his agent for return, without receiving explicit instructions to that effect from the lender, he remains responsible for it until it is actually returned.]

- D. Said Rafram bar Pappa said R. Hisda, "The rule applies only if he returned it within the period specified during which he had borrowed it; but if this is after the specified period has expired, he is not liable [since he ceases to bear the responsibility of a borrower (Freedman)]."
- E. *R. Nahman bar Pappa objected [by citing the passage before us]: "But any of them who said, "Take what is yours and pay me off [because the job is done]" [enters the status of] an unpaid bailee [responsible for negligence but not theft]. [81A] Now lo, the sense is, [if they said to him,] I have completed the work, then he enters the category of a paid bailee."*
- F. "No, this is how the passage is to be read: **But any of them who said, "Take what is yours and pay me off [because the job is done]" [enters the status of] a paid bailee.** But if he said, 'I have completed the work,' *what is the rule?* Is he is an unpaid bailee? *If that were the case, instead of framing matters as, But any of them who said, "Take what is yours and pay me off [because the job is done]" [enters the status of] an unpaid bailee,* let it present the case in which one says, 'I have completed the work,' *from which the rule covering 'take your property' will follow by an argument a fortiori.*"
- G. *"It was necessary for the authority to frame matters as he did, namely, But any of them who said, "Take what is yours and pay me off [because the job is done]" [enters the status of] a paid bailee, for it might have entered your mind to say he might not even enter the category of an unpaid bailee. So we are informed that that is not the case."*
- I. *There are those who formulate the matter in the following version:*
- J. Said R. Nahman bar Pappa, "We too have learned the same principle, as follows: **But any of them who said, "Take what is yours and pay me off [because the job is done]" [enters the status of] a paid bailee.** *And is it not the case that the same rule applies to a case in which the worker says, 'I have finished your work'?"*
- K. *"No, the case in which the worker says, 'I have finished your work,' is to be distinguished from the present case."*

II.2. A. *Huna Mar bar Maremar before Rabina was contrasting teachings on Tannaite authority against one another and reconciling them. [He said,] "We have learned in the Mishnah, But any of them who said, "Take what is yours and pay me off [because the job is done]" [enters the status of] an unpaid bailee [responsible for negligence but not theft]. And that rule pertains also to a case in which he has said, 'I have finished the work.' But then note the contradiction: If the borrower said, "Send it along," and he did send it along, but it died, the borrower is liable. And so is the rule as to returning the beast [M. B.M. 8:3J-M].*

- B. *“And he reconciled them by appealing to the statement of Rafram b. Papa in the name of R. Hisda: ‘The rule applies only if he returned it within the period specified during which he had borrowed it; but if this is after the specified period has expired, he is not liable.’”*

II.3. A. *The question was raised: “Is the meaning, ‘he is not liable’ as a borrower but he is liable as a paid bailee? Or is the meaning, ‘as a paid bailee’ also he is not subject [to liability]?”*

- B. *Said Amemar, “It stands to reason that this is the answer: ‘he is not liable’ as a borrower but he is liable as a paid bailee.’ The reason is that, since he has derived benefit, he must accord benefit too [Freedman: and hold himself responsible until the beast reaches the owner].”*

C. *There is a Tannaite teaching in accord with the view of Amemar:*

- D. He who takes on approval goods from the craftsman’s shop to send them as a gift to the household of his prospective father-in-law and stipulates, “If they accept them from me,” I shall pay you their price, but if not, I shall at least pay you something for the benefit that I gain from them [in showing my in-laws that I want to give them a nice gift]” — if an accident happened on the way, he is liable [to make up the cost], but if it happened en route back, he is exempt, because, at that time, he is in the status of a paid bailee. [Freedman: Since he no longer has any intention of buying the goods, the goods are not his property, and he is liable only in consequence of the good will enjoyed, which makes him a paid bailee, even though the tradesman had actually received payment for this benefit. How much more should this be the case with a gratuitous borrower.]

II.4. A. *Somebody sold an ass to his fellow. The other said to him, “I am going to take it to such-and-such a place. If it is sold, well and good, and if not, I shall bring it back to you.” He went but did not sell it, and when he was coming back, it was accidentally injured. The case came before R. Nahman, who imposed liability upon him.*

- B. *Rabbah objected to R. Nahman, “— if an accident happened on the way, he is liable [to make up the cost], but if it happened en route back, he is exempt, because, at that time, he is in the status of a paid bailee.”*

C. *He said to him, “The return journey in this case is in the category of an outward journey. Why so? It stands to reason that if he had found someone to buy the beast, would he not have sold it to him?”*

III.1 A. **[If one person said to another], “You keep watch for me, and I’ll keep watch for you,” [both are] in the status of a paid bailee.**

- B. *But why should this be the rule? Is this not a case of bailment in which the owner is in the service of the bailee? [Freedman: so here too, while the bailee has the article in his care, the owner is in the service of the bailee under the conditions of bailment agreed upon here.]*

C. *Said R. Pappa, “It is a case in which he said to him, “You keep watch for me today, and I’ll keep watch for you tomorrow.”*

- D. *Our rabbis have taught on Tannaite authority:*

- E. “Guard for me and I’ll guard for you,” “Lend me and I’ll lend you,” “Guard for me and I’ll lend you,” “Lend me and I’ll guard for you,” — in all cases the statement puts them into the class of a paid bailees for one another. [Vs. T. **B.M. 7:19A-E**].
- F. *But why should this be the rule? Is this not a case of bailment in which the owner is in the service of the bailee?*
- G. *Said R. Pappa, “It is a case in which he said to him, “**You keep watch for me today, and I’ll keep watch for you tomorrow.**”*

III.2. A. *There was a group of aloe-dealers, and every day one of them would bake for all of them. One day they said to one of their group, “Go, bake for us.”*

- B. *He said to them, “Watch my cloak.”*
- C. *In the interim the cloak was stolen on account of their negligence.*
- D. *When the case came before R. Pappa, he held them liable. Said rabbis to R. Pappa, “Why should that be the case? Is this not a case in which the negligence took place in a situation in which the owner is in the service of the bailee?”*
- E. *He paled. Later on it turned out that the owner had been drinking beer [and had not yet started baking, so he was at that moment not in the service of the others, and the verdict was correct].*
- F. *There is no problem from the viewpoint of one who holds that negligence that takes place when the owner is in the service of the bailee, the bailee is exempt, and that was why initially he paled. But from the viewpoint of the one who holds that he is liable, why did he pale?*
- G. *Rather, that day was not his day to bake, and they said to him, “Go, bake for us,” and he replied, “In exchange for my baking for you, guard my cloak.” **[81B]** Before he came back, it was stolen. When the case came before R. Pappa, he declared them liable. Said rabbis to R. Pappa, “Why should that be the case? Is this not a case in which the negligence took place in a situation in which the owner is in the service of the bailee?”*
- H. *He paled. Later on it turned out that the owner had been drinking beer.*

III.3. A. *There were these two men who were going along the way, one tall, the other short. The tall one was riding an ass and wearing a linen sheet, while the short one was wearing a woolen cloak and was going on foot. When they came to a river, he took his cloak and put it on the ass and took the other man’s linen garment and covered himself with it. The water swept the linen away. When the case came before Raba, he held the short man liable.*

- B. *Said rabbis to Raba, “Why should that be the case? Is this not a case in which the negligence took place in a situation in which the owner has borrowed from the bailee?”*
- C. *He paled. Then it turned out that he had taken the linen sheet and put his own on the ass without the knowledge and consent of the other [so he is liable].*

III.4. A. *Somebody rented an ass to his neighbor and said to him, “Make sure not to go by way of the Pegod canal, which is watery, but by way of Nersh, which is not watery. But he went by way of the Pegod canal and the ass died.*

- B. *When he came to court, he pled, “True, I took the way by the Pegod canal, but there was no water!”*

- C. *Said Rabbah to the owner, "Why should he lie? If he wanted, he could have said to you, 'I took the way by Nersh.'"*
- D. *Said Abbayye to him, "The claim, 'why should he lie?' is not valid where there are witnesses."*

IV.1 A. "Keep watch for me," and the other said to him, "Leave it down before me," [the latter] is [in the status of] unpaid bailee:

- B. *Said R. Huna, "If he said to him, 'Leave it before you,' he is neither an unpaid bailee nor a paid bailee." [He has refused the bailment altogether.]*

IV.2. A. The question was raised: *If the man said, "Put it down," without further stipulation, what is the rule?*

- B. *Come and take note: "Keep watch for me," and the other said to him, "Leave it down before me," [the latter] is [in the status of] unpaid bailee. Lo, a statement made without further stipulation is null!*
- C. *To the contrary, since R. Huna has said, "If he said to him, 'Leave it before you,' he is neither an unpaid bailee nor a paid bailee," it follows that that is the case in which he is neither an unpaid bailee nor a paid bailee. Lo, if it is without further stipulation, then he is in the status of an unpaid bailee.*
- D. *Rather, one cannot infer anything from the matter.*

IV.3. A. May we say that the same issue faced the following Tannaite authorities:

- B. **If one brought his ox into the courtyard of a householder with permission, the owner of the courtyard is liable [for damages the ox may do].** [By analogy to our case, when the man says, "Put it down," he becomes an unpaid bailee.]
- C. **Rabbi says, "In all cases the householder is liable only if he explicitly takes upon himself to guard the ox" [M. B.Q. 5:3I-J].** [Rabbi rejects the thesis that when the man says, "Put it down," he becomes an unpaid bailee.]
- D. *Why does this follow at all? Perhaps the rabbis take the position that they do in that case only because it is possible to undertake a guardianship in a courtyard, which is an enclosed place, so if the owner said to him, "So bring it in," his meaning was, "Bring it in and I'll take care of it for you." But here, in the market place, which is by its nature not easy to guard, his meaning could have been, "So put it down, sit down, and take care of it yourself." Or perhaps Rabbi would have taken the position that he does, that the man does not become a bailee, only in the case of a private yard, since one has to have permission to enter, so when the householder gave him permission to enter, his meaning was, "Come in, sit down, and guard it yourself." But here his meaning must have been, "Put it down and I'll guard it for you." For if you think he meant, "Put it down, take a seat, and guard it yourself," in this situation does he need permission to put it down at all?*

V.1 A. If one made a loan and took a pledge, he is in the status as to care of the pledge of a paid bailee. [R. Judah says, "[If] he lent him money, he is in the status of an unpaid bailee. If he lent him produce, he is in the status of a paid bailee"]:

- B. *May we conclude that our Mishnah-passage does not accord with the view of R. Eliezer, for it has been taught on Tannaite authority:*

- C. “He who lends his fellow money against a pledge, which was lost, must swear [that the loss of the pledge was not due to his negligence] and then may collect the money that is owing to him,” the words of R. Eliezer. [When the money is lent on a pledge without a bond, it is not security for the money in case the debtor defaults but merely proof for the loan. If the debtor does not pay up, other property may be seized by the creditor. The creditor is a bailee. He is not responsible for the loss, so he is an unpaid bailee — contrary to the position of our Mishnah: **If one made a loan and took a pledge, he is in the status as to care of the pledge of a paid bailee.**]
- D. R. Aqiba says, “The debtor may say to him, ‘Did you lend me anything except on the strength of the pledge? [Obviously not!] Now that the pledge has been lost, so your money has been lost.’ [The pledge is security for the money.]
- E. But if he lent him a thousand zuz on the strength of a bond, and the pledge was deposited for it, all parties concur that if the pledge is lost, the money is lost. [If there is a bond, the pledge is not mere proof, so all — even Eliezer — concur, if the pledge is lost, the money is lost.]
- F. *You may even say that the Mishnah before us accords with the position of R. Eliezer, and there is no contradiction.* In the one case the pledge was made when the loan was taken out [in which case the pledge is mere proof of the loan], but in the other case, he did not take the pledge at the time of the loan [and the pledge was exacted when the debtor was unable to pay, so the court gave the creditor the pledge, and that is certainly security for the money. The benefit of being certain of repayment makes the creditor a paid bailee, as in our Mishnah’s rule (Freedman).]
- G. *But in both cases* **[82A]** *the operative language is* **[If one made] a loan and took a pledge.** [So the pledge was given at the time of the loan.]
- H. *Nonetheless, there is no contradiction [between the two passages, even if we assign them both to Eliezer, for] here we deal with a case in which he lent him cash, there with a case in which he lent him produce. [Freedman: since produce deteriorates, the creditor derives a benefit from lending it, since he will be given back fresh produce, and he therefore is a paid bailee.]*
- I. *But since the passage goes on at the end to say, R. Judah says, “If he lent him money, he is in the status of an unpaid bailee; If he lent him produce, he is in the status of a paid bailee,” it follows that to the first authority in the passage, there is no such distinction to be made.*
- J. *In point of fact, the whole of the paragraph belongs to R. Judah, but there is a lacuna in the text, and this is how it should be repeated:*
- K. **If one made a loan and took a pledge, he is in the status as to care of the pledge of a paid bailee. Under what circumstances? If he lent him produce. But if he lent him money, he is in the status of an unpaid bailee, for R. Judah says, “[If] he lent him money, he is in the status of an unpaid bailee. If he lent him produce, he is in the status of a paid bailee.”**
- L. *If that is so, then you have established the provenance of our Mishnah not in accord with the position of R. Aqiba! [That is not desirable.] Rather, it is better to reach the conclusion that our Mishnah-paragraph does not accord with the view of R. Eliezer.*

- V.2. A.** *May one say that since the pledge is not worth the money that is lent, the dispute [between Aqiba and Eliezer] concerns the principle assigned to Samuel?*
- B. *For Samuel said, “One who lent a thousand zuz to his fellow, and the other left him the handle of a saw against the loan, if the handle of the saw should be lost, the thousand zuz are also lost. [Aqiba concurs, and Eliezer holds that since the pledge is not worth the loan, it serves only as evidence of the existence of the loan; if the pledge is worth the loan, all concur that it is security and therefore if lost, the loan is lost (Freedman).]*
- C. *[Not at all.] All parties concur that when the pledge is not worth the thousand zuz, the law does not follow the principle of Samuel. Here we deal with a case in which the pledge is worth the money that has been lent, but at stake is a dispute concerning what R. Isaac said.*
- D. *For R. Isaac said, “How on the basis of Scripture do we know that the creditor acquires title to the pledge [while it is in his possession and so is responsible for any accident that occurs]? Scripture states, ‘In any case you shall deliver the pledge again when the sun goes down...and it shall be righteousness for you’ (Deu. 24:13). Now if the creditor does not acquire title to the pledge, whence the righteousness that is supposed to come to his credit? On this basis we know that the creditor acquires title to the pledge.” [Eliezer rejects this view, Aqiba accepts it.]*
- E. *Granted that what R. Isaac has said applies to the case of a pledge that was taken not when the loan was made [but afterward, as surety for the money]. But in the case of a pledge that was taken at the time of the loan, will he take the same view?*
- F. *Rather, as to a pledge taken not at the time of the loan, all parties concur with the position of R. Isaac. But here what is at stake is a pledge taken at the time of the loan, and they differ as to the guardian of lost property.*
- G. *For it has been stated:*
- H. *One who is bailee for lost property —*
- I. *Rabbah said, “He is in the category of an unpaid bailee.”*
- J. *R. Joseph said, “He is in the category of a paid bailee.”*
- K. *Now may we then say that the Tannaite authorities differ as to the position of R. Joseph? [Aqiba concurs with Joseph and regards the creditor as a paid bailee, since it is his duty to assist the other with a loan, and Eliezer regards him as an unpaid bailee (Freedman).]*
- L. *No, as to one who is bailee for lost property, all parties concur with R. Joseph. But here **[82B]** they differ as to where the creditor needs the pledge [for use, and he remits a portion of the debt in exchange]. One authority [Aqiba] takes the view that it is a religious obligation that he is carrying out in that he has lent him money, and therefore he is in the category of a paid bailee, and the other authority [Eliezer] maintains that it is not a religious obligation that he has carried out in lending the money, for he has his own benefit in mind, and hence he is an unpaid bailee.*

VI.1 A. **Abba Saul says, “It is permitted for a person to put out on hire a pledge left by a poor man, and so reduce the debt on its account little by little, for he is like one who gives back what someone has lost:”**

- B. Said R. Hanan bar Ammi said Samuel, “The decided law accords with the view of Abba Saul.
- C. “But even Abba Saul has made this ruling only in the case of a hoe, mattock, or ax, since it is costly to hire them, and the depreciation in using them is slight.”

The lay-out of the Talmud, as Mishnah-commentary, proves congruent to the content, which is an inquiry into the positions of various authorities in respect to our Mishnah-paragraph. But that is only at the surface. Underneath what is at stake is the way in which general principles come to govern specific cases. When we know whether our Mishnah conforms to Meir’s view, as at I.1, we really can assess whether, and how, the principles at hand accord with those that apply in parallel cases, e.g., in the case of rental. The effect of II.1 is to compare one Mishnah-paragraph with another that clearly demands comparison. This same interest is of course explicit at No. 2. III.1 directs attention to a principle that is not explicit but that does pertain. What is the rule when the bailee participates in a transaction in some other way as well, e.g., as beneficiary but not of the transaction of bailment? Nos. 2-4 then show how the law was applied. IV.1 asks a narrow question of Mishnah-exegesis. V.1 compares our Mishnah with an intersecting one, doing a good job of showing the range of possibilities — contradiction, harmonization. There is no fixed principle that one must harmonize intersecting and possibly-contradictory rules. VI.1 presents a minor gloss. Here is a Talmud in which Mishnah-commentary forms the framework, but legal theory, the goal, of discourse.

6:8

- A. [The bailee] who moves a jar from one place to another and broke it,
- B. whether he is an unpaid bailee or a paid bailee,
- C. must take an oath [that the jar was broken by accident and not through his willful negligence, and so he is exempt from having to make it up].
- D. R. Eliezer says, “In either case he is to take an oath.
- E. “But I wonder whether either this one or that one can in fact take a [valid] oath.”

I.1 A. *Our rabbis have taught on Tannaite authority:*

- B. [The bailee] who moves a jar from one place to another and broke it, whether he is an unpaid bailee or a paid bailee, must take an oath [that the jar was broken by accident and not through his willful negligence, and so he is exempt from having to make it up],” the words of R. Meir.
- C. R. Judah says, “An unpaid bailee takes an oath, a paid one simply makes restitution.”

II.1 A. R. Eliezer says, “In either case he is to take an oath. But I wonder whether either this one or that one can in fact take a [valid] oath:”

- B. *Does the foregoing bear the implication that R. Meir takes the view that one who stumbles [and damages an object by that cause] is not deemed negligent* [Freedman: for if the barrel was broken in the course of being moved, at the very least it is as though it were damaged through his stumbling; and since Meir rules

that he must swear that he had not been negligent, it follows that stumbling is not negligence]?

- C. *But has it not been taught on Tannaite authority:*
- D. If one's jar broke and one did not remove it, or his camel fell down and he did not raise it up —
- E. R. Meir declares one liable for the damage that they do.
- F. And sages say, "He is exempt from sanction imposed by the earthly court but liable for sanction imposed by the heavenly court."
- G. *And we have interpreted this dispute to deal with a case of whether stumbling is a matter of negligence [and he Meir clearly maintains that it is].*
- H. Said R. Eleazar, "Divide the matter, so that the authority behind one version simply is not the same as the authority behind the other." [There are two contradictory traditions on Meir's view.] *And R. Judah comes to indicate, [as at 1.C] "An unpaid bailee takes an oath while a paid bailee simply makes restitution," each in accord with the law that applies to his classification of bailee. And R. Eliezer comes to indicate that while the tradition accords with R. Meir, nonetheless, 'I wonder whether either this one or that one can in fact take a [valid] oath.'*"
- I. *Now there is no reasonable doubt that the unpaid bailee takes an oath that he has not been negligent. But why in the world should a paid bailee take an oath? Even if he did not act negligently, still he has to make restitution.*
- J. *And even as to an unpaid bailee, the ruling poses no problems if the accident took place on sloping ground, but if it was not on sloping ground, can he ever take an oath that he was not negligent?*
- K. **[83A]** *And even if the accident took place on sloping ground, the ruling poses no problems in a case in which there is no evidence, but where there is some sort of visual evidence, then let him bring the evidence and only then free himself from liability.*
- L. *For it has been taught on Tannaite authority:*
- M. Issi b. Judah says, "If a man deliver to his neighbor an ass...to keep, and it die or be hurt or driven away, no man seeing it, then shall an oath of the Lord be between them both' (Exo. 22:9-10). But if there is someone seeing it, let him bring the evidence and exempt himself from making restitution." And R. Hiyya bar Abba said R. Yohanan [said], "This oath is an ordinance put into effect by sages. For if you do not hold that view, then you will find no one who will ever be willing to move a barrel for his neighbor from place to place."
- O. *What exactly is the form of the oath?*
- P. Said Raba, "By an oath [I say] that it was not intentionally that I broke it."
- R. And R. Judah comes to indicate, [as at 1.C] "An unpaid bailee takes an oath while a paid bailee simply makes restitution," *each in accord with the law that applies to his classification of bailee. And R. Eliezer comes to indicate that while the tradition accords with R. Meir, nonetheless, "I wonder whether either this one or that one can in fact take a [valid] oath."*

- S. *Now there is no reasonable doubt that the unpaid bailee takes an oath that he has not been negligent. But why in the world should a paid bailee take an oath? Even if he did not act negligently, still he has to make restitution.*
- T. *And even as to an unpaid bailee, the ruling poses no problems if the accident took place on sloping ground, but if it was not on sloping ground, can he ever take an oath that he was not negligent?*
- U. *And even if the accident took place on sloping ground, the ruling poses no problems in a case in which there is no evidence, but where there is some sort of visual evidence, then let him bring the evidence and only then free himself from liability.*
- V. *For it has been taught on Tannaite authority:*
- W. Issi b. Judah says, "If a man deliver to his neighbor an ass...to keep, and it die or be hurt or driven away, no man seeing it, then shall an oath of the Lord be between them both' (Exo. 22:9-10). But if there is someone seeing it, let him bring the evidence and exempt himself from making restitution."

II.2 A. *Somebody was once moving a jug of wine in the Manor of Mahoza, and he broke it on a projection of Mahoza. When the case came before Raba, he said to him, "The manor of Mahoza is a place where people congregate, so go, bring evidence so as to exempt yourself from having to make restitution."*

B. *Said to him R. Joseph his son, "In accord with whom do you rule in this way? Is it in accord with Issi?"*

C. *He said to him, "Yes, in accord with Issi, for we concur with his view."*

II.3 A. *Somebody said to his neighbor, "Go and buy me four hundred barrels of wine." He went and bought them for him. Then he went to him and said, "I bought you four hundred barrels of wine, but they turned sour."*

B. *When the case came before Raba, he said to him, "If four hundred barrels of wine go sour, people are going to hear about the matter! Go and bring evidence that, to begin with, when you bought the wine, it was wine of good quality, and so free yourself from having to make restitution."*

C. *Said to him R. Joseph his son, "In accord with whom do you rule in this way? Is it in accord with Issi?"*

D. *He said to him, "Yes, in accord with Issi, for we concur with his view."*

II.4 A. *R. Hiyya bar Joseph made the ordinance in Sikara that those who carry burdens on a yoke, which break, must pay half of the value in restitution.*

B. *What is the reason? It is because the weight is too much for one but too little for two, so the accident falls right in between an accident and negligence.*

C. *But those who carry the load on a pole must pay the whole value of the load if the pole breaks.*

II.5 A. *As to Rabbah b. R. Huna, some bearers broke a barrel of wine that was his. He seized their clothes in restitution, and they went and complained to Rab. He said to him, "Return their clothes."*

B. *He said to him, "Is that the law?"*

C. *He said to him, "Yes, it is: 'so that you may walk in the way of good men' (Pro. 2:20)."*

- D. *He gave them back their clothes. They said to him, "We are poor men and worked all day and are in need. Are we to get nothing for our work?"*
- E. *He said to him, "Go pay them their wages."*
- F. *He said to him, "Is that the law?"*
- G. *He said to him, "Yes, it is: 'and keep the path of the righteous' (Pro. 2:20)."*

There are some obvious textual problems here, which need not detain us. I.1 sets the stage for what is to follow, The whole, II.1ff., in any event is focused upon the interpretation of the Mishnah-passage. The cases at the end then show us how the law is applied.