

VIII

BAVLI TRACTATE BEKHOROT CHAPTER EIGHT

FOLIOS 46A-52B

Shifting to human firstborn, we deal with two considerations. First is Deu. 21:17, which takes for granted that the firstborn son receives a double portion of the father's estate. That is, if there are two sons, the estate is divided into three parts, with the firstborn receiving two of them. This matter is woven together with a second, the obligation of the father to redeem his firstborn son by the payment to the priest of five *shegels* in silver, according to the *shegel* of the sanctuary. There are, then, two aspects of the matter, firstborn as to inheritance, and firstborn as to payment of five *shegels* to the priest (hereinafter: firstborn in respect to the priest). The later clearly depends upon the offspring's being the first to emerge from the womb: *Everything that opens the womb of all flesh, whether man or beast...shall be yours.*

8:1-2

- A. **There is a firstborn in respect to inheritance, who is not a firstborn in respect to the priest,**
- B. **a firstborn in respect to the priest who is not a firstborn in respect to inheritance,**
- C. **a firstborn in respect to inheritance and in respect to the priest,**
- D. **and there is one who is not a firstborn either in respect to inheritance or in respect to the priest.**
- E. **Who is he who is a firstborn in respect to inheritance and not a firstborn in respect to the priest?**

- F. (1) He who comes after an untimely birth whose head emerged alive, (2) or [after] a nine-month-old birth the head of which emerged [but which was] dead,
- G. ‘and [he who comes after] an abortion which was like a beast, a wild animal, or a bird,’ the words of R. Meir.
- H. And sages say, ‘Only if [the abortion] bears the appearance of man.’
- I. (3) She who aborts a sandal, an afterbirth, or a fully-formed foetus, and that which goes forth in pieces —
- J. that which is born after them is a firstling in respect to inheritance but not a firstling in respect to the priest.
- K. (1) He who had no children and who married a woman who already had given birth —
- L. (2) [or] if she was a bondwoman and then made free,
- M. (3) a gentile and converted,
- N. after she came to the Israelite, she gave birth,
- O. he is a firstborn in respect to inheritance but not a firstborn in respect to the priest.
- P. R. Yosé the Galilean says, ‘He is a firstling for inheritance and for the priest,
- Q. ‘since it is said, ‘Whatsoever opens the womb among the children of Israel’ (Exo. 13: 2) — [this is applicable] once they [the offspring] will open the womb of Israelite[s].’
- R. He who had children, and who married
- (1) a woman who had not given birth,
- S. (2) she converted when pregnant,
- T. (3) [or if] she was freed when pregnant,
- U. (1) [if] there gave birth she and a priest’s wife [and the babies were mixed up],
- V. (2) she and a Levite’s wife [and the babies were mixed up],
- W. (3) she and a woman who had already given birth [and the babies were mixed up],
- X. and so she who did not wait after her husband[‘s death] for three months but got married and gave birth —
- Y. [so] it is not known whether it is an offspring at nine months attributed to the first husband or at seven months attributed to the second —

Z. it is a firstborn in respect to the priest but not a firstborn in respect to inheritance.

- I.1** A. [Supply: **He who comes after an untimely birth whose head emerged alive:**] Said Samuel, 'The appearance of the head [of a twin, if it was drawn back after having emerged] does not exempt [the other twin, born first, from the duty of being redeemed from the priest in line with Num. 18:15-16] in the case of a miscarriage.'
- B. *What is the scriptural basis for this position?*
- C. 'All in whose nostrils was the breath of life' (Gen. 7:22) — *where the breath of life is in the nostrils, the head of that creature is taken into account [exempting the successor from the obligation of being redeemed], but otherwise, the head is not taken into account.*
- D. *We have learned in the Mishnah: **He who comes after an untimely birth whose head emerged alive, (2) or [after] a nine-month-old birth the head of which emerged [but which was] dead.** Thus the passage in any event refers to 'head,'* [Miller & Simon: implying that an untimely birth releases the successor with the putting forth of the head from the requirement of redemption, contradicting Samuel].
- E. *What is the meaning of 'head' here? It means, in fact, the greater part [but if it were only the head, the one that follows still has to be redeemed].*
- F. *Then let the passage say so: 'its greater part'!*
- G. *In point of fact, it would be quite logical that the passage should have stated, 'its greater part,' but since the framer of the passage wished to include in the later clause, **or [after] a nine-month-old birth the head of which emerged [but which was] dead,** and he wishes to make the point that the reason is that its head was dead, but if the head had been alive, the one who followed would not have been first-born even with respect to inheritance, he made reference in the earlier part to the head as well.*
- H. *And what is it that the framer wishes to tell us? That since he put forth his head, it is considered a valid birth? That we have learned already: If the embryo put forth its head, although he withdrew it again, it is considered a valid birth [and slaughtering the mother has no affect upon the offspring, which has also to be properly slaughtered to be eaten for meat]. And should you maintain that his intent was to teach the ruling that putting the head out constitutes birth both for the case of the animal and for the case of a human being [the latter here], because we cannot infer the case of a human being from that of an animal, since*

the animal has no forepart of female genitals, and we cannot infer the case of an animal from that of a human being, as the latter's full face is important, have we not learned this in the Mishnah elsewhere: [If] it came forth in the normal way, [it is not deemed born] until the greater part of its head has come forth. And what is the greater part of its head? Once its forehead has come forth [M. Nid. 3:5H-J]. May we say that that is a refutation of what Samuel has said?

I. *It indeed refutes his position.*

I.2. A. Said R. Simeon b. Laqish, 'The emergence of the forehead in all cases is regarded as the moment of birth, except for purposes of inheritance [the one who follows is firstborn unless the face of the first infant came forth]. *What is the Scriptural basis for that position?* 'But he shall acknowledge the first-born' (Deu. 21:17) *is what the All-Merciful has said.*'

B. And R. Yohanan said, 'Even for purposes of inheritance that is the case.'

C. *What does the language 'in all cases' serve to encompass?*

D. *It serves to encompass that which our rabbis have taught on Tannaite authority:*

E. A proselyte, the forehead of whose infant came forth while she was a gentile and then she converted to Judaism [before the face and the rest of the body came forth] — they do not assign to her the days of uncleanness and the days of purifying [prescribed for an Israelite birth at Lev. 12], nor does she have to present an offering by reason of having given birth.'

F. *An objection was raised:* 'But he shall acknowledge the first-born' (Deu. 21:17) — this refers to the recognition of the full face, and what does that involve? The full face including the nose.

G. *Read:* 'up to the nose.'

H. *Come and take note:* **They derive testimony [concerning the identity of a corpse] only from the appearance of the whole face with the nose, even though there are signs of the corpse's identity on his body or garments [M. Yeb. 16:3A-C].**

I. *Read:* 'up to the nose.'

J. *Come and take note:* The forehead without the face, or the face without the forehead, do not provide adequate evidence, unless the two of them are available along with the nose, and, said Abbaye, and some say, R. Kahana, 'What is the scriptural basis for that statement? 'The show of their countenance bears witness against them' (Isa. 3: 9) [and this again challenges Yohanan's position].

- K. *The testimony with respect to the death of a woman's husband is exceptional, because rabbis imposed an especially strict rule in that matter [since if the woman's husband is not dead, she cannot legally remarry, so first-rate evidence must be available that he has died].*
- L. *But have rabbis imposed such a strict rule? And have we not learned in the Mishnah: **And they confirmed in the practice of permitting [the wife to] remarry (1) on the evidence of a single witness, (2) on the evidence of a slave, (3) on the evidence of a woman, (4) on the evidence of a slave girl [M. Yeb. 16:3K].***
- M. *When rabbis accepted so lenient a ruling, it was after the fact, but to begin with, rabbis did not impose so lenient a ruling.*
- N. *And if you prefer, I shall say: [47A] 'But he shall acknowledge' is one thing, 'the show of their countenance' is another [and when Scripture refers to countenance, it means the full face is required].*

II.1 A. [Supply: He who had children, and who married a woman who had not given birth] *It has been stated:*

- B. If a man had children while he was a gentile and then he converted —
- C. R. Yohanan says, 'He does not produce a firstborn as to inheritance.'
- D. R. Simeon b. Laqish says, 'He does produce a firstborn as to inheritance.'
- E. R. Yohanan says, 'He does not produce a firstborn as to inheritance:' *for lo the father has already produced* 'the beginning of his strength.'
- F. R. Simeon b. Laqish says, 'He does produce a firstborn as to inheritance:' *for lo, a proselyte is classified as a newborn baby.*
- G. *And both follow already-established lines of thought, for it has been stated:*
- H. if someone had children while he was a gentile and he converted —
- I. R. Yohanan said, 'He has already fulfilled the obligation to be fruitful and multiply.'
- J. R. Simeon b. Laqish says, 'He has not already fulfilled the obligation to be fruitful and multiply.'
- K. R. Yohanan said, 'He has already fulfilled the obligation to be fruitful and multiply:' 'He has not created it in vain, he formed it to be inhabited' (Isa. 45:18).
- L. R. Simeon b. Laqish says, 'He has not already fulfilled the obligation to be fruitful and multiply:' *for lo, a proselyte is classified as a newborn baby.*
- M. *And it was necessary to present both examples of their dispute [since one cannot have reliably been inferred from the other]. For had the dispute been stated only with reference to the first topic, it would have been specifically in that context*

that R. Simeon b. Laqish took the position that he did, because, when the man was a gentile, his children were not his legal heirs, but in this case, I might say that he concurs with R. Yohanan: 'He has not created it in vain, he formed it to be inhabited' (Isa. 45:18), and lo, he has done his part. And if the dispute had been stated only in the latter context, then it might be only in that context in particular that R. Yohanan took the position that he did, but in the other, I might say that he concurs with R. Simeon b. Laqish. So it was necessary to state the dispute in both contexts.

- N. *We have learned in the Mishnah: **He who had no children and who married a woman who already had given birth — [or] if she was a bondwoman and then made free, a gentile and converted, after she came to the Israelite, she gave birth, — he is a firstborn in respect to inheritance but not a firstborn in respect to the priest.** Now from whom did she give birth? May I say that it was from an Israelite who had had no children? Then why specify a proselyte or a slave-girl? Even an Israelite woman would also fall into the same rule. Rather, is it not from a proselyte who had children and who then converted? And it is stated: **he is a firstborn in respect to inheritance but not a firstborn in respect to the priest.*** [This disproves Yohanan's position.]
- O. *The framer of the Mishnah [had to tell us that the infant is not a first-born as to the priesthood] to exclude the position of R. Yosé the Galilean, who has said, **R. Yosé the Galilean says, 'He is a firstling for inheritance and for the priest, since it is said, 'Whatsoever opens the womb among the children of Israel' (Exo. 13: 2) — [this is applicable] once they [the offspring] will open the womb of Israelite[s].'*** The purpose of the Mishnah then is to inform us that that is not the case.
- P. *Come and take note: If someone had children while he was a gentile and then he converted, the infant is in the status of a firstborn as to inheritance. [This disproves Yohanan's position.]*
- Q. *Said Rabina, and some say, R. Aha, 'This certainly represents the position of R. Yosé the Galilean, who has said, **'He is a firstling for inheritance and for the priest, since it is said, 'Whatsoever opens the womb among the children of Israel' (Exo. 13: 2) — [this is applicable] once they [the offspring] will open the womb of Israelite[s],'*** and we infer the case of the husband from that of the woman [Miller & Simon: just as in the case of a woman, the previous children to not count legally and therefore the infant is regarded as a firstborn and as opening the womb, so in the case of the husband as regards inheritance, the previous children do not count legally and thus this infant is the firstborn for inheritance].'

- R. Said R. Adda b. Ahbah, 'A Levite woman who gave birth — her son is exempt from the *requirement to present five selas to a priest [to redeem the son]*.' *Now by whom had she been made pregnant? If we say that she conceived from a priest or a Levite, then why specify that it was a Levite woman? Even an Israelite woman would be under the same rule. Rather, she conceived from an Israelite. But is it not written, 'After their families, by the house of their fathers' (Num. 1: 2) [Miller & Simon: thus we follow the family of the father, not the mother, and since the father is an Israelite, why is she exempt from having to pay the priest to redeem the son]?*
- S. Said R. Pappa, 'She became pregnant with a gentile. *And you may not say that this statement accords only with him who has said, 'The child is not rejected [for it takes the status of the mother, and the son of a Levite's daughter is exempt from the law of redemption].'* But even if we say that the view of him who holds that the child is rejected serves as premise here, the son of a Levite's daughter is exempt, *since he is called merely an unfit Levite.'*
- T. *Mar b. R. Joseph said in the name of Raba, 'In point of fact she became pregnant with an Israelite. But this case is exceptional, for Scripture has said, 'Whatsoever opens the womb,' and the All-Merciful has made the matter contingent on the opening of the womb [the status of the mother, and that is as to the requirement to redeem the offspring].'*
- U. *We have learned in the Mishnah: He who had children, and who married (1) a woman who had not given birth, (2) she converted when pregnant, (3) [or if] she was freed when pregnant, (1) [if] there gave birth she and a priest's wife [and the babies were mixed up], (2) she and a Levite's wife [and the babies were mixed up], (3) she and a woman who had already given birth [and the babies were mixed up], and so she who did not wait after her husband['s death] for three months but got married and gave birth — [so] it is not known whether it is an offspring at nine months attributed to the first husband or at seven months attributed to the second — it is a firstborn in respect to the priest but not a firstborn in respect to inheritance.*
- V. *It follows that the woman of priestly or Levitical caste is not subject to the law of redemption. And from whom did she conceive? If I say that she got pregnant with a priest or a Levite, if so, then why specify that she was a woman of priestly or Levitical caste, when the law would apply equally to an Israelite woman. Rather, she became pregnant by a gentile. And in such a case is she exempt? And has not R. Pappa said, 'Raba examined us in the law as follows: 'If a woman of priestly caste got pregnant with a gentile, what is the law?'* And I answered

him, *'Is this not analogous to what R. Adda b. Ahba said, 'A woman of Levitical caste who gave birth — her son is not subject to the law of redemption with five selas'?' And he said to me, 'How are the matters parallel? It is true that the woman of Levitical caste remains in her sanctified caste [even though she had sexual relations with a gentile, and the son is an unfit Levite, therefore exempt from redemption]. For it has been taught on Tannaite authority: A woman of Levitical caste who was taken captive or had intercourse for licentious purposes — they still give her food from what has been designated as tithe and she may eat it. But as to a woman of priestly caste, as soon as she has sexual relations with a gentile, she is classified as a non-priest [Lev. 22:12]. Now that poses no problems to the position of Mar b. R. Joseph in the name of Raba, who has said, 'She became pregnant with an Israelite,' since he can interpret the rule to speak of a case in which she got pregnant from an Israelite. But from the viewpoint of R. Pappa [who has explained Adda's ruling to refer to a woman of Levitical status who conceived from a gentile], how will you explain the rule?'*

W. *In point of fact, she did become pregnant with a priest, and she is an Israelite, and why is she called a woman of priestly caste? It is because her son is in the priestly caste. [Miller & Simon: but a priest's daughter who did not conceive from a priest is not exempt from redeeming the firstborn, because we follow the status of the mother only when a Levite's daughter conceived from a gentile.]*

II.2. A. [47B] *It has been stated:*

- B. A priest who died and left a son who is profaned from the priesthood [because his mother was not appropriate for marriage into the priesthood] —
- C. R. Hisda said, 'The son is liable to redeem himself [as a firstborn].' [He is equivalent to an Israelite, subject to the law of the firstborn.]
- D. Rabbah b. R. Huna said, 'He is not liable to redeem himself.'
- E. *In any case in which the father died after thirty days after the son's birth, all parties concur that he is not required to redeem himself, since the father is assumed to 'have acquired possession of the redemption money. At issue is whether when the father dies within the thirty days [prior to the point at which the redemption must be taken care of], the son has to redeem himself.*
- F. R. Hisda said, 'The son is liable to redeem himself [as a firstborn],' *for lo, his father has not acquired title to the money to be paid to redeem him.*
- G. Rabbah b. R. Huna said, 'He is not liable to redeem himself,' *for the son can say to the priest, 'My claim rests on the standing of someone whom you cannot sue anyhow.'*

- H. *We have learned in the Mishnah: He who had children, and who married — [and] she converted when pregnant, — it is a firstborn in respect to the priest but not a firstborn in respect to inheritance. But why should this be the case? Why can he not claim, 'My claim rests on the standing of someone whom you cannot sue anyhow.'*
- I. *The case of a gentile is exceptional, because he has no legal heirs [and as far as the firstborn is concerned here, the gentile father has no legal relationship, so it is not a case of claiming on behalf of the father anyhow].*

II.3. A. Said R. Simeon b. Yasinayya said R. Simeon b. Laqish, 'A priest who died within thirty days of the birth of a child and left a son who was of profaned priestly stock — the son is liable to redeem himself, for the father did not acquire title to the money to be paid for his redemption. If he died after thirty days of the birth of the son, the son is not liable to redeem himself, for lo, the father has made acquisition of the funds to be paid for redeeming him.'

III.1 A. ...and so she who did not wait after her husband[*'s death*] for three months but got married and gave birth:

- B. **He is not a firstborn as to inheritance**, *which bears the implication that he takes his share as an ordinary son. But why should this be the case? Let him go to the sons of this one [the first husband], who can reject his claim [since he cannot prove that he is a son of the first husband], and let him go to the sons of that one [the second husband], who also can reject his claim [he cannot prove he is their brother either]!*
- C. *Said R. Jeremiah, 'The rule is required only with reference to the classification of the son who follows this one of doubtful status [since the son of doubtful status gets nothing from either estate], and this is the sense of the passage: the one who is firstborn is to be redeemed from a priest [as having opened the womb], and the one who follows him is not entitled to the share of the firstborn as to inheritance.'*
- D. *But why not have the son whose status in doubt and the one who follows him assign [Miller & Simon:] the power of attorney to one another [Miller & Simon: concerning the share of each, so the doubtful son can claim the firstborn's share in either case, as follows: 'If I am firstborn then give it to me for my sake, and if my brother is a firstborn, then give it to me for my brother's sake,' because one of the two must be a firstborn to the second husband]. And should you take the position that the Mishnah-rule [that he is not a firstborn as to inheritance] refers to a case in which no such power of attorney has been given, is not the very passage*

explained presently as speaking of a case in which a power of attorney has been written out [so that proves that it does not help at all]?

- E. This supports the position of R. Yannai, for R. Yannai has said, ‘If the children belong to two women and two husbands] to begin with were accurately identified as to their parentage, but later on became confused, they can write out a power of attorney for one another, but if they were not accurately identified as to their parentage, but later on became confused, they may not do so’ [and here too the same conditions prevailed].

The analysis of the Mishnah begins in a somewhat roundabout way, with Samuel’s proposition, but at I.1 we quickly find our way back to what is at issue in clauses of our Mishnah-paragraph. No. 2 is tacked on because it continues the discussion of the forehead, introduced tangentially at No. 1. II:1 seems to me more to the point, since M. 8:1K, M invite the question of whether a the firstborn of a proselyte who already has had children as a gentile is subject to the law of the firstborn when the father converts and has more children as an Israelite. Still, the issue is hardly pressing within the framework of the Mishnah’s rules and shows us the Bavli’s authorship’s power of abstraction; for at stake here is a theoretical question, and what is elucidated is not the data and their realization but the theory of things. At II:1M, in any event, we revert to our Mishnah-paragraph, which explains why the composition has been placed here, but not why it has been made up to begin with. No. 2 continues the theme with which No. 1 ends. No. 3 continues along that same line. III.1 raises a question on the secondary implications of the cited rule of the Mishnah. This is not Mishnah-commentary but rather an effort to see how the premises of a variety of rules fit together.

8:1AA-EE, 8:2

- AA. Who is he who is a firstborn in respect to inheritance and in respect to the priest?**
- BB. (1) She who aborts a foetus filled with blood, filled with water, filled with variegated matter,**
- CC. (2) she who aborts something like fish, locusts, insects, or creeping things,**
- DD. (3) she who aborts on [up to] the fortieth day [after conception] —**
- EE. he who comes after them is a firstling in respect to inheritance and in respect to the priest.**

M. 8:1

- A. That which goes forth from the side and that which comes after it —**

- B. both of them are neither a firstborn in respect to inheritance nor in respect to the priest [M. 2:9].
- C. R. Simeon says, 'The first is [a firstborn] in respect to inheritance.
- D. 'And the second is [a firstborn] in respect to the five selas [to be paid to the priest].'

M. 8:2

- I.1 A. [That which goes forth from the side and that which comes after it — both of them are neither a firstborn in respect to inheritance nor in respect to the priest:] The first is not a firstborn as to inheritance *because of the requirement of Scripture*: 'And they have borne him' (Deu. 21:15) [implying that in the case of inheritance the offspring must be born in the normal way, through the womb]; and not firstborn as regards redemption with five selas *because Scripture requires that it be an offspring that* 'opens the womb.'
- B. *The second is not firstborn as to inheritance because he has not met the condition, 'The firstfruits of his strength,' and he is not a firstborn in respect to redemption with five selas, because the authority here maintains: a firstborn in one respect only [as to the womb] is not classified as a firstborn.*

II.1 A. R. Simeon says, 'The first is [a firstborn] in respect to inheritance. And the second is [a firstborn] in respect to the five *selas* [to be paid to the priest]:'

- B. *R. Simeon is consistent with views expressed elsewhere, for he has said, "But if she bear' (Lev. 12: 5) — encompassing the child born by caesarean section.' And the second is firstborn in respect to the five selas because he takes the view, a firstborn in one respect only [as to the womb] is not classified as a firstborn.'*

I.1 does a fine job of specifying the conditions that pertain in judging the several cases. II:1 adds a minor observation.

8:3

- A. [48A] He whose wife had not given birth and [whose wife] gave birth to two males
- B. gives five selas to the priest.
- C. [If] one of them died during the first thirty days [after birth],
- D. the father is exempt [from the obligation to give five selas to the priest].
- E. [If] the father died and the sons live,

- F. R. Meir says, 'If they had given [the five selas] before they divided [the inheritance], they have given it. [The priest keeps it, since one of the two is surely liable as firstborn].'
- G. 'And if not, they are exempt. [We do not know which one is liable to pay the money].'
- H. R. Judah says, 'The estate is liable. [The father is in any case liable for the five selas].'
- I. [If she bore] male and female, there is nothing whatsoever here for the priest.
- I.1** A. [If the father died and the sons live — R. Meir says, 'If they had given the five *selas* before they divided [the inheritance], they have given it. And if not, they are exempt']: *Now when did the father die? If we say that he died after thirty days of the son's birth, then is it in such a case that R. Meir said, 'When they have divided up the estate, they are exempt from paying the five selas'? Has the property not already been mortgaged to the priest for the five selas? So you must say that he died within thirty days of the birth of the son. But if they have divided up the estate, why are the sons exempt? It is presumably because if the priest goes to this one, his claim can be rejected [since this one claims the other is the first born], and if he goes to that one, his claim can be rejected. But why should that not be the rule, also, if they have not divided up the property, namely, the priest goes to this one and his claim is rejected, and if he goes to that one, his claim is rejected?*
- B. Said R. Jeremiah, 'That is to say, if there are two men named Joseph b. Simeon in the same city, and they formed a partnership to buy a field, a creditor can claim it from them, *for he can say to either one of them, 'If my rightful claim is against you, then I am taking your maneh's share of the field, and if my rightful claim is against your associate, then I am taking the rightful claim of your partner.'*
- C. Said Raba, 'But a man's property is his guarantee. Is there a case in which one cannot lay claim against a person, but he can lay claim against his guarantee?'
- D. *But have we not learned in the Mishnah: He who lends money to his fellow on the strength of a guarantor may not collect from the guarantor [M. Baba Batra 10:7U]. And in that regard we have interpreted the rule to mean, 'He may not collect from the guarantee first of all.'* [One has to lay claim on the debtor, and if the latter cannot pay, then the guarantor has to pay. Here, since the father died within thirty days of the offspring's birth, the priest's claim cannot be made on the actual debtor, and therefore it cannot be made on his surety, here, his property (Miller & Simon)].

- E. Rather, said Raba, 'In point of fact we deal with a case in which the father died after thirty days of the birth of the son. *And if the estate is substantial, the priest can collect his money* [Miller & Simon: because the property was pledged for the five selas during the father's lifetime, and although the loan is only verbal, the priest can claim from the heirs, if the inheritance is sufficient to meet the claim]. *But here, we deal with a case in which there are only five selas in the estate. And all parties concur with the opinion of R. Assi.* For said R. Assi, 'Brothers who have divided an estate — with respect to half of it they are classified as heirs, and with respect to the other half they are classified as purchasers from one another.' *And all authorities furthermore concur that a debt that derives from what is written in the Torah [48B] is not classified within the same category as a one that is obligated in a note [but is treated only as a verbal loan]. And all authorities furthermore concur that with the position of R. Pappa.* For R. Pappa has said, 'A loan that is only verbal is collected from an estate but may not be collected from purchasers [of the property from the now-deceased testator]. *But here, what is at issue is whether the five selas that are owing on the strength of the law of the Torah obviate the requirement to pay half of five selas. R. Meir maintains that when Scripture says, 'five selas,' it means just that, and not half; and R. Judah maintains that the debt is five selas, but even half of five selas are to be paid [and the priest can take the half that has come to the heirs as inheritance money].'*
- F. *If that is so, then how come the Mishnah states, **R. Judah says, 'The estate is liable. [The father is in any case liable for the five selas].'** What it should say is, 'The man himself is liable'!* *And furthermore, it has been taught on Tannaite authority: R. Judah says, 'Brothers who divided an estate — if there are ten zuz for one and ten for the other, the are obligated [to pay for the redemption of themselves from the priest], but if not [ten zuz for each heir] they are exempt.'* *Now what is the meaning of, if there are ten zuz for one and ten for the other? Shall I say that it refers to both the half of the estate that is classified as an inheritance, and the half that is classified as having been purchased? Then why does R. Judah specify ten zuz, when even less than ten zuz would have been sufficient to make his point* [Miller & Simon: even if each brother had only eight, making four selas in all, of which the priest would receive two, as the other half is considered property bought from each other, the law would be the same; so why did Judah have to specify the figure of ten, since the whole of the redemption money cannot be paid, but a third or a fourth of the sum is also valid]. *It follows that it is clear to him that the ten zuz have come as an inheritance to one heir, ten to the other [so each gets five selas as an inheritance]. Therefore he maintains*

that the biblical five selas is such as to eliminate the possibility of redemption with half of five selas. Rather, all parties concur that the five selas of redemption money excludes the possibility of paying half of that amount, and what is at issue are the principles set forth by R. Assi and R. Pappa. [Miller & Simon: Meir accepts the views of Assi and Pappa, and since there are not five selas all together, the priest gets nothing, for the five selas of the Torah is strictly meant, and one cannot effect redemption with less than that sum. As for Judah, if he agrees with Assi in regard to half of the property in which the ears are classified as purchasers, and not with that of Pappa, that a verbal loan cannot be claimed from property in the hands of buyers, the priest takes the whole; if he does not agree with Assi but holds that, in regard to the entire property, they are classified as heirs, then, whether he agrees with Pappa or not, the priest takes the whole of the five seals. Then: if there are ten zuz for each brother, they must give all their property for redemption, but if there is not property of the value of five selas, the survivors are exempt from the duty of redemption, for the statutory five selas exclude a redemption of less than that amount].

- G. *There are those who repeat this entire discussion in the context of the latter clause of the Mishnah, namely: **R. Judah says, ‘The estate is liable. [The father is in any case liable for the five selas].’** Now when did the father die? If I say that he died after thirty days from the birth of the son, then it follows that R. Meir maintains that when they divided up the estate, they are exempt from having to redeem themselves. But is the property not deemed a guarantee for redemption? Then we must say that he died within thirty days of the birth of the son. But why does R. Judah deem the survivor liable to redemption, for if the priest goes to one party, his claim can be rejected, and if he goes to the other, his claim can be rejected!*
- H. Said R. Jeremiah, ‘That is to say, if there are two men named Joseph b. Simeon in the same city, and they formed a partnership to buy a field, a creditor can claim it from them, *for he can say to either one of them, ‘If my rightful claim is again you, then I am taking your maneh’s share of the field, and if my rightful claim is against your associate, then I am taking the rightful claim of your partner.’*” Said Raba, ‘But a man’s property is his guarantee. Is there a case in which one cannot lay claim against a person, but he can lay claim against his guarantee?’”...as in the first version.

I.1 introduces a question for which the prior discussion has prepared us. In this way the framers of the Talmud link case to case through a shared principle or premise.

8:4-6D

8:4

- A. Two women [married to the same man] who had not given birth and who bore two males —
- B. he [the father] gives ten selas to the priest.
- C. [If] one of them died during the first thirty days [after birth], if [the father] had given [the ten selas] to one priest, he [the priest] returns five selas to him [the father].
- D. If he had given [the ten selas] to two priests, he cannot recover [the funds] from their hand.
- E. [If they bore] a male and a female,
- F. or two males and a female,
- G. he gives five selas to the priest.
- H. [If they bore] two females and a male,
- I. or two males and two females,
- J. there is nothing whatsoever here for the priest.
- K. [If] one had given birth and one had not given birth, and they bore two males,
- L. he [the father] gives five selas to the priest.
- M. [If] one of them died during the first thirty days after birth, the father is exempt.
- N. [If] the father died, and the sons live,
- O. R. Meir says, 'If they had given [the five selas] before they divided [the inheritance], they have given [them].'
- P. 'And if not, they are exempt.'
- Q. R. Judah says, 'The estate is liable.'
- R. [If they bore] male and female, there is nothing whatsoever here for the priest.

M. 8:4

- A. Two wives of two men, who had not given birth, and who gave birth to two males —
- B. this one gives five selas to the priest, and that one gives five selas to the priest.
- C. [If] one of them died during the first thirty days [after birth],
- D. if they had given [the five selas] to one priest,
- E. he returns the five selas to them.

- F. If they had given [the five selas] to two priests, they cannot recover [the funds] from their hand.
- G. [If they gave birth to] a male and a female, the fathers are exempt.
- H. But the son is liable to redeem himself.
- I. [If they gave birth] to two females and a male or to two males and two females,
- J. there is nothing whatsoever here for the priest.

M. 8:5

- A. [If] one had given birth and one had not given birth, to two men,
- B. and they gave birth to two males,
- C. this one whose wife had not given birth gives five selas to the priest.
- D. [If they gave birth to [a male and a female [and the children were mixed up], there is nothing whatsoever here for the priest.

M. 8:6

- I.1** A. *How come in the case of two priests the redemption money cannot be reclaimed? Because the man may go to one priest and be dismissed, and then to the other and be dismissed. Why not apply the same principle to the case of a single priest, so that if one father goes to the priest, he can reject the demand [‘it is not your son who died but your neighbor’s, and I am entitled to the five selas’], and if the other goes and demands the money, he too can reject the demand on the same ground?*
- B. **[49A]** *Said Samuel, ‘We are dealing with a case in which the fathers had supplied a power of attorney [to one another, and each can claim, ‘If mine died, return my redemption money, and if it was the child of my neighbor, give me back his money, for I am authorized by him’].’*
- C. *But did not the Nehardeans say, ‘We do not write out a private authorization [to a creditor to collect or take possession of one’s debt] when it comes to movables’?*
- D. *That is the rule where the debtor denies the loan, but here where there is no such denial, we do write such a document.*

- II.1** A. **[If they gave birth to] a male and a female, the fathers are exempt:**
- B. *A Tannaite version of R. Huna: ‘If there were two males and a female, the priest has nothing here.’*
- C. *And our Tannaite authority [who does not mention this case]?*

- D. *Since he is dealing with cases involving two men, he does not raise the case of a single husband and two women.*

The question addressed at I.1 is of a familiar, analytical character, Mishnah-commentary at its best. II.1 compares the version before us with alternatives and explains what we have.

8:6E-I

- E. [If] the son died during the first thirty days [after birth], even though he [the father] had given to the priest [five selas to the priest], he must return the money.
- F. If it was after thirty days, even though he has not yet given the money, he must give it.
- G. [If the male] died on the thirtieth day, it is deemed equivalent to the day before it [the twenty-ninth, and the father owes nothing].
- H. R. Aqiba says, 'If he gave [the five selas, but the son died on the thirtieth day], he [the father] should not take [the money back].
- I. 'And if he did not give [over the five selas], he [the father] should not give [over the five selas].'

I.1 A. *What is the scriptural basis for the position of rabbis [G]?*

- B. *They draw an analogy between the use of 'month' (at Num. 18:16: 'and those who are to be redeemed from a month old') and the use of 'month' (at Num. 3:40: 'number all the firstborn of the males of the children of Israel from a month old and upward'). Just as in the latter usage, it is 'and upward,' so here the same meaning pertains.*
- C. And R. Aqiba?
- D. *He regards the matter as subject to doubt. For, since it was necessary to include the language 'and upward' in the context of valuations and this was not left to be inferred from the meaning of the language 'and upward' when it occurs in the book of Numbers, we are left with two verses that make the same point, and when you have two verses that make the same point, they are particular to themselves and cannot serve to illustrate other cases [in which case we cannot infer from the meaning of the language in those verses the meaning of the same usage in the context of the redemption of the first born]. Or perhaps we invoke the principle that when you have two verses that make the same point, they are particular to themselves and cannot serve to illustrate other cases applies only when the cases*

are completely unrelated, *but where the same topic is under discussion, the verses do serve as an illustration. That is the basis for his doubt.*

- I.2.** A. Said R. Ashi, ‘All concur in respect to the rules of mourning that the thirtieth day is classified as the day prior to it.’
- B. And said Samuel, ‘The decided law when it comes to mourning accords with the opinion of the lenient party.’
- I.1 raises a standard question and presents, for Aqiba, an interesting response. No. 2 is tacked on.

8:6J-P

- J.** [If] the father died during the thirty days [and it is not known whether or not he had redeemed the firstborn male], it is assumed that he [the firstborn] has not been redeemed until one will bring proof that he has been redeemed.
- K.** [If the father died] after thirty days, it is assumed that he has been redeemed,
- L.** until they will tell him that he has not been redeemed.
- M.** [If a man who was firstborn son had a firstborn son and was told that he had not been redeemed so that he is] to redeem himself and [he is] to redeem his son,
- N.** he comes before his son.
- O.** R. Judah says, ‘His son comes before him.
- P.** ‘For the requirement of redeeming him [the father] falls upon his father, while the requirement of redeeming his son falls on him.’

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

- B. He who redeems his son within the first thirty days —
- C. Rab said, ‘His son is validly redeemed.’
- D. And Samuel said, ‘His son is not validly redeemed.’
- E. *All parties concur [that if he said that the firstborn will be redeemed] from now [before thirty days have passed], his son is not validly redeemed. If it was ‘after thirty days,’ and the money is still in hand, the son is certainly regarded as redeemed [for it is as though the money had been given over now]. Where there is a point of difference, it concerns a case in which he said, ‘...after the thirty days,’ and the money was used up —*
- F. Rab said, ‘His son is validly redeemed:’ *for it is comparable to the betrothal of a woman. In that case, even though the money was used up, the betrothal is valid. [49B] Here too the law should be no different.*

- G. And Samuel will say to you, 'His son is not validly redeemed:' *he will say to you, 'In that case, the man has the power to betroth the woman from now, while here, he does not have the power, for redemption cannot take effect with the use of the language 'as if from now.'*
- H. *And even though we have it as a fixed rule that in any case in which Rab and Samuel differ, the decided law accords with Rab when it comes to matters of prohibition, and with Samuel when it comes to matters of civil law, here, the decided law accords with Samuel.*
- I. *We have learned in the Mishnah: [If] the son died during the first thirty days [after birth], even though he [the father] had given to the priest [five selas to the priest], he must return the money. The operative consideration then is that the son has died. Lo, if he had not died, then the son would have been regarded as redeemed! [This contradicts Samuel's position].*
- J. *With what situation do we deal? One in which the money is still available.*
- K. *Come and take note: [If] the father died during the thirty days [and it is not known whether or not he had redeemed the firstborn male], it is assumed that he [the firstborn] has not been redeemed until one will bring proof that he has been redeemed.*
- L. *Here again, with what situation do we deal? One in which the money is still available.*
- M. *A Tannaite authority recited before R. Judah: 'He who redeems his son before the end of thirty days — his son is deemed to have been redeemed.'*
- N. He said to him, 'Samuel said, 'His son is not redeemed,' and yet you say, 'His son has been redeemed'? *And even though we have it as a fixed rule that in any case in which Rab and Samuel differ, the decided law accords with Rab when it comes to matters of prohibition, and with Samuel when it comes to matters of civil law, here, the decided law accords with Samuel.*

II.1 A. [If a man who was firstborn son had a firstborn son and was told that he had not been redeemed so that he is] to redeem himself and [he is] to redeem his son, he comes before his son.

- B. *Our rabbis have taught on Tannaite authority:*
- C. If he was to be redeemed and his son was to be redeemed, he takes precedence over his son.
- D. R. Judah says, 'His son takes precedence over him, for the religious duty pertains to his father, and the religious duty involving the son is pertains to the father.'

- E. *Said R. Jeremiah, 'All parties concur that in a case in which there are only five selas in hand, he takes precedence over his son. What is the reason? The religious duty involving himself is of greater importance. Where there is a disagreement, it concerns a case in which there are five selas worth of encumbered property, and five selas worth of unencumbered property. R. Judah takes the view that a debt that derives from what is written in the Torah is classified within the same category as a one that is obligated in a note, and therefore the five selas due for himself does the priest go and seize from encumbered property, and with the five selas of unencumbered property he redeems his son. Rabbis take the position that a debt that derives from what is written in the Torah is not classified within the same category as a one that is obligated in a note [but is treated only as a verbal loan], and therefore the religious duty of redemption pertaining to the father takes precedence.*

I.1 provides a theory of what is at issue in the Mishnah. II.1 complements the Mishnah's formulation and introduces an issue to link case to case once more.

8:7

- A. **The five selas for redeeming the firstborn son are in Tyrian coinage.**
B. **(1) The thirty for the slave [Exo. 21:32], and (2) the fifty to be paid by the rapist and seducer [Exo. 22:15-16, Deu. 22:28-29], and (3) the hundred to be paid by the gossip [Deu. 22:19] —**
C. **all are to be paid in the value of sheqels of the sanctuary,**
D. **in Tyrian coinage.**
E. **And everything which is to be redeemed [is redeemed] in silver or its equivalent, except for sheqel-dues.**
I.1 A. **[The five selas for redeeming the firstborn son are in Tyrian coinage:]** A Tyrian maneh —
B. said R. Assi, 'It is a maneh that is Tyrian currency.'
C. *R. Ammi said, 'These are Arabian denars.'*
D. *R. Hanina says, 'It is a Syrian istira, eight for a golden denar, five to be used for the redemption of the first born.'*
E. **[50A]** *R. Yohanan says, 'Take a Hadrianic denar that has been restamped and bought for twenty-five zuz, deduct a sixth from it, and the change is the amount required for the redemption of a first-born.'*
F. *This is, in point of fact, the sum of twenty-one zuz less a danqa!*

- G. *Rather, take off a sixth and a zuz, and the change is the amount required for the redemption of a first-born.*
- H. *This is twenty zuz less a danqa!*
- I. *Rather, deduct a zuz and then a sixth, and the change is the amount of the redemption of the first born, twenty times the weight of a Tyrian denar, which is twenty-eight and a half zuz and a half-danqa.*

I.2. A. [*sheqels of the sanctuary*]: *said Raba, 'The selas to which the Torah makes reference contain three and a third denars. Scripture states, 'A shekel is twenty gerahs' (Exo. 30:13), which we translated 'twenty maahs,' and it has been taught on Tannaite authority: 'Six silver maahs make up a denar.'*

B. *An objection was raised: 'Is not the sela of the sanctuary forty-eight pondions? And a What is the extra dupondium doing here [since Scripture is explicit on the matter]? The dupondium is an agio, or addition, to the units!'*

C. *It refers to the time after the sela had been increased in value, for it has been taught on Tannaite authority:*

D. *'A shekel is twenty gerahs,' for thus we learn that a shekel contains twenty gerahs. How do we know that if one wished to increase the number of maah he may do so? 'Twenty gerahs shall be the shekel' (Lev. 27:25). Might one suppose that he may decrease it? Scripture states, 'The same is twenty gerahs' (Num. 18:16).*

I.3. A. *R. Ashi sent R. Aha b. Rabina seventeen zuz for the redemption of a firstborn son, with the message, 'Let the master give me the extra third of a sela change from the redemption money that I have sent.'*

B. *He sent word back, 'Let the master send me three more zuz, which were added to the sela [to which the Torah makes reference].'*

I.4. A. *Said R. Hanina, 'Every reference in the Torah to 'silver coinage' without further specification means a sela; in the prophets, it is litrae; in the Writings, Centenaria. The exception is the silver coinage to which reference is made in connection with Ephron. Here, although the Torah does not qualify the matter, the meaning is centenaria, for Scripture says, 'Four hundred shekels of silver current money with the merchant' (Gen. 23:16), and there is a locale in which shekels are called centenaria.'*

I.5. A. *Said R. Oshaia, 'They wanted to hide away all of the silver and gold in the world, on account of the silver and gold of Jerusalem [Miller & Simon: so as not to confuse those belonging to gentiles with those in the Temple treasury, which were holy and not to be used by strangers], until they turned up a verse of the Torah*

indicating that it is permitted to use those belonging to gentiles, for Scripture says, 'For the robbers shall enter into it and profane it' (Eze. 7:22) [Miller & Simon: indicating that when robbers came and took Temple money they profaned the money and the coins belonging to the Temple as such are not sanctified].'

- B. *But does Jerusalem constitute the greater part of the world [that we should contemplate prohibiting use of silver and gold for fear of using that of Jerusalem]?*
 - C. Rather, said Abbaye, 'They wanted to hide away *the Hadrianic and Trajanic denars which were restamped*, on account of the coinage of Jerusalem, until they turned up a verse of the Torah indicating that it is permitted to use those belonging to gentiles, for Scripture says, 'For the robbers shall enter into it and profane it' (Eze. 7:22).'
- I.6.** A. **[50B]** Said R. Judah said R. Assi, 'Every reference in the Torah to 'silver coinage' without further specification means Tyrian coinage, in the teaching of sages, it means, currency of the province [which is an eighth of the silver coinage of the Pentateuch].'
- B. *Does this represent an encompassing rule? And lo, we have the case of laying claim for a bailment, concerning which it is written, 'If a man shall deliver to his neighbor silver coinage or utensils to keep' (Exo. 22: 6), and we have learned in the Mishnah: The oath imposed by judges [is imposed if] the claim is [at least] two pieces of silver, and the concession [on the part of the defendant is that he owes] at least a perutah's worth [M. Shabuot 6:1A].* [Miller & Simon: we see therefore that 'silver' does not mean a Tyrian denar, for if the Torah meant two denars, then it should read, two *kesef* (silver).]
 - C. *That case is exceptional, for it is written, 'silver coinage or utensils to keep' (Exo. 22: 6), and just as the minimum number of utensils is two, so the minimum coins must be two, and just as silver coinage must be something of consequence, so utensils must be something of consequence.*
 - D. But then there is the case of money that is used for tithe, for it is written, 'And bind up the silver coinage in your hand' (Deu. 14:25), *and we have learned in the Mishnah: One who exchanges for a [silver] sela coins [sanctified as] second tithe — [the House of Shammai say, 'The whole sela]'s worth of coins to be given in exchange] [must consist] of [copper] coins.'* And the House of Hillel say, '[The sela's worth of coins to be given in exchange may consist] of one shekel [= half sela] of silver [coins] and one shekel of [copper] coins' [M.

M.S. 2:8A-C]. [Miller & Simon: we see that originally he exchanged the second tithes for perutahs, although Scripture uses the expression ‘silver’].

- E. When Scripture repeats the word ‘silver,’ the repetition serves to augment [the range of acceptable coinage].
- F. But then there is the case of that which has been consecrated], concerning which Scripture writes, ‘And he shall give the silver coinage and it shall be assured to him’ (Lev. 27:19), and Samuel stated in this connection, ‘If that which has been consecrated, which is worth a maneh, was redeemed for only a perutah, nonetheless that is validly redeemed’ [so that which has been consecrated and redeemed with copper is validly redeemed, and silver need not be used].
- G. *In the case of that which has been consecrated too, we form an analogy between the reference to ‘holy’ given here and the counterpart reference to ‘holy’ in connection with second tithe [Lev. 27:14 and Lev. 27:30, respectively].*
- H. And lo, there is the case of the token of betrothal of a woman, concerning which it is written, ‘Then she shall go out free without silver coinage’ (Exo. 21:11), *and we have learned in the Mishnah: She is acquired through money, a writ, and sexual intercourse. Through money: The House of Shammai say, ‘For a denar or what is worth a denar’ And the House of Hillel say, ‘For a perutah or what is worth a perutah’ [M. Qid. 1:1B-D]. Shall one then say that R. Assi accords with the house of Shammai* [Miller & Simon: since it means ‘silver’ here, according to Assi it means a Tyrian silver denar, which is in harmony with the view of the House of Shammai]?
- I. [That is unlikely,] *rather, this is how the statement was made:* said R. Judah said R. Assi, ‘Every reference in the Torah to silver in connection with a specified payment means, in Tyrian currency, and that mentioned in the words of the sages means, in the circulating currency of the province.’
- J. *What does he tell us that we did not know? We have learned in the Mishnah: The five selas for redeeming the firstborn son are in Tyrian coinage.*
- K. *What he had in mind was to make the point concerning ‘that mentioned in the words of the sages means, in the circulating currency of the province.’ For we have learned in the Mishnah: He who boxes the ear of his fellow pays him a sela [M. B.Q. 8:6A]. You should not suppose that the sela under discussion is four zuz, but it is half a zuz, for people call half a zuz a sela.*
- I.7.** A. Hanan, a bully, boxed someone’s ear. The case came before R. Huna, who said to him, ‘Give him half a zuz.’

- B. **[51A]** *He had a beaten up zuz-coin, which could not be circulated. [He proposed to give him compensation from that coin, but the other had no change]. He gave him another box on the ear, and handed over the whole zuz.*

II.1 A. (1) The thirty for the slave [Exo. 21:32], and (2) the fifty to be paid by the rapist and seducer [Exo. 22:15-16, Deu. 22:28-29], and (3) the hundred to be paid by the gossip [Deu. 22:19] — all are to be paid in the value of *sheqels* of the sanctuary, in Tyrian coinage:

- B. *Why does the author of the passage repeat himself [when he says **all are to be paid in the value of *sheqels* of the sanctuary, in Tyrian coinage**]? He has already said this at the outset!*
- C. *He found it necessary to make the statement to cover the cases of **(2) the fifty to be paid by the rapist and seducer [Exo. 22:15-16, Deu. 22:28-29], and (3) the hundred to be paid by the gossip [Deu. 22:19].** It might have entered your mind to think that [since shekels are not specified in these cases], it would suffice to pay in mere zuz. So we are informed that we derive the rule from the one for the other.*

III.1 A. And everything which is to be redeemed [is redeemed] in silver or its equivalent, except for *sheqel*-dues:

- B. *A Tannaite version: except for shekel payments, money used to exchange for produce designated as second tithe [which must be in stamped money], and the money to be paid for the appearance-offering brought by pilgrims [which must be two maah, in stamped money],*
- C. *and the shekel-payment, as we have learned in the Mishnah: **They change sheqels into darics because of the burden of the journey [M. Sheq. 2:1A].***
- D. *as to money exchanged for produce designated as second tithe: ‘And bind up the money in your hand’ (Deu. 14:25).*
- E. *as to the money to be paid for the appearance-offering brought by pilgrims [which must be two maah, in stamped money], R. Joseph taught as a Tannaite statement, ‘So that one may not bring base metal to the sanctuary.’*

I.1 clarifies the language of the Mishnah. No. 2 follows suit. I have followed the translation of Miller & Simon throughout I.1. No. 3 illustrates the same range of problems, and Nos. 4, 5, 6 augment the discussion. No. 6 is important in clarifying the details of the Mishnah-paragraph. No. 7 is a footnote to No. 6. II.1 undertakes routine analysis of the language of the Mishnah. III.1 amplifies the rule of the Mishnah.

8:8

- A. They do not [pay the price of five shekels for the] redemption [of the firstborn] either with slaves or with deeds or with land,
 - B. nor [is] anything which has been sanctified [redeemed with slaves, deeds, or land].
 - C. [If] one wrote a document for the priest that he owes him five selas, he is liable to pay him [the five selas], but his son is not yet redeemed [until the father pays five selas].
 - D. Therefore if the priest [did not choose to collect the five selas, but decided] to give [the five selas of the bond] to him as a gift, he has the right.
 - E. He who sets aside the redemption [money] for his son, and it was lost, is liable for it,
 - F. since it is said, 'It shall be yours, and you shall surely redeem it' (Num. 18:15).
- I.1** A. [They do not [pay the price of five shekels for the redemption of the firstborn either with slaves or with deeds or with land:] *Our Mishnah-paragraph does not accord with the view of Rabbi. For it has been taught on Tannaite authority:*
- B. Rabbi says, 'With anything whatsoever one may redeem a firstborn, except for notes of indebtedness.'
 - C. *What is the scriptural basis for the position of Rabbi?*
 - D. *He interprets scriptural evidences of inclusionary and exclusionary usages, as follows:*
 - E. 'And those that are to be redeemed from a month' (Num. 18:16) — that is an augmentative statement. 'According to your estimation of the money' (Num. 18:16) is an exclusionary statement. 'You shall redeem' is a further inclusionary statement. Where you have an inclusionary, an exclusionary, and then an inclusionary statement, the net effect is to encompass everything and hence: 'With anything whatsoever [one may redeem a firstborn...].'
 - F. And what then is excluded in the limitation? 'except for notes of indebtedness.'
 - G. *And rabbis?*
 - H. *They read the same statements as constituting an encompassing rule followed by an exclusionary particularization.*
 - I. 'And those that are to be redeemed from a month' (Num. 18:16) — that is an encompassing rule. 'According to your estimation of the money five selas' (Num. 18:16) is an *exclusionary particularization*. 'You shall redeem' forms yet another encompassing rule. Now we have an encompassing rule, an exclusionary

particularization, and another encompassing rule. You therefore are limited in forming an analogy to what is covered by the traits of the exclusionary particularization. Just as the exclusionary particularization makes explicit that we deal with something that is portable and that, in itself, is money, so everything that may be used for redeeming the firstborn must be portable and must be itself money. What is excluded then are immovable property, because it is not movable; slaves, since they are comparable to immovable property; and notes of indebtedness, because, though movable, they are not in themselves money.

- J. Said Rabina to Maremar, 'But does Rabbi really invoke the categories of *scriptural evidences of inclusionary and exclusionary usages*? Lo, in point of fact, Rabbi too invokes the categories of an encompassing rule followed by an exclusionary particularization. This is in connection with the slave whose ear is pierced. For it has been taught [to the contrary] on Tannaite authority.'
- K. 'Scripture states, 'an awl' (Deu. 15:17). I know only that an awl is sufficient for boring the ear of the slave. How do I know that sufficient also would be a prick, thorn, borer, or stylus?
- L. 'Scripture states, Then you shall take' (Deu. 15:12) — including everything that can be taken in hand,' the words of R. Yosé b. R. Judah.
- M. Rabbi says, 'Since the verse says, 'an awl,' we draw the conclusion that the awl is made only of metal, and so anything that is used must be metal.'
- N. *And we have stated, 'What is at issue between them? Rabbi invokes the categories of an encompassing rule followed by an exclusionary particularization, while R. Yosé b. R. Judah interprets the categories of scriptural evidences of inclusionary and exclusionary usages.'*
- O. *Well, that is true, for in general Rabbi invokes the categories of inclusionary and exclusionary usage, but here, it is in accord with the Tannaite authority of the household of R. Ishmael. For the Tannaite authority of the household of R. Ishmael [stated], 'in the waters, in the waters' (Lev. 11: 9) — two times: this does not represent an encompassing rule followed by an exclusionary particularization, but rather, an inclusionary and exclusionary usage.'*
- P. *And rabbis?*
- Q. *They say that matters are in line with that which is said in the West: 'In any passage in which you find two encompassing statements adjacent to one another, set an exclusionary particularization between them and interpret them in the line of encompassing statements joined to exclusionary particularizations.'*

II.1 A. **nor [is] anything which has been sanctified [redeemed with slaves, deeds, or land]:**

B. *That is self-evident! Are these are not things that belong to him anyhow!*

C. *Rather, [51B] the passage should be read: and anything that has been sanctified cannot be redeemed with any of these.*

III.1 A. **[If] one wrote a document for the priest that he owes him five selas, he is liable to pay him [the five selas], but his son is not yet redeemed [until the father pays five selas].**

B. Said Ulla, 'So far as the Torah is concerned, the son is redeemed when the father has paid the money. So how come the Mishnah states, **but his son is not yet redeemed [until the father pays five selas]**?'

C. This represents a precautionary decree, lest people say that firstborn may be redeemed with bonds of indebtedness.

III.2. A. *A Tannaite authority recited before R. Nahman, 'His son is redeemed when he pays.'*

B. Said to him R. Nahman, 'This is the position of R. Yosé b. R. Judah, *whose view has been stated anonymously [and therefore authoritatively].*'

C. *There are those who say, 'This is the position of R. Eleazar b. R. Simeon, whose view has been stated anonymously [and therefore authoritatively].'*

D. 'But sages say, 'His son is not redeemed.''

E. And the decided law is that his son is not redeemed.

IV.1 A. **Therefore if the priest [did not choose to collect the five selas, but decided] to give [the five selas of the bond] to him as a gift, he has the right**

B. *We have learned this Tannaite version in that which our rabbis have taught on Tannaite authority:*

C. If one gave the five selas simultaneously to ten priests, he has carried out his obligation; if he did so in sequence, one after the other, he has carried out his obligation. If the priest took the money and gave it back to him, he has carried out his obligation.

D. And this was the custom of R. Tarfon, who would take the money and return it, and when sages heard about the matter, they said, 'This one has observed this law.'

E. Did he observe this law *and no other*?

F. Rather, 'this one has observed even this law.'

IV.2. A. *R. Hanina had the habit of taking the money and giving it back. He once saw a man who, after giving him the five selas, kept coming back to him. He said to him, 'You did not give the money sincerely, you did it wrong. Your son, therefore, is not redeemed.'*

V.1 A. **He who sets aside the redemption [money] for his son, and it was lost, is liable for it, since it is said, 'It shall be yours, and You shall surely redeem it' (Num. 18:15).**

B. *What is the scriptural basis for this rule?*

C. Said R. Simeon b. Laqish, 'The law derives from an analogy drawn between the term 'valuation' used in the context of the redemption of the first born ['and those that are redeemed according to your valuation,' Num. 18:16], and the use of the same term in the context of the law of valuations (Lev. 27:23, 'and he shall give your valuation on that day'). [Miller & Simon: until the money is in the hands of the Temple treasurer, it is regarded as unconsecrated, and the one who owes it has to make it up if it is lost and stolen, as it says, 'and he shall give,' meaning that the money must actually be given if the law is to be carried out].'

D. R. Dimi said R. Jonathan [said], '“And all your firstborn of your sons you shall redeem and none shall appear before me empty” (Exo. 34:20) — and the use of the same term, empty, both in this context and in connection with the burnt offering brought when one makes an appearance before the Lord, 'and none shall appear before me empty-handed,' (Exo. 23:15), yields the following comparison: just as one is liable to replace the burnt offering brought on the occasion of appearing before the Lord, so one is liable to replace the five selas to be paid to the priest for redeeming the firstborn.'

E. *R. Pappa objected, 'Do I need a verse of Scripture to sustain what is taught in another verse of Scripture?'*

F. Rather, said R. Pappa, 'The scriptural basis is here: **since it is said, 'It shall be yours, and you shall surely redeem it' (Num. 18:15).** [So you are responsible for the money until it is paid over.] *And when the scriptural basis of R. Simeon b. Laqish was set forth, it pertained to an earlier clause in the Mishnah, namely, [If the son died during the first thirty days after birth, even though the father had given to the priest five selas to the priest, he must return the money.] If it was after thirty days, even though he has not yet given the money, he must give it [M. 8:6E-F]. How do we know this?* Said R. Simeon b. Laqish, 'The law derives from an analogy drawn between the term 'valuation' used in the context of the redemption of the first born ['and those that are redeemed according to your

valuation,’ Num. 18:16), and the use of the same term in the context of the law of valuations (Lev. 27:23, ‘and he shall give your valuation on that day’). [Miller & Simon: until the money is in the hands of the Temple treasurer, it is regarded as unconsecrated, and the one who owes it has to make it up if it is lost and stolen, as it says, ‘and he shall give,’ meaning that the money must actually be given if the law is to be carried out]. R. Dimi said R. Jonathan [said], “‘And all your firstborn of your sons you shall redeem and none shall appear before me empty’ (Exo. 34:20) — and the use of the same term, empty, both in this context and in connection with the burnt offering brought when one makes an appearance before the Lord, ‘and none shall appear before me empty-handed’ (Exo. 23:15), yields the following comparison: just as the heir to the estate is liable to replace the burnt offering brought on the occasion of appearing before the Lord, so the heir to the estate is liable to replace the five selas to be paid to the priest for redeeming the firstborn if both the father and the son die.”

I.1 identifies the reasoning behind our passage by showing the scriptural basis for the contrary position. II.1 revises the reading of the passage, in line with reason; III.1 clarifies the same problem, of why the Mishnah’s rule is formulated as it is. No. 2 investigates versions of the rule. IV.1 amplifies the law, and No. 2 exemplifies the amplification. V.1 finds the foundation of the Mishnah’s rule.

8:9

- A. **The firstborn takes a double portion in the estate of the father.**
- B. **But he does not take a double portion in the estate of the mother.**
- C. **And he does not take a double portion of the increased value or [a double share] of what is going to accrue to the estate [of the father] as [he receives a double share] of what already is in hand.**
- D. **[52A] [And the same applies to] (1) the wife in respect to her marriage-settlement,**
- E. **and (2) to the daughters in respect to their maintenance,**
- F. **and (3) to the Levir.**
- G. **None of them takes [what is owing] the increased value or of what is expected to accrue to the estate as [they receive a double share] of what already is in hand.**

I.1 A. [The firstborn takes a double portion in the estate of the father. But he does not take a double portion in the estate of the mother:] *What is the scriptural basis for this rule?*

- B. Scripture has said, 'The right of the firstborn is his' — the right of the firstborn pertains to the estate of a man, but not of a woman.

II.1 A. And he does not take a double portion of the increased value:

- B. Scripture has said, 'of all that he has' (Deu. 21:17) [at this time].

III.1 A. or [a double share] of what is going to accrue to the estate [of the father] as [he receives a double share] of what already is in hand:

- B. Scripture has said, 'of all that he has' (Deu. 21:17) [at this time].

IV.1 A. And the same applies to (1) the wife in respect to her marriage-settlement:

- B. Is this really the case? And did not Samuel state, 'A creditor can also claim the improvement in the value of the estate'?
- C. Said R. Abba, 'Here they have listed lenient rulings that pertain to the clauses of the marriage-settlement.'

V.1 A. and (2) to the daughters in respect to their maintenance:

- B. *What is the operative consideration?*
- C. *Stipulations in connection with the marriage-settlement are tantamount to stipulations in the marriage-settlement itself.*

VI.1 A. and (3) to the Levir:

- B. *What is the scriptural basis?*
- C. *Scripture refers to him as the firstborn.*

VI.2. A. Said Abbaye, 'This rule pertains only to the increase in the value of the estate between the death of the brother and the entry into levirate marriage; but he does take a double portion of the increase in the value of the estate that takes place between the period of the levirate marriage's consummation and the actual division of the estate.

- B. *'What is the scriptural basis for that allegation?*
- C. *'It is written, '...shall succeed in the name of his brother that is dead' (Deu. 25: 6) — but this one has succeeded [as soon as he entered into the levirate marriage, and that is why the double portion of the estate is his, since he is not in the stead of his brother and is no longer called firstborn; so the improvement of the estate took place when he already possessed it and he takes two shares in the improvement of the estate (Miller & Simon)].'*
- D. *Said Raba, 'Even the improvement of the estate between the entry of the man into the levirate marriage and the division of the estate he does not receive. Why not? He is in the status of the firstborn, and the firstborn does not take a double portion*

of the improvement in the value of the estate before the estate is divided, so too, a levir will not take a double share of the improvement in the value of the estate before the estate is divided.'

VII.1 A. None of them takes [what is owing] the increased value:

- B. **[52B]** *What does this generalization mean to encompass?*
- C. *It encompasses even improvements in the value of the estate that come about on their own,*
- D. *for instance, if when the father died, what was available of the produce of the earth was classified as greens and now is classified as ears, or when the father died they were classified as undeveloped dates and now they are classified as full grown dates.*

VIII.1 A. or of what is expected to accrue to the estate as [they receive a double share] of what already is in hand:

- B. *This encompasses under the rule the estate of the grandfather.*

I.1, followed by II.1, III.1, as usual find the scriptural foundation for the Mishnah's law. IV.1 and V.1 deal with the details of the marriage-settlement as it is formulated. VI.1 reverts to the discovery of the scriptural foundations for the law of the Mishnah. No. 2 refines the Mishnah's rule. VII.1 and VIII.1 clarify the language of the Mishnah in generalizing as it does.

8:10

- A. **These are the things which do not revert [to the original owners] in the Jubilee [Lev. 25:10]:**
 - (1) the portion of the firstborn;**
 - (2) and [the inheritance of] one who inherits his wife['s estate];**
 - (3) and [the inheritance of] the one who performs Levirate marriage.**
- B. **'And what is given as a gift,' the words of R. Meir.**
- C. **And sages say, 'That which is given as a gift is equivalent to that which is sold.'**
- D. **R. Eleazar says, 'All of them revert in the Jubilee.'**
- E. **R. Yohanan b. Beroqah says, 'He who inherits his wife['s estate] restores [the property] to the members of [her] family and allows them a deduction from the purchase-money.'**

I.1 A. What is the reason for the position of R. Meir [And what is given as a gift]?

B. *It is a case in which the land has been sold that the All-Merciful requires the restoration at the Jubilee, but what is transferred by donation or inheritance; and the cases that do not return in the Jubilee are classified as either inheritance or donations.*

C. *The first born: 'By giving him a double portion' (Deu. 21:17), thus a donation.*

II.1 A. and [the inheritance of] one who inherits his wife[‘s estate]:

B. *The inheritance on the part of the husband derives from the law of the Torah.*

III.1 A. and [the inheritance of] the one who performs Levirate marriage:

B. *Scripture refers to him as firstborn.*

IV.1 A. [‘And what is given as a gift,’ the words of R. Meir.] And sages say, ‘That which is given as a gift is equivalent to that which is sold:’

B. *What is the scriptural basis for the position of rabbis?*

C. *‘You shall return’ (Lev. 25:10) serves to encompass gifts, and all other cases are treated as inheritance. In the case of the firstborn, Scripture says, ‘By giving him a double portion,’ treating as comparable the share that he receives as firstborn with the portion given to the other brothers; just as the portion comparable to those of the other brothers that is received by the firstborn is treated as an inheritance, so the extra position received by the firstborn is treated as an inheritance.*

V.1 A. R. Eleazar says, ‘All of them revert in the Jubilee:’

B. *He concurs with rabbis, who has said, ‘You shall return’ (Lev. 25:10) serves to encompass gifts, and all other cases are treated as inheritance. In the case of the firstborn, Scripture says, ‘By giving him a double portion,’ treating the double portion as a gift.*

C. **‘and [the inheritance of] one who inherits his wife[‘s estate]:** the inheritance on the part of the husband *derives from the authority only of rabbis; and [the inheritance of] the one who performs Levirate marriage:* *Scripture refers to him as firstborn.’*

V.2. A. Said R. Assi said R. Yohanan, *‘Brothers who have divided up the estate are classified as purchasers and they return to one another their portions in the year of the Jubilee [Miller & Simon: and they divide up the estate after the year of Jubilee].’*

B. *R. Oshaiah objected: ‘These are the things which do not revert [to the original owners] in the Jubilee [Lev. 25:10]: the portion of the firstborn.’*

- C. *Said to him R. Eleazar, 'What is the meaning of 'do not revert'? It means, 'the return in the Jubilee does not nullify the privileges of the firstborn.'*
- D. *To this statement R. Sheshet objected, 'Is that to imply that the one who said, **These are the things which revert [to the original owners] in the Jubilee takes the view that** the return in the Jubilee does nullify the privileges of the firstborn? [Miller & Simon: Why should the firstborn lose his privileged portion? So Eleazar's reply is not acceptable and the difficulty in Assi's position remains.]'*
- E. *R. Hama recited in regard to R. Sheshet the biblical verse, "Wisdom is good with an inheritance" (Qoh. 7:11), for has he not heard the following: 'When Rabin came he said R. Yohanan [said], and some say R. Eleazar said in the name of R. Eleazar b. Shammua, "What is the meaning of 'do not revert'? It means, 'the return in the Jubilee does not nullify the privileges of the firstborn.'"' [Miller & Simon: therefore the passage in the Mishnah that the Jubilee does not cause a return also has the same meaning as Eleazar explains above, that it does not cause the firstborn to lose his privileges on account of the Jubilee.]*

VI.1 A. R. Yohanan b. Beroqah says, 'He who inherits his wife['s estate] restores [the property] to the members of [her] family and allows them a deduction from the purchase-money:'

- B. *What is his theory of the matter? If his theory is that the right that the husband has to inherit the wife's estate [rather than having the estate revert to her family] derives from the Torah, then why should he have to restore the property to the members of her family when the Jubilee comes? And if his theory is that the right that the husband has to inherit the wife's estate [rather than having the estate revert to her family] derives from the authority of sages, then what claim is there to the money [on his part, since it is not an inheritance that is coming to him anyhow]?*
- C. *In point of fact, his theory is that the right that the husband has to inherit the wife's estate [rather than having the estate revert to her family] derives from the Torah. But what is the case before us? One in which the wife left him a cemetery, and out of concern not to reflect badly on the family [if strangers are buried in their graveyard and the family has to bury elsewhere], rabbis have ruled that he should collect from them the value of the cemetery and return the land to them in the Jubilee.*
- D. *And so it has been taught on Tannaite authority:*
- E. *He who sells his grave-plot and the road to his grave or the halting place [where people stop for consolation on returning from a burial] and the place in which the*

lamentation is to be said — the members of his family come and bury them by force, so as not to reflect badly on the family.

- F. *And the sense of the Mishnah in stating, **allows them a deduction from the purchase-money*** [since why should he have to deduct anything at all?] is that he deducts the value of the wife's grave [for which he is obligated].

I.1, II.1, III.1, IV.1, V.1 appeal to Scripture to explain the rule of the Mishnah. No. 2 provides a theoretical question to enrich the discussion. VI.1 amplifies the premises of Yohanan b. Beroqah's position.