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## BAVLI BABA BATRA CHAPTER ONE

### FOLIOS 2A-17A

#### 1:1

- A. [2A] Joint holders to a courtyard who wanted to make a partition in the courtyard
- B. build the wall in the middle.
- C. In a place in which they are accustomed to build it of (1) unshaped stones, (2) hewn stones, (3) half-bricks, or (4) whole bricks,
- D. they build it [of that sort of material].
- E. All accords with the custom of the province.
- F. [If they make it] of (1) unhewn stones,
- G. this one contributes [a space of] three handbreadths [of his share of the courtyard], and that one supplies [a space of] three handbreadths.
- H. [If they build it] of (2) hewn stones, this one supplies two handbreadths and a half [of space], and that one supplies two handbreadths and a half [of space].
- I. [If they build it] of (3) half-bricks, this one supplies two handbreadths [of space], and that one supplies two handbreadths [of space].
- J. [If they build it out of] (4) whole bricks, this one supplies a handbreadth and a half, and that one supplies a handbreadth and a half.

- K. Therefore, if the wall should fall down, the location [on which it had stood] and the stones belong to both parties.

## 1:2

- A. And so is the rule in the case of a garden:  
B. in a place in which it is customary to build a fence, they require [a recalcitrant owner] to do so.  
C. But in a valley, in a place in which it is not customary to build a fence, they do not require him to do so.  
D. But if he wants, he may withdraw inside his own portion [of the property] and build it.  
E. And he places the facing of the wall outside of [the fence] [on the side of the neighbor, indicating his ownership].  
F. Therefore, if the wall should fall down, the location [on which it had stood] and the stones are his.  
G. If they had made it with the consent of both parties,  
H. they build the wall in the middle.  
I. They place the facing of the wall on this side and on that side.  
J. Therefore, if the fence should fall down, the location [on which it had stood] and the stones belong to both parties.

At issue in the Mishnah-exegesis are not only the meaning of word-choices but also the further principle of whether or not damage deriving from the established right of investigating what the neighbor is doing in his half of a shared property is classified as damages that are subject to redress. The latter principle in fact forms the substrate of the discussion and rises to the surface from II. The real issue is whether or not a neighbor is allowed to form feelings of envy for the prosperity of a householder, and how we assess damages resulting from such feelings.

- I.1** A. **[Joint holders to a courtyard who wanted to make a partition in the courtyard:]** *They reasoned concerning the meaning of “partition:” What is the meaning of “partition”? It means a wall, in line with that which has been taught on Tannaite authority:* The partition of a vineyard that was broken — [the owner of an adjacent property containing grain] may say to the owner of the vineyard, “Build the wall.” If the wall again was broken, he may say to him, “Rebuild the wall.” **[2B]** If the other party despaired and did not rebuild the wall, lo, he has imposed the status of sanctification on the grain of the neighbor [by reason of

violating the law against sowing grain in a vineyard, Deu. 22:9] and so is liable for the loss. *The operative consideration [that both parties may be forced to provide the wall] [at M. 1:1A] is that both parties have agreed. Lo, if they had not agreed, one party cannot be required to do so. It then follows that damage deriving from denying the right of investigating what the neighbor is doing in his half of a shared property is not classified as damages that are subject to redress.*

- B. *But might I not say that the meaning of the word translated “partition” means “division,” in line with the sense in this verse: “And the congregation’s division [or share]” (Num. 31:43). [In that case, it would follow that] since both parties concurred to divide the property, either party may force the other to build a wall. It then follows that damage deriving from denying the established right of investigating what the neighbor is doing in his half of a shared property is classified as damages that are subject to redress.*
- C. *Well, if that were so, then the language, **who wanted to make a partition in the courtyard**, hardly serves, and it would have been better framed as, “who agreed to divide the courtyard into two parts”!*
- D. *[Well, if you object to interpreting the word to mean not division but wall], then the language, **build the wall**, is inappropriate, and it would have been better framed as, build it!*
- E. *Had the Tannaite formulation merely said “it,” I might have supposed that a mere fence of sticks would be enough. So we are informed that the partition has to be a solid wall.*

## **II.1 A. ...build the wall in the middle:**

- B. *So what else is new!*
- C. *Not at all, it has to be spelled out to deal with a case in which one of the partners to the property had to persuade the other one to go along. You might have supposed that, in that case, the other may say to the first, “When I agreed to what you wanted, I was willing to give up my air rights but not my ground rights.” So we are informed that that is not the case.*

## **II.2 A. Then is it the fact that damage deriving from denying the established right of investigating what the neighbor is doing in his half of a shared property is not classified as damages that are subject to redress? Come and take note: **And so is the rule in the case of a garden** [and what consideration can be in play here if not preventing the right of the other to oversee what this one is doing]?**

- B. *The garden is exceptional, in line with that which R. Abba said, for said R. Abba said R. Huna said Rab, “A person is forbidden to stand around in his neighbor’s*

field when the grain in it is ripe” [so as not to endanger it through his envy; that can be the consideration in the case of the garden, so that detail would not bear the proposed implication at all].

- C. *But lo, the Mishnah’s exact words are, **And so is the rule!***
- D. *That language refers specifically to the use of appropriate materials, i.e., **unshaped stones, hewn stones, half-bricks, or whole bricks.***
- E. *Come and take note [of another proof that damage deriving from the established right of investigating what the neighbor is doing in his half of a shared property is classified as damages that are subject to redress]: **The wall of a courtyard which fell down — they require [each partner in the courtyard] to [help] build it up to a height of four cubits.** [So this is a damage subject to redress.]*
- F. *If the wall falls, that is an exceptional case [since all parties had concurred they wanted the wall].*
- G. *If matters are so obvious, why in the world bring up such a question to begin with?*
- H. *It might have been supposed that the cited language was introduced merely because of what was to come [**If the fence was built] four cubits and higher, they do not require [a joint holder in the courtyard to contribute to the expenses]** [and not to make the point just now adduced, in which case the case of the wall’s falling down is not an exception from a case in which there is no wall, and then there are recoverable damages; so it was a good question].*
- I. *Come and take note [of another proof that damage deriving from denying the established right of investigating what the neighbor is doing in his half of a shared property is classified as damages that are subject to redress]: **They force [a joint holder in the courtyard to contribute to] the building of a gatehouse and a door for the courtyard.** Does this not prove that that damage deriving from denying the established right of investigating what the neighbor is doing in his half of a shared property is classified as damages that are subject to redress?*
- J. *Injury that is caused by the public is exceptional.*
- K. *Then is damage deriving from denying the established right of investigating what the neighbor is doing, caused by an individual, not subject to redress? Come and take note: **They do not divide up a courtyard unless there will be [an area of] four cubits [by four cubits) for this one, and four cubits [by four cubits] for that one.** Lo, it follows that if there is sufficient space left for each, they must divide the area. Does this not mean with a wall [in which case we should have to*

*conclude that damage deriving from denying the established right of investigating what the neighbor is doing, caused by an individual, is subject to redress]?*

- L. *No, it may be done with just a fence of sticks [and denying the established right of overseeing what is going on on the other side of the wall would not represent recoverable damages].*
- M. *Come and take note [of another proof that damage deriving from denying the established right of investigating what the neighbor is doing in his half of a shared property is classified as damages that are subject to redress]: **[And if he builds a wall opposite his fellow's] windows, whether it is higher, lower, or opposite them, [he must set it back by] four cubits [M. 2:4].** And in that connection it was taught as a Tannaite formulation: Whether it is higher — it must be four cubits higher so that someone should not be able to lean over and peek in, and if lower, it must be four cubits lower, so that one should not be able to stand on it and peek in, and four cubits away, so that it will not shadow the windows. [Hence the possibility of peeking in represents a recoverable damage.]*
- N. *The damage caused by the right to peek into a neighboring house is exceptional [and the other has a right to privacy, which he may enforce in law].*
- O. *Come and take note [of another proof that damage deriving from denying the established right of investigating what the neighbor is doing in his half of a shared property is classified as damages that are subject to redress]: Said R. Nahman said Samuel, "In the case of a roof that is near a courtyard of one's fellow — they make for it a parapet four cubits high [so that the neighbor cannot peek into the courtyard when he is using the roof].*
- P. *That case is exceptional too, for the owner of the courtyard may instruct the owner of the roof, "I have set times in which I may use my courtyard, but you are not subject to a fixed schedule on using your roof, and I don't know when you're going to go up there [3A] so I should keep out of your line of sight."*

**II.3** A. *Another formulation of the entire matter is as follows:*

- B. **[Joint holders to a courtyard who wanted to make a partition in the courtyard:]** *They reasoned concerning the meaning of "partition" that it means a division, in line with the sense in this verse: "And the congregation's division [or share]" (Num. 31:43). Since if the partners agree to divide the area, they are required to build a wall, it indicates that that damage deriving from denying the established right of investigating what the neighbor is doing in his half of a shared property is classified as damages that are subject to redress.*

- C. *I may say, to the contrary, what is the meaning of “partition”? It is a wall, in line with the following which has been taught on Tannaite authority: The partition of a vineyard that was broken — [the owner of an adjacent property containing grain] may say to the owner of the vineyard, “Build the wall.” If the wall again was broken, he may say to him, “Rebuild the wall.” If the other party despaired and did not rebuild the wall, lo, he has imposed the status of sanctification on the grain of the neighbor [by reason of violating the law against sowing grain in a vineyard, Deu. 22:9] and so is liable for the loss. *The operative consideration [that both parties may be forced to provide the wall] [at M. 1:1A] is that both parties have agreed. Lo, if they had not agreed, one party cannot be required to do so. It then follows that damage deriving from denying the right of investigating what the neighbor is doing in his half of a shared property is not classified as damages that are subject to redress.**
- D. *[Well, if you object to interpreting the word to mean not division but wall], then the language, **build the wall**, is inappropriate, and it would have been better framed as, build it!*
- E. *So what do you propose? That partition means merely division? Well, if that were so, then the language, **who wanted to make a partition in the courtyard**, hardly serves, and it would have been better framed as, “who agreed to divide the courtyard into two parts”!*
- F. *Well, people often say, “Come on, let’s split it up”!*
- G. *But if it were the fact that denial of the right to oversee what the neighbor is doing constitutes a recoupable damage, then why specify that both parties had wanted to divide up the area? Even if they had not wanted to do so, the rule should be that either party should have the right to demand a division!*
- H. Said R. Assi said R. Yohanan, “Our Mishnah addresses a case in which it is a courtyard where there is no right of division, so if there is to be a division, it can be only if both parties concur.”
- I. *So what does the framer of the Mishnah tell us? Is it merely that, in a courtyard in which there is no right of division, still, if both parties concur, they are permitted to make a division? We have learned that rule in any event as a Tannaite statement: **This is the operative principle: Whatever may be divided and [retain] its original designation do they divide. But if not, they do not divide [such an object]. Under what circumstances? When both parties do not concur. But if both parties concur, even if the measurements are less***

**than specified, they divide [the area]. But as to Sacred Scriptures, even though both parties concur, they do not divide them!**

- J. *Well, had I had to derive that fact from the cited passage, I should have thought that even if the area were smaller than this, they may divide it with a paltry fence of sticks. So we are informed here that if they do agree to divide the area, it must be with a wall.*
- K. *So why not state the rule here and omit the other example, that comes later on!*
- L. It was in point of fact necessary to spell it out because of what was to follow, namely, **But as to Sacred Scriptures, even though both parties concur, they do not divide them.**

**II.4** A. *Now how have you finally situated the interpretation of our Mishnah passage? A case in which there is no established right of dividing the courtyard? Well, if there were no established right of dividing the courtyard, then even if they agreed to do so, what difference would it have made? They can in any event retract!*

- B. Said R. Assi said R. Yohanan, “We refer to a case in which each has formally contracted with the other through an act of taking possession [of the specified right].”
- C. *So if it is a case in which each has formally contracted with the other through an act of taking possession [of the specified right], what difference does that make, since it is a mere verbal agreement?*
- D. We deal with a case in which they agreed to effect an act of possession to take different sides of the courtyard [so there was something concrete at stake in the act of possession].
- E. R. Ashi said, “For instance, we deal with a case in which one has traversed the area of the other and effected formal possession thereby, and the other has traversed the area of the one and effected formal possession thereby.”

**III.1** A. **In a place in which they are accustomed to build it of unshaped stones, hewn stones, half-bricks, or whole bricks, they build it [of that sort of material]:**

- B. Unshaped stones *are those that are not trimmed.*
- C. Hewn stones *are those that are squared, in line with this verse:* “All these were of costly stones according to the measure of hewn stones” (1Ki. 7: 9).
- D. Half-bricks *are one half of the usual brick, and whole bricks are as stated.*

**III.2** A. *Said Rabbah b. Raba to R. Ashi, “How do we know that unshaped stones are those that are not trimmed, and that the extra handbreadth is allowed to provide*

*for the projection of the rough edges? Perhaps it is half of the thickness of a hewn stone, and the extra handbreadth provides for the mortar between the rows, just as we have defined the latter items to be half-bricks and whole bricks, with the extra handbreadth allowing for the mortar between the rows?"*

- B. *He said to him, "And from your viewpoint, how do we know that the word for half-bricks refers in fact to such? It is only from tradition. So we also have a tradition that unshaped stones are those that are not trimmed."*
- C. *There are those who report the matter in this language:*
- D. *Said R. Aha b. R. Avia to R. Ashi, "How do we know that the word translated half-bricks means that, and the extra handbreadth is to provide for the mortar between the rows? May be the word refers to untrimmed stones and the extra handbreadth is for the projection of the rough edges, just as we defined the first word on the list to refer to untrimmed stones and the second to trimmed stone?"*
- E. *He said to him, "And from your viewpoint, how do we know that the word for untrimmed stones refers in fact to such? It is only from tradition. So we also have a tradition that this means what we say it means."*

**III.3** A. *Said Abbaye, "From the fact that the untrimmed stones are assigned a handbreadth more than bricks, we derive the further fact that the space between the layers in a wall should be a handbreadth [Simon: unless the contract specifies otherwise]. And that is the case only if it is filled with mortar, but if it is filled with rubble, then more space is required."*

- B. *Some say, "That is the case only if it is filled with rubble, but if it is filled with mortar, less space is required."*

**III.4** A. *The Mishnah bears the implication that, if squared stones are used, then if for every cubits of height there is a breadth of five handbreadths, the wall will stand, but otherwise it will not. But then what about the cubit of the partition [the wall separating the holy area from the inner sanctum in Solomon's temple], which was thirty cubits high but only six broad, and yet it stood perfectly well?*

- B. *Since it had an extra handbreadth, it would stand.*

**III.5** A. *And as to the Second Temple, how come there was no partition of the same sort [but only a curtain between the holy area from the inner sanctum]?*

- B. *The thickness of six handbreadths will hold up a wall of thirty cubits but not a wall taller than that.*
- C. *And how on the basis of Scripture do we know that the Second Temple was taller than the first?*



- D. *Because it is written, “Greater shall be the glory of the latter house than the former” (Hag. 2: 9).*

**III.6** A. Rab and Samuel, and some say, R. Yohanan and R. Eleazar —

- B. One said, “It was greater in size.”  
C. And the other said, “It was greater in duration.”  
D. **[3B]** *And this one is right and that one is right.*

**III.7** A. *Why not build [in the Second Temple] a wall thirty cubits high [as in the first Temple] and then use a curtain for the remaining seventy cubits?*

- B. *Even the wall thirty cubits high in the first Temple was held up only by the ceiling and plaster, but without the ceiling and plaster, it could not have stood at a breadth of only six handbreadths.*  
C. *So anyhow, why not build a wall as high as they could and then fill in the rest with a veil?*  
D. *Said Abbaye, “They had a tradition that either the whole of it had to be a wall or the whole of it had to be a veil, either wholly a wall as in the first Temple, or wholly a curtain as in the tabernacle.”*

**III.8** A. *The question was raised: [When the Mishnah provides measurements, do these apply] to the material with the outside plaster, or to the materials not with the plaster [for which there must be a further allowance]?*

- B. *Said R. Nahman bar Isaac, “It stands to reason that it is the material together with the outside plaster, for if you should imagine that it is the material not with the plaster [so that a further allowance has to be made], the measurement pertaining to it also would have to be included in the Tannaite formulation. So we may draw the inference that the measurements encompass the material together with the outside plaster.”*  
C. *Not at all, in point of fact, I may say to you that it is the material not with the plaster, and since it did not add up to a handbreadth of additional space, the framer of the passage did not specify it.*  
D. *Yeah, well, when it came to the bricks, does the framer not say that one assigns a handbreadth and a half and the other assigns a handbreadth and a half, [so less than a handbreadth is specified]!*  
E. *In that case, the half-handbreadths can be combined to form a whole one [so they are specified, but here the measurement would involve a negligible space, so it is not included].*

- F. *Then come and take note: The cross beam of which they spoke [it should be] wide [enough] to hold a half-brick. And the half-brick is the half of a brick of three handbreadths. It is sufficient for the cross beam to a handbreadth wide, [enough] to hold a half-brick lengthwise [M. Er. 1:3]. [Thus the half-brick is three handbreadths exclusive of the plaster.]*
- G. *There subject to discussion is big bricks, which the formulation of the passage itself shows: And the half-brick is the half of a brick of three handbreadths, indicating that there are smaller ones.*
- H. *That is decisive proof.*

### **The Rules of Dismantling Synagogue Buildings**

- III.9** A. Said R. Hisda, "Someone should not tear down a synagogue before building another."
- B. *There are some say that it is because of the possibility of transgression [the community being left without a place of prayer by reason of neglect of the requirement of building a new one], and there are those who say that it is on account of the matter of prayer.*
- C. *So what difference does it make?*
- D. *At issue is whether or not there is another synagogue [which would vitiate the second of the two proposed reasons].*
- E. *Maremar and Mar Zutra demolished and built a synagogue for use in the summer in wintertime, and a synagogue for use in the winter in summertime.*
- III.10** A. Said Rabina to R. Ashi, "What if the money for a new synagogue building had been collected and is in hand? [May one at that point tear down the old building?]"
- B. *He said to him, "Well, the community may be called upon for money to be used to pay to redeem captives and may use this money for that purpose."*
- C. *"What if the bricks are already collected and the lathes trimmed and the beams ready?"*
- D. *"Still, it can happen that the community is suddenly called upon for money for redeeming captives, and they may sell the materials for that purpose."*
- E. *"Well, if they could do that, they could just as well sell the building once it has already been built!"*
- F. *"People don't go and sell buildings in which they live [and all the more so, buildings where they say their prayers]!"*

**III.11** A. *The rule about not dismantling a synagogue applies only if no cracks have appeared in the walls, but if cracks have appeared in the walls, they may first demolish the old building and then build the new one.*

B. *That is in line with the case of R. Ashi, who saw cracks in the synagogue at Mata Mehassayya, had the building pulled down, then brought his bed to that spot and did not move it until the gutters of the new building were finished.*

**III.12** A. *Well then how could Baba b. Buta have advised Herod to destroy the house of the sanctuary? And did not R. Hisda state, "Someone should not tear down a synagogue before building another"?*

B. *If you like, I shall reply that cracks had appeared in it, but if you prefer, I shall say that the case of the king is exceptional, because he is not going to retract.*

C. *For said Samuel, "If the government says, 'We shall move mountains,' it is going to move mountains and not go back on its word."*

### **The Temple that Herod Built**

**III.13** A. *Herod was an employee of the house of the Hasmonaeans. He eyed a certain girl. Once he heard an echo say, "Any employee who rebels now will make it." So he went and murdered all the members of his master's household but spared the girl. When she realized that he wanted to marry her, she climbed up to the roof and cried out, "Whoever comes and says I am a member of the household of the Hasmonaeans is a slave, since I am the only one left of that house, and I am throwing myself off this roof."*

B. *For seven years he preserved her body in honey. Some say he fucked her corpse, some say he didn't. According to those who said he fucked her corpse, the reason he preserved her was out of lust. According to those who say he didn't fuck the corpse, the reason was he wanted people to say he had married a princess.*

**III.14** A. *He thought, "Who are those who interpret the verse, 'From the midst of your brethren you shall choose a king over you' (Deu. 17:15)? It is the rabbis." So he went and killed all the rabbis. He left only Baba b. Buta, so as to take counsel with him.*

- B. **[4A]** *He stuck on his head a crown of hedgehog bristles and put out his eyes. One day [Herod] came and took his seat before him. He said to him, "See, my lord, this wicked slave, what he does!"*
- C. *He said to him, "So what should I of all people do to him?"*
- D. *He said to him, "Curse him."*
- E. *He said to him, "Even in your thoughts you should not curse a king' (Qoh. 10:20)."*
- F. *He said to him, "This one is no king."*
- G. *He said to him, "Even though he's only rich, 'And in your bedroom don't curse the rich' (Qoh. 10:20), and even if he is no more than a prince, 'A prince among your people you shall not curse' (Exo. 22:27)."*
- H. *He said to him, "Well, that applies to one who acts like 'your people,' but this one does not act like your people!"*
- I. *He said to him, "I'm afraid of him."*
- J. *He said to him, "There's nobody around to go and tell him except you and me here in session."*
- K. *He said to him, "'For a bird of heaven will carry the sound and what has wings will report the matter' (Qoh. 10:20)."*
- L. *He said to him, "I'm the man! If I had ever known that rabbis were so discreet, I would never have killed them! Now what can I do to make it up at least to you?"*
- M. *He said to him, "You have put out the light of the world: 'For the commandment is a light and the Torah is a lamp' (Pro. 6:23). Now go and take up the work of the light of the world: 'And all the nations shall become enlightened by it' (Isa. 2: 2)."*
- N. *There are those who say that this is what he said to him, "You have blinded the eye of the world: 'If it be done unwittingly by the eyes of the congregation [that is, the rabbis]' (Num. 15:24), now go and take up the work of the eye of the world: 'I will profane my sanctuary, the pride of your power, the delight of your eyes' (Eze. 24:21)."*

**III.15** A. *He said to him, "I'm afraid of the government [of the Roman Empire, who will take offense if I rebuild the Temple]."*

- B. *He said to him, "So send off an ambassador, and it will take him a year to make the trip, and he'll stay there a year, and it will take him a year to get back, and in the meantime destroy it and rebuild it."*
- C. *That what he did. They sent him word, "If you haven't torn it down, don't tear it down, but if you've torn it down, don't build it, and if you've torn it down and rebuilt it, you are a bad servant who asks permission after the fact. Even with your sword, your genealogical record is right here, you're neither a rex nor a prince, but Herod the slave who got himself the standing of a freed man."*
  - D. *What's the meaning of rex [the word given as "king"]?*
  - E. *"I am this day rex and anointed king" (2Sa. 3:39), or if you prefer: "And they cried before him, "'Ab-rex' [father of the king]" (Gen. 41:43).*

**III.16** A. *They say that someone who never saw the building that Herod built has never seen a beautiful building in his life.*

**III.17** A. *Of what was it built?*

- B. *Said Rabbah, "Yellow and white marble."*
- C. *Some say, "Blue, yellow, and white marble."*
- D. *One row projected, the other not, so as to leave place for mortar.*

**III.18** A. *He considered gilding the building. Said rabbis to him, "Let it be, it's prettier looking like waves of the sea."*

**III.19** A. *But how could Baba bar Buta have done such a thing? And did not R. Judah say Rab said, and some say, R. Joshua b. Levi said, "How come Daniel was punished? Because he gave advice to Nebuchadnezzar: 'Wherefore, O king, let my counsel be acceptable to you, and atone for your sins by acts of righteousness and for your iniquities by showing mercy to the poor, if they may be a lengthening of your tranquillity' (Dan. 4:24); 'all this come upon the king Nebuchadnezzar' (Dan. 4:25); 'At the end of twelve months' (Dan. 4:26)."*

- B. *If you want, I shall say that the case of a slave is exceptional, who is obligated to keep the religious duties, and if you like, I can say, that the case of the Temple is exceptional, since it could not have been built without the support of the government.*

**III.20** A. *And how do we know that Daniel was punished?*

- B. *Should we say it is shown by the verse, “And Esther called to Hatach” (Est. 4: 5), in which connection said Rab, “Hatach is the same as Daniel,” then there is no problem if we assume the view of those who say that he was called Hatach because he was cut down from his position of prominence. But in the view of him who says he was called Hatach because all matters of state were dictated by his advice, what is to be said?*
- C. *Well, it was sufficient punishment that he was thrown into the lions’ den!*

We now resume Mishnah-glossing of a standard order.

**IV.1** A. **All accords with the custom of the province:**

- B. *To what case is the rule extended by reference to All accords...?*
- C. *The rule is thereby extended to the locale in which fences are made of balm branches and branches of bay trees.*

**V.1** A. **Therefore, if the wall should fall down, the location [on which it had stood] and the stones belong to both parties:**

- B. *So what else is new?*
- C. *Not at all, it was necessary to state the rule to deal with a case in which the wall fall down into the domain of one of the parties, or a case in which one of them had cleared all the stones over into his domain. You might have thought that, in such a case, the other party bears the burden of proof. So we are informed that that is not the case.*

**VI.1** A. **And so is the rule in the case of a garden: in a place in which it is customary to build a fence, they require [a recalcitrant owner] to do so. But in a valley, in a place in which it is not customary to build a fence, they do not require him to do so:**

- B. *Now there is a contradiction in the very body of this rule! First you say, **And so is the rule in the case of a garden: in a place in which it is customary to build a fence, they require [a recalcitrant owner] to do so.** Then under ordinary conditions they do not require him to do so. But then the passage goes on: **But in a valley, in a place in which it is not customary to build a fence, they do not require him to do so.** Then under ordinary conditions they do require him to do so! So if in the case of an ordinary orchard, you have said that they do not require him to do so, is it necessary to say that in an ordinary valley, he cannot be required to do so?*
- C. *Said Abbaye, “This is the case of the passage: **And so is the rule in the case of a garden,** and also in a place in which it is customary to build a fence, e.g., in a valley, **they require [a recalcitrant owner] to do so. [But in a valley, in a place in which it is not customary to build a fence, they do not require him to do so].**”*
- D. *Said Raba, “If so, what is the sense of the word **but**?!”*
- E. *Rather, said Raba, “This is the sense of the Tannaite formulation: ‘So, too, with an ordinary garden, where it is customary to build a fence, he can be compelled to do so; but in an ordinary valley, where it is not customary to build a fence, he is not required to do so.’”*

- VII.1** A. **But if he wants, he may withdraw inside his own portion [of the property] and build it. And he places the facing of the wall outside of [the fence] [on the side of the neighbor, indicating his ownership]:**
- B. *How does he make the facing?*
- C. *Said R. Huna, [Simon:] “He bends the edge over towards the outer side.”*
- D. *Why not make it toward the inner side?*
- E. *Then the other may make another one on the outer side and claim the walls belongs to both of them [originally they made it jointly].*
- F. *If so, then even if the ledge is on the outer side he can cut it off and claim that the wall belongs to both parties!*
- G. *If he cut it off, the marks would be pretty easy to discern.*
- H. *There are those who state:*
- I. *Said R. Huna, [Simon:] “He bends the edge over towards the inner side.”*
- J. *Why not make it toward the outer side?*
- K. *Then the other may break it off and claim the walls belongs to both of them [originally they made it jointly].*

- L. *If so, then he can join one on and claim that the wall belongs to both parties!*
- M. *If he cut it off, the marks would be pretty easy to discern.*
- N. *Well, the Mishnah explicitly states **outside!***
- O. *That's a problem.*

**VII.2** A. R. Yohanan said, [4B] *“He should smear the wall with lime on the outer side to the extend of a handbreadth.”*

- B. *Why not put it on the inner side?*
- C. *The other will do the same on the outer side and claim the wall belongs to both parties.*
- D. *If he can do that, he can scrape off the mark on the other side and claim a share in the wall!*
- E. *Scraping is pretty easy to make out.*

**VII.3** A. In the case of a partition made of palm branches —

- B. *said R. Nahman, “He points the points of the branches outside.”*
- C. *Why not face them inside?*
- D. *Because the other can turn the points outside and claim that the fence belongs to both parties.*
- E. *If he can do that, he can cut off the points and throw them away.*
- F. *The other would smear clay over them.*
- G. *The other can scrape it off.*
- H. *Scraping is pretty easy to make out.*
- I. *Said Abbaye, “The only security in the case of a partition made of palm branches is through a written deed [to prevent fraud].”*

**VIII.1** A. **But if they had made it with the consent of both parties, they build the wall in the middle. They place the facing of the wall on this side and on that side. Therefore, if the fence should fall down, the location [on which it had stood] and the stones belong to both parties:**

- B. *Said Raba of Paraziqa to R. Ashi, “Why not let neither one of them make a mark at all!”*
- C. *He said to him, “The rule is needed to deal with a case in which one of them went ahead and made a mark on his, so if the other does not do the same, the former will say that the whole of it is his.”*



- D. *Is it the purpose of the Tannaite authority to set forth a remedy to deal with frauds?*
- E. *Well, is it the purpose of the Tannaite authority in the prior rule too not to set forth a remedy to deal with frauds?*
- F. *He said to him, "As to the former clause [**But if he wants, he may withdraw inside his own portion [of the property] and build it**] there is no problem, since the Tannaite framer of the page first states the rule and then explains how it is protected. But in the latter case, what law has he set forth, that he should also teach us how to protect it?"*
- G. *Said Rabina, "Here we deal with a case in which the partition is made of palm branches. And the intent of the framer of the passage is to exclude the position assigned to Abbayye, who has said, 'The only security in the case of a partition made of palm branches is through a written deed [to prevent fraud].' So we are informed that it suffices to do so with facing."*

I.1 commences with an explanation of the Mishnah's word choices. II.1 explains what the Mishnah's rather obvious clause contributes. No. 2 then reverts to the exegetical issue contributed by the Mishnah's commentators as implicit in the Mishnah's rule. In fact, No. 2 is a free-standing essay on its own principle, not a phase of Mishnah exegesis at all. That is shown beyond doubt by the complete recasting of the matter at No. 3. No. 4 then reverts to a secondary issue in No. 2. The whole composite thus emerges as a wonderful piece of free-standing inquiry in the form of Mishnah exegesis. III.1-2, 3 begin with the clarification of the Mishnah's word choices. No. 4 proceeds to a secondary analysis of the sense of the Mishnah's statement. No. 5 glosses No. 4, and Nos. 6, 7 amplify or continue No. 5. No. 8 then raises a further question in amplification of the rule of the Mishnah. The little anthology on tearing down and building synagogues, Nos. 9-11+12, draws in its wake its own complement at Nos. 13-19+20; my best guess is that 17.D is the point of intersection; then the whole is parachuted down here because of a rather trivial point of contact, but if that is so, then we have an example of composite-making of a rather dubious order, uncommon in the Bavli in general. IV.1, V.1 add minor glosses to the Mishnah. VI.1 then irons out conflicting inferences yielded by the Mishnah passage's formulation. VII.1 glosses yet another detail of the Mishnah. Nos. 2, 3 add a useful fact to the rule of the Mishnah. VIII.1 raises a possibility not considered by the Mishnah's rule but relevant to it.

### 1:3

- A. He whose [land] surrounds that of his fellow on three sides,
- B. and who made a fence on the first, second, and third sides —
- C. they do not require [the other party to share in the expense of building the walls].
- D. R. Yosé says, “If he built a fence on the fourth side, they assign to him [his share in the case of] all [three other fences].”

**I.1** A. Said R. Judah said Samuel, “The decided law accords with the view of R. Yosé, who has said, ‘**If he built a fence on the fourth side, they assign to him [his share in the case of] all [three other fences],**’ and we make no distinction as to whether it is the one who enclosed the field, or the one whose field is enclosed, who has made the fence.”

**I.2** A. *It has been stated:*

- B. R. Huna said, “All is proportionate to the actual cost of building the fence [Simon: which will vary according to the materials used by the one who builds the fence].”
- C. Hiyya bar Rab said, “All is proportionate to the cost of a cheap fence made of sticks [since that is all that is absolutely necessary].”
- D. *We have learned in the Mishnah: He whose [land] surrounds that of his fellow on three sides, and who made a fence on the first, second, and third sides — they do not require [the other party to share in the expense of building the walls].* Lo, if he fences the fourth side too, he must contribute to the cost of the entire fence. *But then note what follows: R. Yosé says, “If he built a fence on the fourth side, they assign to him [his share in the case of] all [three other fences].” Now there is no problem from the perspective of R. Huna, who has said, “All is proportionate to the actual cost of building the fence [Simon: which will vary according to the materials used by the one who builds the fence].” Then we can identify what is at issue between the first authority and R. Yosé. Specifically, the initial authority takes the view that we proportion the costs to what they would be if a cheap fence of sticks was built, but not to what the fence builder actually spent, and R. Yosé maintains that under all circumstances, the division is proportional to actual costs. But from the perspective of Hiyya bar Rab, who has said, “All is proportionate to the cost of a cheap fence made of sticks [since that is all that is absolutely necessary],” what can be the difference between the ruling of the initial Tannaite authority and that of R. Yosé? If, after all, he does not pay*

*him even the cost of building a cheap fence, what in the world is he supposed to pay off as his share?*

- E. *If you want, I shall say that what is at issue between them is the fee to be paid for a watchman. The initial Tannaite authority holds that he pays the cost of a watchman, not the charge of building a cheap fence, and R. Yosé says that he has to pay the cost of building a cheap fence.*
- F. *But if you prefer, I may say that at issue between them is the first, second, and third sides, in which instance the initial Tannaite authority has the other pay only the cost of fencing the fourth side, not the first three, and R. Yosé maintains he has to pay his share of the cost of fencing the first three sides, too.*
- G. *And if you prefer, I shall maintain that at issue between them is whether the fence has to be built by the owner of the surrounding fields or of the enclosed field if the latter pays the cost of the whole. The initial Tannaite authority says that the consideration that leads the owner of the enclosed field to have to contribute at all is that he went ahead and built the fourth fence, so he has to pay his share of the cost of the whole; but if the owner of the surrounding fields is the one who went ahead and did it, the other has to pay only the share of the fourth fence. For his part, R. Yosé takes the position that there is no distinction between who took the initiative in building the fourth fence, whether the owner of the enclosed field or of the surrounding field. In either case the former has to pay the latter his share of the whole.*
  - H. *There are those who say, in respect to this last statement, that at issue between them is whether the fourth fence has to be built by the owner of the enclosed field or the surrounding fields so that the former has to contribute his share. The initial Tannaite authority holds that, even if the owner of the surrounding fields makes the fourth fence, the other has to contribute to the cost, and R. Yosé maintains that if the owner of the enclosed field takes it on himself to build the fourth fence, he has to pay his share of the cost of the whole, because through his action he has shown that he wants the fence, but if the owner of the surrounding fields builds the fourth side, the other pays not a penny [since he can say he never wanted a fence to begin with].*

**I.3 A. [5A]** *Ronayya's property was surrounded on all four sides by Rabina's fields. Rabina fenced them and said, "Pay me your share of what I spent for the fence." Ronayya declined to do so.*

- B. *"Then pay me your share at least of the cost of building a cheap fence of sticks."*
- C. *Ronayya declined to do so.*
- D. *Then pay me what it costs to hire a watchman.*
- E. *Ronayya declined to do so.*
- F. *One day Rabina saw Ronayya gathering dates and said to his sharecropper, "Go and grab a cluster of dates from him."*
- G. *He went to grab them, but Ronayya yelled at him. Rabina said, "Now you have shown that you really want to have the fence. If it's only goats you're afraid of, doesn't your field need a guard?"*
- H. *He said to him, "You can get rid of a goat with a yell."*
- I. *"Don't you need someone to do the yelling?"*
- J. *The case came before Raba. He said to him, "Go and take him up on his best offer, and if not, I will rule against you in line with R. Huna's interpretation of the position of R. Yosé [and you'll have to pay half of the actual costs of building the fence]."*

**I.4** A. *Ronayya bought a field adjacent to Rabina's. He considered himself entitled to eject him because he held the right to preempt the field [and buy it himself]. Said R. Safra b. R. Yeba to Rabina, "People say, 'The hide costs four pennies, and four go for the tanner.'"*

I.1 assigns a decision to the disputed rule of the Mishnah. No. 2 refines the application of the rule of the Mishnah. Nos. 3, 4 give illustrative cases.

### 1:4

- A. **The wall of a courtyard which fell down —**
- B. **they require [each partner in the courtyard] to [help] build it up to a height of four cubits.**
- C. **[Each one is] assumed to have given, until one brings proof that the other has not contributed to the cost.**
- D. **[If the fence was built] four cubits and higher, they do not require [a joint holder in the courtyard to contribute to the expenses].**
- E. **[If the one who did not contribute] built another wall near [the restored one] [planning to roof over the intervening space],**
- F. **even though he did not [actually] put a roof on it,**

- G. they assign him [his share in the cost of the] whole [other wall].
- H. [He is now] assumed not to have contributed to the cost, until he brings proof that he has contributed to the cost.

- I.1 A. Said R. Simeon b. Laqish, "If a lender specified a date for repaying a loan and the borrower claimed that when the date of payment came, he had already paid the debt before it fell due, he is not believed. For let him pay the loan only on the date on which it comes due."
- B. *Both Abbayye and Raba say, "People ordinarily pay a debt before it comes due, since he may happen to have the money and say, 'I will go pay him off [5B] and get him off my back.'"*
- C. *We have learned in the Mishnah: [Each one is] assumed to have given, until one brings proof that the other has not contributed to the cost. Now what sort of a case can be contemplated here? If we say that it is one in which he said to him that he had already paid the debt when it fell due, then it is obvious that we assume that he had paid [the burden of proof is always on the claimant]. So we must assume that the case is this: he had already paid the debt before it fell due. So this would show then that it is quite common for someone to pay a debt before it comes due!*
- D. *Well, this case is exceptional, for at the completion of each layer of the wall, payment falls due [since each party is equally obliged to build the wall].*
- E. *Come and take note: [He is now] assumed not to have contributed to the cost, until he brings proof that he has contributed to the cost. Now what sort of a case can be contemplated here? If we say that it is one in which he said to him that he had already paid the debt when it fell due, then why should we not take his word? So is it not a case in which he said to him, "I already paid the debt before it fell due." So this would show then that it is not at all common for someone to pay a debt before it comes due!*
- F. *Well, this case is exceptional, for he may say to himself, "So how do I know that rabbis are going to require me to pay anyhow" [so we do not believe him even if he says he paid when payment fell due].*

- I.2 A. R. Pappa and R. Huna b. R. Joshua in practice accorded with Abbayye and Raba.
- B. *Mar b. R. Ashi in practice accorded with R. Simeon b. Laqish.*
- C. *And the decided law is in accord with R. Simeon b. Laqish.*
- D. *And that is the case even in connection with an estate [that is, if the debtor dies, the debt can be recovered from the estate in exactly the same way as it could be*

*recovered from the man himself, there being no requirement to take an oath here], and that is so despite what a master has said, “He who seeks to recover a debt from an estate is to be paid only if he takes an oath,” because we assume that someone does not pay a debt before it falls due.*

- I.3** A. *The question was raised:* If the creditor laid claim on the debtor only after some time had passed, and the debtor claims, “I paid it before it fell due,” what is the law?
- B. *Do we say that even where there is a presumption against the debtor [someone will not pay before the due date], we claim, “Why should I lie?” [6A] Or perhaps where there is a presumption against the debtor [someone will not pay before the due date], we do claim, “Why should I lie?”*
- C. *Come and take note:* **[Each one is] assumed to have given, until one brings proof that the other has not contributed to the cost.** *Now how shall we imagine the case at hand? May we say that the creditor laid claim on the debtor only after some time had passed, and the debtor claims, “I paid it when it fell due,” that is obvious! Rather, is it not a case in which the creditor laid claim on the debtor only after some time had passed, and the debtor claims, “I paid it before it fell due”? It would then follow that even where there is a presumption against the debtor [someone will not pay before the due date], we claim, “Why should I lie?”*
- D. *Well, this case is exceptional, for at the completion of each layer of the wall, payment falls due [since each party is equally obliged to build the wall].*
- E. *Come and take note:* **If the fence was built] four cubits and higher, they do not require [a joint holder in the courtyard to contribute to the expenses]. [If the one who did not contribute] built another wall near [the restored one] [planning to roof over the intervening space], even though he did not [actually] put a roof on it, they assign him [his share in the cost of the] whole [other wall]. [He is now] assumed not to have contributed to the cost, until he brings proof that he has contributed to the cost.** *Now how shall we imagine the case at hand? May we say that the creditor laid claim on the debtor only after some time had passed, and the debtor claims, “I paid it when it fell due,” that is obvious! Rather, is it not a case in which the creditor laid claim on the debtor only after some time had passed, and the debtor claims, “I paid it when it fell due,” why should he not be believed? So is it not a case in which he said, “I paid it before it fell due”? It would then follow that where there is a presumption against the debtor [someone will not pay before the due date], we do not claim, “Why should I lie?”*

- F. *Well, this case is exceptional, for he may say to himself, "So how do I know that rabbis are going to require me to pay anyhow" [so we do not believe him even if he says he paid when payment fell due].*
- G. *Said R. Aha b. Raba to R. Ashi, "Come and take note: 'I have a maneh in your hand' — before witnesses he said to him, 'Yes' — On the next day he said to him, 'Give it to me' — 'I already gave it to you' — he is exempt [from having to take the oath]. 'You don't have anything in my hand' — he is liable [to pay] [M. Shebu. 6:3A-D]. Is not the sense of 'I already gave it to you' that he said to him, 'I paid you off when the debt fell due,' 'you have nothing at all in my possession,' means that he said to him, 'I paid you off before the time fell due,' and yet it is taught that he is liable. It would then follow that where there is a presumption against the debtor [someone will not pay before the due date], we do not claim, "Why should I lie?"*
- H. *No, what is the meaning of, "You don't have anything in my hand"? It means, "There is no such debt"! For a master has said, "Whoever claims 'I never borrowed from you' is equivalent to saying, 'I never paid you' either."*

**II.1 A. [If the one who did not contribute] built another wall near [the restored one] [planning to roof over the intervening space], even though he did not [actually] put a roof on it, they assign him [his share in the cost of the] whole [other wall]. [He is now] assumed not to have contributed to the cost, until he brings proof that he has contributed to the cost:**

- B. *Said R. Huna, "If the second wall matches half of the first wall, it is as if it matched the whole of it." [Simon: If it is built up to half the same length or height, it is as though it matched the whole, and he has to contribute to the cost of the whole, since in all probability he will finish it and make a roof.]*
- C. *And R. Nahman said, "Where the wall that he built matches the other, it matches it, and where it does not match, it does not match" [and payment is proportionate to what matches].*
- D. *And R. Huna concedes the rule of R. Nahman with regard to a projection jointed onto a house [Simon: the neighbor who did not build the shared wall builds out from his own house a wall parallel to the shared wall; he has no plan to extend this wall, so he contributes to the increased height of the shared wall only in proportion to its height of length], and R. Nahman concedes R. Huna's position with regard to a sustaining beam or fittings for fixing planks [Simon: a thick beam laid on top of the wall to sustain further building; holes made of lathes alongside of the wall in*

which upright beams may be placed; in both these cases the other shows he plans to build higher and therefore must contribute to the cost of the whole].

- E. *Said R. Huna, "[Simon: If in the part of the wall above four cubits] there are holes, this still does not create the presumption that the one who built it was helped by the other, even if he made the wooden lining in the cavities, for he can plead, when he claims part payment from the other, the reason I put them in was to keep my wall from being damaged, if you should persuade me to let you put cross beams in."*

## **The Presumptive Rights Signified by Established Usage**

Because of the concluding statement, E, we proceed to a disquisition on the implications of established usages. We shall presently revert to the exposition of the legal topic of the Mishnah-paragraph, reciprocal obligations of joint holders to erect walls and partitions.

- II.2** A. *Said R. Nahman, "If one has the right to rest small beams on his neighbor's wall, he still may not rest large beams on it, but if he has the right to rest large beams on it, he does have the right to rest small beams on it."*
- B. *Said R. Joseph, "If one has the right to rest small beams on his neighbor's wall, he does have the right to rest large beams on it."*
- C. *There are those who say as follows:*
- D. *Said R. Nahman, "If one has the right to rest small beams on his neighbor's wall, he may rest large beams on it, if he has the right to rest large beams on it, he has the right to rest small beams on it."*
- II.3** A. *Said R. Nahman, "If one has the presumptive right to let water drip from his roof onto his neighbor's courtyard, he has the right also to carry it off there through a gutter pipe, but if he has the right to run a gutter pipe, he still has not got the right to let the water merely drip from the roof."*
- B. *Said R. Joseph, "If he has the right also to carry it off there through a gutter pipe, but if he has the right to run a gutter pipe, he has got the right to let the water merely drip from the roof."*
- C. *There are those who say as follows:*
- D. *Said R. Nahman, "If he has the right to run a gutter pipe, he has got the right to let the water merely drip from the roof. If he has the right to run*



*a gutter pipe, he has not got the right to let the water drip from a cone shaped roof of reeds.”*

E. *Said R. Joseph, “He has got that right too.”*

F. *There was a concrete case before R. Joseph, and he decided it in accord with his own opinion.*

**II.4** A. *Said R. Nahman said Rabbah bar Abbuha, “He who rents out a house to his fellow [6B] in a big house — the lessee may make use of the projecting beams and holes in the walls up to a distance of four cubits from the room that he has rented, and also the thickness of the wall [if the room is on the top story], if this accord with local custom, but he may not make use of the part of the wall facing the front garden.”*

B. *But R. Nahman in his own account said, “He may use even the side facing the front garden, but not the yard at the back.”*

C. *And Raba said, “He may even use the yard at the back.”*

**II.5** A. *Said Rabina, “If for a period of thirty days, someone permitted another to support the beam of his hut against his wall, that does not establish a presumptive right to continue to do so, but if the permission is granted for more than thirty days, it does. And if it was a tabernacle erected for a religious purpose, then for a period of seven days there is no result of a presumptive right to continue to do so, but if it is longer than that time, it does constitute such a presumptive right. And if on the spot the other fixes it with clay and the neighbor does not object, the presumptive right is acquired forthwith.”*

**II.6** A. *Said Abbaye, “In the case of two houses on two opposite sides of a public way, this one makes a parapet for half his roof, and the other makes a parapet for half of his roof, so that the parapets do not face one another, and each should extend the parapet a bit beyond the middle.”*

B. *Why focus upon the public way, since even if it were private domain, the same rule would apply?*

C. *It was necessary to state the rule in connection with the public domain, for what might you otherwise have said? In this case, one might decline to build the parapet, saying to the other, “So in the end you are going to have to protect your privacy against the public” [Simon: and the steps you take to protect yourself will suffice to protect you against me]. So we are told that that is not the case, since the other party may reply, “Well, the public can see me only by day but not by night, and you can see me day and night; the public can see me when I am*

*standing but not sitting, but you can see me standing or sitting; the public can see me only when they look directly at me, but not otherwise; and you can see me even without peeking.”*

**II.7** A. The master has said: “In the case of two houses on two opposite sides of a public way, this one makes a parapet for half his roof, and the other makes a parapet for half of his roof, so that the parapets do not face one another, and each should extend the parapet a bit beyond the middle” — *so what else is new!*

B. *Not at all, it was necessary to deal with a case in which one went ahead and built a parapet without consulting the other. You might have supposed that the other may say to him, “Finish the parapet and I’ll pay you back.” So we are informed that he may not make such a statement, since the other may say to him, “Why don’t you want to build? Because it might weaken your wall. So I don’t want to weaken my wall either.”*

## **The Obligations of Joint Holders to a Property on Building Partitions and Walls**

We now revert to the problem introduced by our Mishnah-paragraph.

**II.8** A. Said R. Nahman said Samuel, “A roof that is adjacent to the courtyard of one’s fellow — one makes for it a parapet four cubits high, but between one roof and another it is not necessary to do so.”

B. *In his own name, further, R. Nahman said, “It does not have to be a wall of four cubits, but it has to be a partition of ten handbreadths.”*

C. *For what purpose is the partition required? If it is to keep the other from peeking in, we require four cubits, and if it is to impose upon the other the presumptive status of a robber if he is found there, a mere fence of sticks would do the trick. If it is to stop kids and lambs from jumping over, a partition too high for them to jump over at a run would be enough.*

D. *In point of fact, the operative consideration is to impose upon the other the presumptive status of a robber if he is found there. With merely a fence of sticks, the neighbor can always find an excuse for being there, but if it is a partition ten handbreadths high, he cannot find an excuse.*

E. *An objection was raised: If the courtyard of the other is higher than his roof, there is no need. Does this not mean there is no need for any sort of partition?*

- F. *No, what it means is, there is no need for a wall of four cubits, but there is a requirement of a partition of ten handbreadths.*

**II.9** A. *It has been stated:*

- B. Two courtyards, one above the other —
- C. Said R. Huna, “The owner of the lower one has to build the party wall up from his level, and the owner of the higher one starts building from his level [at which point he contributes to the cost of the wall].”
- D. And R. Hisda says, “The owner of the upper one still has to assist the owner of the lower one to build from his level.”
- E. *It has been taught on Tannaite authority in accord with the position of R. Hisda:*
- F. Two courtyards, one above the other — The owner of the upper one has not got the right to say to the other, “Lo, I shall start building from my level,” but he has to assist the owner of the lower one to build from his level.
- G. But if his courtyard is higher than the roof of the neighbor, he is not obligated in any way.

**II.10** A. *Two men living in the same house, one upstairs, the other downstairs. The lower room began to sink into the ground, so the owner of the lower room said to the owner of the upstairs room, “Let’s rebuild the house.”*

- B. *He said to him, “Well, I’m quite happy the way things are.”*
- C. **[7A]** *“Then let me pull down the house and rebuild it.”*
- D. *“Yeah, so where am I going to live?”*
- E. *“I will find you a place.”*
- F. *“I don’t want to be bothered.”*
- G. *“Yes, but I can’t live where I am now.”*
- H. *“So crawl on your belly to get in and crawl on your belly to get out.”*
- I. *Said R. Hama, “He had every right to stop him [from rebuilding the house]. But that ruling applies to a case in which the beams of the upper story did not sink lower than ten handbreadths from the ground, but if they sank more than that, the owner of the lower story can say to the other, ‘The space below ten handbreadths belongs to me and is not subject to your domain at all.*
- J. *“Furthermore that ruling applies to a case in which they had made no agreement with one another, but if they had made a prior agreement with one another, they have to demolish the house and rebuild it.”*

- K. *And if they had made a prior agreement with one another, to what extent must the sinking have taken place before the occupant of the lower story demand rebuilding the house?*
- L. *Said rabbis before Rabbah in the name of Mar Zutra b. R. Nahman, who spoke in the name of R. Nahman, "It is in accord with that which we have learned in the Mishnah: **The height is [the sum of] half its length and half its breadth [M. B.B. 6:4I].**"*
- M. *Said to them Rabbah, "Haven't I told you, don't hang empty flasks on the name of R. Nahman! What R. Nahman really said is, 'It must be suitable for human beings to live there.'"*
- N. *And how much is that?*
- O. *Said R. Huna b. R. Joshua, "So that one can bring in a bundle of reeds from Mahuza and turn around with them inside the room."*
- II.11** A. *Somebody began to build a wall facing his neighbor's windows, so the other said to him, "You're shutting out my light."*
- B. *He said to him, "Let me close up your windows over here, and I'll make you others above the level of my wall."*
- C. *He said to him, "You'll damage my wall if you do that."*
- D. *He said to him, "Then let me take down your wall to the place where my windows will be and then rebuild your wall and put in the windows in the part above my wall."*
- E. *He said to him, "A wall in which the lower half is old and the upper half is new will be shaky."*
- F. *He said to him, "Then let me take it all down and build it up from the ground and put the windows in it."*
- G. *He said to him, "A single new wall in a house that is otherwise old will be shaky."*
- H. *He said to him, "Then let me take down the whole house and put windows in the new one."*
- I. *He said to him, "Yeah, so where will I live?"*
- J. *He said to him, "I'll get you another place."*
- K. *He said to him, "I don't want to be bothered."*
- L. *Said R. Hama, "He had every right to stop him [from rebuilding the house]."*
- M. *This is the same as the other case, why repeat it?*

N. *This case lets us know that the owner of the house may object even though he only uses the room for storage of straw and wood.*

**II.12** A. *Two brothers divided a house that they had inherited, one taking as part of his share a porch open at one end, the other taking the front garden. The one who got the garden went and built a wall in front of the opening of the porch. The other said, "You're taking away my light."*

B. *"I'm building on my own property."*

C. *Said R. Hama, "He had every right to make that statement."*

D. *Said Rabina to R. Ashi, "How is it different from that which we have learned on Tannaite authority: Two brothers who divided an inheritance — one of them took a vineyard, and the other took a field of grain — the owner of the vineyard has the right to govern the use of four cubits of the grain field [for use by his oxen in working the vineyard (Simon)], for it was with that stipulation in mind that they divided up the inheritance?"*

E. *He said to him, "In that case the operative consideration is that they had negotiated the matter together."*

F. *"So here what? They did not negotiate the matter at all? Are we dealing with total idiots, so one takes the porch and the other the garden, and no one asks anything about compensation?"*

G. *"Well, even though there can be compensation for bricks, beams, and boards, there is no compensation for air space [the owner of the porch has no right to keep the area empty]!"*

H. *"But can't he claim, 'To begin with you let me have as my share the porch as my share, but what you're giving me now is just a room without light!'"*

I. *Said R. Shimi bar Ashi, "But all he gave him as his share is something that in general was called a porch. And has it not been taught on Tannaite authority: He who says to his fellow, 'I am selling you a bet kor,' even though the field can hold only a letekh, it is a valid sale, because he has sold him only a place using its generic name; that is so, on the condition that it is called a kor field. 'I am selling you a vineyard,' even if it contains no vines, it is a valid sale, because he has sold him only a place using its generic name; that is so, on the condition that it is called a vineyard field. 'I am selling you an orchard,' even if it contains no pomegranates, it is a valid sale, because he has sold him only a place using its generic name; that is so, on the condition that it is called an orchard field?"*

- J. *“Are the cases really parallel? In the case covered by the cited passage, the seller can say to the buyer, ‘So I sold you something that bears a given name.’ But here the one who got the porch can say, ‘I took this as my share on the stipulation that I might be able to live here just as our father lived [and you have no building rights that override my claim].’”*
- K. *Said [7B] Mar the Younger and Mar the Elder, sons of R. Hisda, to R. Ashi, “The Nehardeans [Hama, who came from that town] are consistent with their basic principles, for said R. Nahman said Samuel, ‘Brothers who divided an estate — neither one has a right of way against the other, nor the right of stopping the other from blocking up his windows, nor the right of placing his ladder in the other’s courtyard to climb to his own room, nor the right to carry water from the river to his field through the other’s field [even though the father would of course do these things when he owned the entire proper]. And pay close attention to these rulings, because they are firmly established.”*
- L. *And Raba said, “Each has that right in relationship to the other [just as the father did].”*

- II.13** A. *There was a bond that belonged to an estate, against which the borrower produced a receipt. Said R. Hama, “We do not let them collect on the bond, but we also do not tear up the bond. We do not let them collect on the bond, because, after all, a receipt has been produced, but we also do not tear up the bond, because it is possible that, when the heirs mature, they may produce evidence to invalidate the receipt.”*
- B. *Said R. Aha b. Raba to Rabina, “So what’s the decided law?”*
  - C. *He said to him, “In all cases the law accords with the position of R. Hama, except for the matter of the receipt. The reason is that we do not take for granted without evidence that the witnesses to the receipt of payment of the debt had lied.”*
  - D. *Mar Zutra b. R. Mari said, “In this matter too the decided law accords with the position of R. Hama, for if the receipt were valid, the debtor would have produced it in the lifetime of the father, and since he didn’t, this is prima facie evidence that it is forged.”*

I.1 takes up the principle of the Mishnah paragraph and deals with a different type of case to which the same principle, as to who bears the burden of proof, pertains. No. 2 tells us the practiced law, and No. 3 raises a secondary theoretical problem, to be settled by appeal to our Mishnah paragraph. II.1 introduces a refinement to

the rule of the Mishnah. Nos. 2, 3 extend the issue raised at No. 1. The issue of local custom and presumptive rites accounts for the inclusion of Nos. 4, 5, expanded by No. 6, No. 7, which is then continued at No. 8. No. 9 carries forward the composite; this is then complemented by the cases at Nos. 10-12. No. 13 continues the same sequence of cases involving Hama, but it is relevant to the Mishnah's problem, if not congruent in detail.

### 1:5

- A. They force [a joint holder in the courtyard to contribute to] the building of a gatehouse and a door for the courtyard.
- B. Rabban Simeon b. Gamaliel says, "Not all courtyards are suitable for a gatehouse."
- C. They force [each joint holder to contribute to] the building of a wall, gates, and a bolt for the town.
- D. Rabban Simeon b. Gamaliel says, "Not all towns are suitable for a wall."
- E. How long must one be in a town to be deemed equivalent to all other townsfolk?
- F. Twelve months.
- G. [If] one has purchased a permanent residence, lo, he is equivalent to all the other townsfolk forthwith.

- I.1 A. [They force a joint holder in the courtyard to contribute to the building of a gatehouse:] *Does this bear the implication that the gatehouse represents a genuine improvement? But lo, there was a certain pious man with whom Elijah was accustomed to converse. He made a gatehouse, and he didn't spend any more time with him. [The gatehouse represented an obstacle to beggars, and Elijah could not approve.]*
- B. *That does not present a contradiction, in the one case, the gatehouse was inside the courtyard, in the other, outside [Simon: and if the gatehouse is outside, the poor man can get behind it and it does not prevent his voice from being heard].*
- C. *If you prefer, I shall explain, in both cases the gatehouse was outside, but there is no contradiction, for in the one case there is a door, in the other none.*
- D. *If you prefer, I shall explain, in both cases there was a door, but there still is no contradiction, because in the one case there is a latch [which keeps the poor out], in the other none.*
- E. *If you prefer, I shall explain, in both cases there was a latch, but there still is no contradiction, because in the one case, the latch is inside, in the other, outside.*



## **II.1 A. ...and a door for the courtyard:**

- B. *It has been taught on Tannaite authority:*
- C. Rabban Simeon b. Gamaliel says, "Not all courtyards are suitable for a gatehouse, but a courtyard nearest to the public thoroughfare is the one that is suitable for a gatehouse, and one that is not located near the public thoroughfare is not suitable for a gatehouse."
- D. *And rabbis [who hold the contrary view]?*
- E. *Sometimes people from the public thoroughfare push their way in.*

## **III.1 A. They force [each joint holder to contribute to] the building of a wall, gates, and a bolt for the town:**

- B. *It has been taught on Tannaite authority:*
- C. Rabban Simeon b. Gamaliel says, "Not all towns are suitable for a wall, but a town near the frontier is the one that is suitable for a wall, and one that is not located near the frontier is not suitable for a wall."
- D. *And rabbis [who hold the contrary view]?*
- E. *Sometimes it may be attacked by a band of marauders [far from the frontier].*

- ## **III.2 A. R. Eleazar raised this question of R. Yohanan, "When they collect the funds, do they collect it as a poll tax, or do they collect according to one's means?"**
- B. He said to him, "They collect according to one's means. And Eleazar, my son, fix this ruling in your mind firmly as with nails."
  - C. *There are those who state the matter as follows:*
  - D. *R. Eleazar raised this question of R. Yohanan, "When they collect the tax, is it in proportion to the proximity of a house to the wall or the means of the owner of the house?"*
  - E. He said to him, "It is in proportion to the proximity of a house to the wall. And Eleazar, my son, fix this ruling in your mind firmly as with nails."

## **Rabbis cannot be forced to share in the costs of the common defense**

- ## **III.3 A. R. Judah the Patriarch applied the wall tax to the rabbis. Said R. Simeon b. Laqish, "Rabbis don't need protection, since it is written, 'If I should count them they are more in number than the sand' (Psa. 139:18). Who are the ones that are counted? Shall I say that reference is made to the righteous? But are they more in number than the sand? Since of the whole of Israel it is written, 'they shall be like the sand on the sea shore' (Gen. 22:17), how can the righteous alone be more**



than the sand? The sense of the verse is, I shall count the deeds of the righteous, and they shall be more in number than the sand. Now, if the sand, which is the lesser, protects the land against the sea, then how much more must the deeds of the righteous, which are the more important, protect everybody?"

- B. *When he came before R. Yohanan, he said to him, "But why not derive the same fact from the following: 'I am a wall and my breasts are like towers' (Son. 8:10). 'I am a wall' refers to the Torah, 'and my breasts are like towers' [8A] refers to disciples of the sages."*
- C. But R. Simeon b. Laqish interprets the verse in line with the manner in which Raba explained it: "'I am a wall' the community of Israel, 'and my breasts are like towers' refers to houses of assembly and houses of study."

**III.4** A. *R. Nahman bar R. Hisda collected the head tax [karga] from rabbis. Said to him R. Nahman bar Isaac, "You have violated the rules of the Torah, the Prophets, and the Writings.*

- B. *"The Torah: 'Although he loves the peoples, all his saints are in your hand' (Deu. 33: 3).*
- C. *"Said Moses before the Holy One, blessed be He, 'Lord of the world, even when you love the peoples, may all his holy ones be in your hand.'"*
- D. *"And they are cut at your feet" (Deu. 33: 3) —*
- E. *R. Joseph repeated as a Tannaite statement: "This refers to the disciples of sages who cut their feet as they wander from town to town and province to province to study Torah."*
- F. *"They shall receive of your words" (Deu. 33: 3) —*
- G. *this refers to how they discuss the statements of God.*
- H. *"The Prophets: 'Yes, though they repeat Tannaite traditions among the nations, now I shall gather them and a few of them shall be free from the burden of kings and princes' (Hos. 8:10)."*
- I. *Said Ulla, "This verse is stated in the Aramaic language, namely: if all of them repeat Tannaite traditions, I shall gather them even now, and if only a few of them do so, those at the very least shall be exempt from the burdens of king and princes."*
- J. *"The Writings: 'It shall not be lawful to impose upon them minda, belo, and halak' (Ezr. 7:24), and said R. Judah, 'Minda refers to the king's tax, belo, the poll tax, and halach, the corvée.'"*

**III.5** A. *R. Pappa collected the tax for digging a new well from an estate. Said R. Shisha b. R. Idi to R. Pappa, "May be it'll be a dry well?"*

B. *He said to him, "I'll collect it from them anyhow. If water's there, well and good, and if not, I'll give them back their money."*

**III.6** A. *Said R. Judah, "Everyone is obligated to share in the cost of building doors for the town gates, even estates, but not rabbis, who do not require protection."*

B. *"Everyone is obligated to share in the cost of digging a well, including rabbis."*

C. *"That is the case where there is no corvée, but when the digging is done by forced labor, then we of course do not expect rabbis to join in."*

**III.7** A. Rabbi opened his storehouse in a year of famine, announcing, "Let all those come in [and get food] who are masters of Scripture, Mishnah, Gemara, law, lore, but let unlearned people not come in."

B. R. Jonathan b. Amram forced his way in. He said to him, "Rabbi, feed me."

C. He said to him, "My son, have you studied Scripture?"

D. "No."

E. "Have you repeated Mishnah traditions?"

F. "No."

G. He said to him, "If so, on what basis can I feed you?"

H. He said to him, "Feed me like a dog or like a raven."

I. *He gave him some food. After he left, Rabbi was in session and was distressed, saying, "Woe is me, for I gave my bread to an unlettered person!"*

J. Said before him R. Simeon bar Rabbi, "But maybe it was Jonathan b. Amram, your disciple, who has never in his life been willing to profit from the glory owing to the Torah [that he has learned]."

K. They made an investigation and found that that is who it was. Said Rabbi, "Then let everybody come in."

L. *[In setting up his original restriction,] Rabbi was consistent with views stated elsewhere, for said Rabbi, "Troubles come on the world only on account of unlettered people."*

**III.8** A. *That is in accord with this case: there was a crown tax that was assigned to the people of Tiberias. They came before Rabbi and said to him, "Let the rabbis contribute their share with us."*

B. *He said to them, "Not a chance."*

C. *They said to him, "Then we'll bug out."*

- D. *He said to them, "So what."*
- E. *So half of them fled. Half of the tax was remitted.*
- F. *The other half came to Rabbi and said to him, "There was a crown tax that was assigned to the people of Tiberias. Let the rabbis contribute their share with us."*
- G. *He said to them, "Not a chance."*
- H. *They said to him, "Then we'll bug out."*
- I. *He said to them, "So what."*
- J. *So all of them ran away.*
- K. *Left behind was only a certain fuller, and so they went and demanded the funds from him, and he ran away, so the requirement for the crown tax was dropped.*
- L. Said Rabbi, "Now see how troubles come on the world only on account of unlettered people."

**IV.1 A. How long must one be in a town to be deemed equivalent to all other townsfolk? Twelve months:**

- B. *A contradiction was presented to this rule from the following: A caravan of asses or camels that is en route from place to place that spent the night [in a city that had gone over to idolatry] and that went astray with the locals — the members of the caravan are sentenced to death by stoning, but their property is untouched. If they stayed there thirty days, they are put to death by the sword and their property is destroyed [as inhabitants of the city, which shows that thirty days suffice to include someone among the inhabitants].*
- C. **Ass drivers, camel drivers, and people passing from place to place [M. San. 11:5B] who spent the night in its midst and became apostates with [the others of the town] —**
- D. **If they spent thirty days in the town, they are put to death by the sword, and their property and the town are prohibited.**
- E. **But if they did not spend thirty days in the town, they are put to death by stoning, but their property is rescued [T. San. 14:2 A-D].**
- F. *Said Raba, "There is no contradiction [between the two definitions of residency, for] one serves the purpose of designating a person as one of the men of the town [which takes a year], and the other serves the purpose of designating him as one of the permanent residents of the town [which takes thirty days]."*
- G. *And that is in accord with what has been taught on Tannaite authority:*
- H. **He who is prohibited by vow from deriving benefit from his town or from the people of his town, and someone came from the outside and lived there for**

thirty days — he who took the vow is permitted to derive benefit from him. But if he was prohibited by vow from deriving benefit from those who dwell in his town, and someone came from the outside and lived there for thirty days, he is prohibited from deriving benefit from him [T. Ned. 2:10A-D].

- IV.2** A. *And for all taxes is a residence of twelve months required? Has it not been taught on Tannaite authority: It takes thirty days for one to become obligated to contribute to the soup kitchen, three months for the charity box, six months for the clothing fund, nine months for the burial fund, twelve months for contribution to the repair of the town walls.*
- B. Said R. Assi said R. Yohanan, *“When our Mishnah passage made its statement, it referred in particular to twelve months for the obligation to help pay for repairing the town walls.”*
- IV.3** A. *And said R. Assi said R. Yohanan, “All are obligated to contribute to the upkeep of the town walls, even estates, but not rabbis, because rabbis don’t need protection.”*
- B. Said R. Pappa, *“For repairing the walls, the horse guard, and the keeper of the armory, even estates, but not rabbis, because rabbis don’t need protection.”*
- C. *The governing principle is that even estates have to contribute for any public service from which the orphans are beneficiaries.*

### **The Rules of Philanthropy: Who Contributes? Who Receives?**

Now commences a large composite on the theme of who contributes to the support of the poor and who is eligible for support. This is attached by reason of the reference of IV.2-3 to contributing to the soup kitchen and charity fund. IV.3 is attached to the foregoing for formal reasons, that is, the Assi-Yohanan attribution. Then follows a vast, free-standing exposition on the stated theme.

- IV.4** A. *Rabbah collected charity funds from the estate of the household of Bar Marion. Said to him Abbaye, “But has not R. Samuel bar Judah taught as a Tannaite statement: Charity is not assigned to estates even for the redemption of captives?”*
- B. *He said to him, “My intention in collecting from them is to make them more important.”*
- IV.5** A. *Ifra Hormiz, mother of King Shapur, send a purse of money to R. Joseph, saying to him, “Let it be for some genuinely consequential religious duty.”*

- B. *R. Joseph went into session and looked into the matter: "What could be a genuinely consequential religious duty?"*
- C. *Said to him Abbaye, "Since R. Samuel bar Judah taught as a Tannaite statement: Charity is not assigned to estates even for the redemption of captives, one must infer that [8B] the redemption of captives would be a genuinely consequential religious duty."*

**IV.6** A. *Said Raba to Rabbah bar Meri, "What is the source of the statement of rabbis that the redemption of captives is a genuinely consequential religious duty?"*

- B. He said to him, "And it shall come to pass when they say to you, where shall we go forth, you shall tell them, thus says the Lord, such as are for death, to death, and such as are for the sword, to the sword, and such as are for famine, to famine, and such as are for captivity, to captivity' (Jer. 15: 2). And [proving the point at hand,] said R. Yohanan, 'Each punishment mentioned in this verse is harsher than the one before. The sword is worse than death: *If you want, I can show it from Scripture, or if you prefer it can be shown from logic. The proof from logic is simply that while the sword deforms, death doesn't. The proof from Scripture is: "Precious in the eyes of the Lord is the death of his saints" (Psa. 116:15). Famine is harsher than the sword: if you want, I can show it from Scripture, or if you prefer it can be shown from logic. The proof from logic is that the one brings about prolonged suffering, the other not; if you prefer, it can be shown from Scripture: "They who are killed with the sword are better off than those who are killed with hunger" (Lam. 4: 9). And captivity is hardest of all, because it encompasses all the other forms of suffering put together.*'"

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

- B. **Charity funds are collected by two people and divided by three [M. Pe. 8:7H].** It is collected by two, for any office that exercises authority over the community must be filled by at least two people. It must be passed out by three, on the analogy of property cases [which are tried by a court of three persons].
- C. Food for the soup kitchen is collected by three and passed out by three, since it is passed out as soon as it is collected. Food is passed out every day, money from the charity fund on Fridays.
- D. The soup kitchen is for everybody, the charity fund is limited to the poor of the town. Townspeople may use the soup kitchen like the charity fund and the charity fund like the soup kitchen and apply the money for any purpose they wish.
- E. The townsfolk have the right to fix weights, measures, prices and wages, and to inflict penalties for violating their rules.

- IV.8** A. The master has said, "...for any office that exercises authority over the community must be filled by at least two people":
- B. *What is the scriptural source of this rule?*
  - C. Said R. Nahman, "Said Scripture, 'And they shall take the gold' (Exo. 28: 5)."
  - D. *Authority is what they are not to exercise, but as a matter of fact they were deemed to be trustworthy.*
  - E. *That supports the view of R. Hanina, for said R. Hanina, "There was a case in which Rabbi appointed two brothers to be in charge of the charity fund."*

**IV.9** A. *What authority is at stake?*

- B. *It is in line with what R. Nahman said Rabbah bar Abbuha said, "It is because they take places for a charity contribution, and that is even on the eve of the Sabbath."*
- C. *Is that so? But lo, it is written, "I will punish all those who oppress them" (Jer. 30:20), and said R. Isaac bar Samuel bar Marta in the name of Rab, "Even those who collect charity"!*
- D. *There is no contradiction, [Nahman] speaks of a person of substance, the other of a person not of substance; for example, Raba forced R. Nathan bar Ammi and collected from him for hundred zuz for charity.*

- IV.10** A. "And those who are wise shall shine as the brightness of the firmament" (Dan. 12: 3) — this refers to a judge who gives an honest judgment in every detail.
- B. "And they that turn many to righteousness [charity] will be as the stars for ever and ever" (Dan. 12: 3) — these are those who collect charity.
  - C. *In a Tannaite formulation it is taught:*
  - D. "And those who are wise shall shine as the brightness of the firmament" (Dan. 12: 3) — this refers to a judge who gives an honest judgment in every detail and to those who collect charity.
  - E. "And they that turn many to righteousness [charity] will be as the stars for ever and ever" (Dan. 12: 3) — these are those who instruct young children.
  - F. *Who for instance?*
  - G. *Said Rab, "For instance, R. Samuel bar Shilat."*
  - H. *For Rab found R. Samuel bar Shilat in a garden, and he said to him, "So have you left your job?"*
  - I. *He said to him, "You know, I haven't seen this garden for thirteen years, but even now I'm thinking about the children."*

J. *And what does Scripture say of rabbis?*

K. Said Rabina, “‘They who love him shall be as the sun when he goes forth in his might’ (Jud. 5:31).”

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

- B. Those who collect charity funds are not allowed to take their leave of one another, even though one may collect money at the gate while another stops at a shop in the same courtyard.
- C. If one of them funds money in the street, he should put it not into his pocket but into the charity box. When he comes home, he may take it out.
- D. So, too, if one of them lent someone a maneh and the debtor pays him back in public, he should not put the money into his pocket but into the charity box and when he gets home, he takes it out again.

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

- B. If the charity-fund collectors run out of poor among whom to distribute the money, they change the small change into large coins [to protect the money] with outsiders, but not out of their own funds.
- C. If supervisors of the soup kitchen run out of poor to feed, they may sell the food to others but not to themselves.
- D. When they collect money for charity, they should count the coins not two at a time but one at a time.

**IV.13** A. *Said Abbaye, “To begin with the master would not sit on the mats in the synagogue [since they were bought from charity funds], but when he heard the teaching on Tannaite authority: ‘the townspeople have the right to use the charity funds for any purpose of their choice,’ he sat on them.”*

- B. *Said Abbaye, “To begin with the master would keep two purses, one for the poor from somewhere else, the other for the poor of that town. When he heard that Samuel had said to R. Tahalipa bar Abdimi, ‘Keep one purse only [9A] and stipulate that it may be used for both,’ he also kept only one purse under that same stipulation.”*
- C. *R. Ashi said, “For my part, I don’t even have to make such a stipulation, since anybody who comes to give me money for charity relies on my judgment and gives it to me to pass out to anyone I want.”*

**IV.14** A. *These two butchers had made an agreement with one another that if the one killed on the day assigned to the other, the hide of his beast should be ripped up. One of them did slaughter a beast on the day assigned to the other, and the other*



*went and ripped up the hide. The ones who did so were summoned to Raba's court, who required them to make restitution. Said R. Yemar bar Shelemayyah to Raba, "The townsfolk have the right [to fix weights, measures, prices and wages, and] to inflict penalties for violating their rules."*

- B. *Raba did not answer him.*
- C. *Said R. Pappa, "He acted quite correctly in not replying to him. That rule applies only in a case in which there is no eminent authority in town, but if there is an eminent authority, they do not have the power to inflict penalties for violating their rules."*

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

- B. The charity collectors are not required to make a reckoning of how they use the money entrusted to them for charity, and the Temple treasurers are not required to give a reckoning for the money given to them for the sanctuary.
- C. There is no proof of that proposition but there is an indication of it: "They reckoned not with the men into whose hand they delivered the money, to give to them who did the work, for they dealt faithfully" (1Ki. 12:16).

**IV.16** A. Said R. Eleazar, "Even though someone has a reliable accountant in his household, he should tie up and count any money that he gives him: 'They put in bags and counted the money' (2Ki. 12:11)."

**IV.17** A. Said R. Huna, "They examine the situation of those who need food, but they do not examine the situation of those who need clothing."

- B. *"If you prefer, I shall recite a verse that makes that point, and if you prefer, I shall recite an argument.*
- C. *"If you prefer, I shall recite an argument: this one [who has no clothes] is subject to embarrassment but the other is not.*
- D. *"If you prefer, I shall recite a verse that makes that point: 'Is it not to examine the hungry before giving him your bread' (Isa. 58: 7), since the word for examine is written so that it can be read in that way, much as people say, 'First examine, then give him.' In the latter context, by contrast, it is written simply, 'When you see the naked, you clothe him' (Isa. 58: 7), meaning, on the spot."*
- E. But R. Judah said, "They examine the situation of those who need clothing, but they do not examine the situation of those who need food.
- F. *"If you prefer, I shall recite a verse that makes that point, and if you prefer, I shall recite an argument.*



- G. *"If you prefer, I shall recite an argument: this one is actually suffering, but the other one is not actually suffering."*
- H. *"If you prefer, I shall recite a verse that makes that point: Is it not to deal your bread to the hungry' (Isa. 58: 7) — on the spot, while in the other context it is written, 'When you see the naked,' which is to say, when you have seen that he is deserving of help."*
- I. *It has been taught on Tannaite authority in accord with the position of R. Judah: If the person said, "Clothe me," they examine him, "feed me," they do not examine him.*

**IV.18** A. *In the Mishnah we have learned there: They give to a poor man traveling from place to place no less than a loaf [of bread] worth a dupondion, [made from wheat which costs at least] one sela for four seahs. [If such a poor person] stayed overnight, they give him enough [to pay] for a night's lodging [M. Pe. 8:7A-C].*

- B. *What is the definition of enough [to pay] for a night's lodging?*
- C. *Said R. Pappa, "A bed and a pillow."*
- D. **[If such a poor person] spent the Sabbath, they give him food for three meals [M. Pe. 8:7D].**

**IV.19** A. *A Tannaite statement: If one was making the rounds of the houses, people are not obligated to him [from the charity fund] [T. Pe. 4:4:8K-L].*

- B. *There was a poor man who made the rounds of the doors, who came before R. Pappa. He did not accommodate him. Said to R. Sama b. R. Yeba to R. Pappa, "If my lord does not accommodate him, then no one else will either. Should he then die?"*
- C. *[He said to him,] "But has it not been taught on Tannaite authority: If one was making the rounds of the houses, people are not obligated to him [from the charity fund] [T. Pe. 4:4:8K-L]?"*
- D. *He said to him, "What it means is that people are not obligated to him for a big donation, but they are obligated to him for some small donation."*

**IV.20** A. *Said R. Assi, "A person should never refrain from giving a third of a sheqel for charity in any given year: 'Also we made ordinances for us, to charge ourselves yearly with the third part of a sheqel for the service of the house of our Lord' (Neh. 10:33)."*

- B. *And said R. Assi, "Charity is equivalent to all other religious duties combined: 'Also we made ordinances,' not 'ordinance' but 'ordinances.'"*

- IV.21** A. Said R. Eleazar, “One who gets others to do the right thing is more important than the one who actually does it: ‘And the work of righteousness shall be peace, and the effect of righteousness quiet and confidence forever’ (Isa. 32:17).  
 B. “If one has merit, ‘shall you not deal your bread to the hungry’ (Isa. 58: 7), but if not, ‘then you shall bring the poor that are cast out to your house’ (Isa. 58: 7).”
- IV.22** A. *Said Raba to the people of Mahoza, “By your leave! Take care of one another, so you will have peace with the government.”*
- IV.23** A. And said R. Eleazar, “When the Temple stood, someone would pay off his sheqel-offering and achieve atonement. Now that the Temple is not standing, if people give to charity, well and good, but if not, the gentiles will come and take it by force. And even so, that is still regarded for them as an act of righteousness: ‘I will make your exactors righteousness’ (Isa. 60:17).”
- IV.24** A. *Said Raba, “This thing was told to me by the suckling [Sheshet] [9B] who perverted the way of his mother in the name of R. Eleazar, “What is the meaning of this verse of Scripture: ‘And he put on righteousness as a coat of mail’ (Isa. 59:17)? It means that just as in a coat of mail every scale joins with the others to make up one piece of armor, so every coin given to charity joins with the rest to make up a large sum.”*  
 B. *R. Hanina said, “From here: ‘And all our righteousness is as a polluted garment’ (Isa. 64: 5) — just as in a piece of clothing, every thread joins with the rest to form the whole garment, so every penny given to charity unites with the rest to form a big sum of money.”*
- IV.25** A. *And how come [Sheshet] was called the suckling who perverted the way of his mother?*  
 B. R. Ahadboy bar Ammi asked R. Sheshet, “How do we know that when a person afflicted with the skin ailment is counting out his days for purification [he has brought his birds but has not yet brought his offering, Lev. 14:8], he imparts uncleanness to someone who touches him?”  
 C. He said to him, “Since he imparts uncleanness to clothing, he imparts uncleanness also to persons.”  
 D. *He said to him, “But perhaps the case of uncleanness imparted to that which is connected to him [as his clothing is] is exceptional, for, after all, one who moves carrion imparts uncleanness to the clothing that he is wearing but not to persons who touch him?”*

- E. *He said to him, "So anyhow, how do we know that a dead creeping thing imparts uncleanness to persons? Is it not because such a thing imparts uncleanness to clothing?"*
- F. *He said to him, "Well, a dead creeping thing is explicitly identified as a source of uncleanness in Scripture: 'or whoever touches any creeping thing whereby he may be made unclean' (Lev. 22: 5)."*
- G. *"So how do we know that semen imparts uncleanness to persons? Is it not because it imparts uncleanness to clothing, so imparts uncleanness to persons?"*
- H. *"Semen too is explicitly identified as a source of uncleanness in Scripture: 'Or a man whose seed goes from him' (Lev. 22: 4), and 'or a man' covers one who touches the semen as well."*
- I. *[Ahadboy] replied to him in a mocking way. R. Sheshet was hurt. R. Ahadboy bar Ammi lost the power of speech and forgot his learning. His mother came and wept before him, crying and crying, but he paid no attention to her. She said to him, "Behold these breasts, from which you too have sucked." So he prayed for the other, who was healed.*

**IV.26** A. *[As to the person afflicted with the skin ailment,] how do we know the answer?*

B. *It is in line with that which has been taught on Tannaite authority:*

C. R. Simeon b. Yohai says, "'Washing clothing' is stated in connection with a person afflicted with the skin ailment who is counting out his days for purification, and washing clothes is stated also in reference to the period when he is confirmed as unclean (Lev. 14: 8). Just as in the latter case, he imparts uncleanness to persons, so in the former case, he imparts uncleanness to persons."

**IV.27** A. Said R. Eleazar, "Greater is he who discreetly carries out an act of charity than was our lord, Moses, for of Moses it is written, 'for I was afraid because of the anger and the wrath' (Deu. 9:19), but of one who gives charity in such a manner it is written, 'A gift in secret subdues anger' (Pro. 21:14)."

B. *He differs from the position of R. Isaac, for said R. Isaac, "It overcomes anger but not wrath: 'and a present in the bosom fierce wrath' (Pro. 21:14), meaning, 'though a present is placed in the bosom, yet wrath is still fierce.'"*

C. *Some say, Said R. Isaac, "Any judge who takes bribes brings powerful anger into the world: 'and a present in the bosom fierce wrath' (Pro. 21:14)."*

**IV.28** A. And said R. Isaac, “Any one who gives a penny to the poor is blessed with six blessings, and anyone who speaks to him in a comforting manner is blessed with eleven.

- B. “Any one who gives a penny to the poor is blessed with six blessings: ‘Is it not to deal your bread to the hungry and bring the poor to your house...when you see the naked’ (Isa. 58: 7) [‘then shall your light break forth...].’
- C. “And anyone who speaks to him in a comforting manner is blessed with eleven: ‘If you draw out your soul to the hungry and satisfy the afflicted soul, then shall your light rise in the darkness and your darkness be as noonday, and the Lord shall guide you continually and satisfy your soul in drought...and they shall build from you the old waste places and you shall raise up the foundations of many generations’ (Isa. 58:10-12).”

**IV.29** A. And said R. Isaac, “What is the meaning of the verse: ‘he who follows after righteousness [charity] and mercy finds life, righteousness, and honor’ (Pro. 21:21)? Because a man has followed after righteousness shall he find righteousness [that is, because one has given to charity, will he get charity when he needs it?] Rather, the purpose is to indicate to you, whoever pursues righteousness — the Holy One, blessed be He, sees to the money that he needs with which to do acts of righteousness.”

- B. R. Nahman bar Isaac said, “The Holy One, blessed be He, provides him with people who are appropriate recipients of charity, so he may get a reward for helping them.”
- C. *Excluding whom?*
- D. *Excluding the ones covered by what Rabbah explained, for expounded Rabbah, “What is the meaning of the verse, ‘Let them be made to stumble before you, in the time of your anger deal you with them’ (Jer. 18:23)? Said Jeremiah before the Holy One, blessed be He, ‘Lord of the world, even when they overcome their impulse to do evil and want to do acts of righteousness before them, make them stumble through people who are inappropriate recipients of charity, so that they should get no reward for helping them.’”*

**IV.30** A. R. Joshua b. Levi said, “Whoever is accustomed to do acts of charity gains the merit of having sons who are masters of wisdom, wealth, and lore.

- B. “...Wisdom: ‘he who follows after righteousness [charity] and mercy finds life...’ (Pro. 21:21).

- C. **[10A]** "...Wealth: 'he who follows after righteousness [charity] and mercy finds ...righteousness...' (Pro. 21:21).
- D. "...And lore: 'he who follows after righteousness [charity] and mercy finds ...honor' (Pro. 21:21), and it is written, 'The wise shall inherit honor' (Pro. 3:35)."

**IV.31** A. *It has been taught on Tannaite authority:*

- B. R. Meir would say, "Someone arguing with you may reply to you, saying, 'If your God loves the poor, how come he does not provide for them?' And say to him, 'It is so that through them we ourselves may be saved from the judgment of Gehenna.'"

**IV.32** A. The wicked Turnus Rufus asked R. Aqiba, "If your God loves the poor, how come he does not provide for them?"

- B. He said to him, "It is so that through them we ourselves may be saved from the judgment of Gehenna."
- C. He said to him, "To the contrary! That is precisely what makes you liable to the sentence of Gehenna. I shall provide you with a parable. To what is the matter to be likened? To the case of a mortal king who was angry with his servant and put him in prison and gave orders not to feed him or give him drink. But somebody came along and gave him food and drink. When the king heard, will he not be angry with him? And you people are called servants: 'For to me the children of Israel are servants' (Lev. 25:55)."
- D. Said to him R. Aqiba, "I shall provide you with a parable. To what is the matter to be compared? To the case of a mortal king who grew angry with his son and threw him into prison and gave orders not to feed him or give him drink. But somebody came along and gave him food and drink. When the king heard, will he not send a gift to him? And we are called sons: 'Sons are you to the Lord your God' (Deu. 14: 1)."
- E. He said to him, "Well, you're called sons and you're called servants. When you do the will of the Omnipresent, you are called sons, but when you do not do the will of the Omnipresent, you are called servants. And now you are not doing the will of the Omnipresent."
- F. He said to him, "Lo, Scripture says, 'Is it not to deal your bread to the hungry and bring the poor that are cast out to your house.' When 'do you bring the poor who are cast out to your house'? Now, and it says, 'is it not to deal your bread to the hungry.'"

**IV.33** A. R. Judah b. R. Shalom gave this exposition: “Just as the provisions of food for a person are determined from the New Year, so what he is going to lack likewise is determined from the New Year. If he has merit, then ‘deal your bread to the hungry.’ But if one did not have merit, then ‘and bring the poor that are cast out to your house.’”

**IV.34** A. *It is in line with what happened to the children of Rabban Yohanan b. Zakkai. He saw in a dream that they would lose seven hundred dinars that year. He made them give him money for charity, so that they were left only seventeen dinars. On the eve of the Day of Atonement, the government sent and seized the money. Said to them Rabban Yohanan b. Zakkai, “Don’t be afraid. You had seventeen dinars, and these are all they took.”*

B. *They said to him, “So how did you know that this was going to happen?”*

C. *He said to them, “I saw it in a dream.”*

D. *“And why didn’t you tell us?”*

E. *“I wanted you to do the act for its own sake.”*

**IV.35** A. *R. Pappa was climbing a ladder, his foot slipped, and he nearly fell. He said, “If that had happened, I would have been punished like those who violated the sanctity of the Sabbath or who worship idols.”*

B. *Said Hiyya bar Rab of Difti to R. Pappa, “So maybe a poor man came to you and you did not support him? For it has been taught on Tannaite authority: R. Joshua b. Qorhah says, ‘Whoever turns away from an occasion for an act of charity is as though he worshipped an idol.’ Here it is written, ‘Beware that there not be a base thought in your heart’ (Deu. 15: 9), and elsewhere, ‘Certain base fellows are gone out’ (Deu. 13:14). Just as in the latter case the sin is idolatry, so in the former, the sin is like idolatry.”*

**IV.36** A. *It has been taught on Tannaite authority:*

B. Said R. Eleazar b. R. Yosé, “Every act of charity and mercy that Israelites do in this world brings about peace and great reconciliation between Israel and their father in heaven: ‘Thus says the Lord, do not enter into the house of mourning, nor go to lament, nor bemoan them, for I have taken away my peace from this people...even loving kindness and tender mercies’ (Jer. 16: 4) — loving kindness refers to acts of mercy, and ‘tender mercies’ to charity.”

**IV.37** A. *It has been taught on Tannaite authority:*

- B. R. Judah says, “Great is charity, for it draws redemption nearer: ‘Thus says the Lord, keep judgment and do righteousness [charity], for my salvation is near to come and my righteousness to be revealed’ (Isa. 56: 1).”
- C. He would say, “Ten strong things have been created in the world. Rock is strong, iron shatters it. Iron is strong, fire melts it. Fire is strong, water quenches it. Water is strong, clouds carry it. Clouds are strong, wind scatters them. Wind is strong, the body can withstand it. The body is strong. Fear crushes it. Fear is strong, wine overcomes it. Wine is strong, sleep removes it. Death is strongest of all, but charity saves from death: ‘Righteousness delivers from death’ (Pro. 10: 2).”

**IV.38** A. Expounded R. Dosetai b. R. Yannai, “Come and note that the trait of the Holy One, blessed be He, is not like the trait of a mortal. If someone brings a splendid gift to the king, it may or may not be accepted from him, and should it be accepted from him, he may or may not see the king. But the Holy One, blessed be He, is not that way. Someone gives a penny to a poor person, and he has the merit of receiving the face of the Presence of God: ‘And I shall behold your face in righteousness, I shall be satisfied when I awake with your likeness’ (Psa. 17:15).”

**IV.39** A. *R. Eleazar gave a penny to a poor man and then went and said a prayer, in line with the verse, “ ‘And I shall behold your face in righteousness” (Psa. 17:15).*

**IV.40** A. *What is the meaning of the clause, “I shall be satisfied when I awake with your likeness”?*

- B. Said R. Nahman bar Isaac, “This refers to disciples of sages, who banish sleep from their eyes in this world, and whom the Holy One, blessed be He, will feed on the glory of the Divine Presence in the world to come.”

**IV.41** A. *Said R. Yohanan, “What is the meaning of the clause, ‘He who has pity on the poor lends to the Lord’ (Pro. 19:17)?*

- B. “Were the matter not explicitly written down in a verse of Scripture, it would not be possible to state it! It is, as it were, to say, ‘The borrower is a slave to the lender’ (Pro. 22: 7).”

**IV.42** A. Said R. Hiyya bar Abba [said] R. Yohanan, “It is written, ‘Riches do not profit in the day of wrath, but righteousness delivers from death’ (Pro. 11: 4), and further, ‘Treasures of wickedness profit nothing, but righteousness delivers from death’ (Pro. 10: 2). Why make reference to righteousness two times? One delivers from an unnatural death, the other from punishment of Gehenna.

- B. “Which one delivers from Gehenna? It is the one in which ‘wrath’ is used, as it is written, ‘A day of wrath is that day’ (Zep. 1:15).
- C. “Which delivers someone from an unnatural death?
- D. **[10B]** “When someone gives without knowing to whom he is giving, when someone gets without knowing from whom he gets.”
- E. “When someone gives without knowing to whom he is giving”: *this excludes the practice of Mar Uqba.*
- F. “When someone gets without knowing from whom he gets”: *this excludes what R. Abba would do.*
- G. *So what should one do?*
- H. *Put the money in the charity box.*
  - I. *An objection was raised: What should one do so as to have male children?*
  - J. R. Eliezer says, “He should give generously to the poor.”
  - K. R. Joshua says, “He should make his wife happy to have sexual relations.”
  - L. R. Eliezer b. Jacob says, “He should put money into the charity box only if it is under the supervision of someone like Hanania b. Teradion.”
  - M. *Well, when we say, Put the money in the charity box, it is one under the supervision of someone like Hanania b. Teradion.*

- IV.43** A. Said R. Abbahu, “Said Moses before the Holy One, blessed be He, ‘Lord of the world, how will the horn of Israel be exalted?’
- B. “He said to him, ‘It is through taking their census [by collecting a coin from each, and this was given to charity].’”
  - C. And said R. Abbahu, “They asked Solomon son of David, ‘To what extent is the power of charity?’
  - D. “He said to him, ‘Go see what my father, David, has to say about it: ‘He has dispersed, he has given to the needy, his righteousness endures for ever’ (Psa. 112: 9).”
  - E. R. Abba said, “Here is the correct verse: ‘He shall dwell on his, his place of defense shall be the munitions of the rocks, his bread is given him, his waters are reliable’ (Isa. 33:16). Why shall he dwell on high with his place with the munitions of the rocks? ‘Because his bread is given to the poor and his waters are reliable.’”
  - F. And said R. Abbahu, “They asked Solomon son of David, ‘Who is going to inherit the world to come?’
  - G. “He said to him, ‘He to whom the following applies: “...and before his elders shall be glory” (Isa. 24:23).’”



- IV.44** A. *That is in line with what happened to Joseph b. R. Joshua. He fell sick and went into a coma. Afterward his father said to him, “So what did you see?”*
- B. “I saw an upside down world, what is on high is down below, and what is below is on high.”
- C. He said to him, “You saw a world of clarity.”
- D. *“And as to us, how are we perceived?”*
- E. *He said to him, “As we are valued here, so we are valued there. I heard them saying, ‘Happy is he who comes here with his learning fully in hand.’ And I heard them saying, ‘As to those put to death by the government, no creature can stand within their precincts.’”*
- F. *Who might these be? Should I say, R. Aqiba and his colleagues? But was this the only merit that they had? Even without this! So it must refer to those who were put to death at Lud.*
- IV.45** A. Said Rabban Yohanan b. Zakkai to his disciples, “My sons, what is the meaning of Scripture: ‘Righteousness exalts a nation but the kindness of the peoples is sin’ (Pro. 14:34)?”
- B. R. Eliezer answered and said, “‘Righteousness exalts a nation’ — this refers to Israel: ‘Who is like your people Israel, one nation in the earth’; (2Sa. 7:23). ‘...But the kindness of the peoples is sin’ — all the acts of charity and mercy that the idolatrous nations do is a sin for them, for they do it only for their own self-aggrandizement: ‘They they may offer sacrifices of a sweet savor to the God of heaven and pray for the life of the king and of his sons’ (Ezra 7:20).”
- C. *But isn’t doing this charity in the best sense, since it has been taught on Tannaite authority: He who says, “This sela is for charity so that my children will live, and so that I may have the merit of entering the world to come” — lo, this one is a completely righteous person?*
- D. *There is no contradiction, in the one instance we speak of an Israelite, in the other, a gentile.*
- E. R. Joshua answered and said, “‘Righteousness exalts a nation’ — this refers to Israel: ‘Who is like your people Israel, one nation in the earth’; (2Sa. 7:23). ‘...But the kindness of the peoples is sin’ — all the acts of charity and mercy that the idolatrous nations do is a sin for them, for they do it only to prolong their dominion: ‘Wherefore O king, let my counsel be acceptable to you, and break off your sins by righteousness and your iniquities by showing mercy to the poor, so there may be a lengthening of your tranquillity’ (Dan. 4:27).”

- F. Rabban Gamaliel answered and said, “‘Righteousness exalts a nation’ — this refers to Israel: ‘Who is like your people Israel, one nation in the earth’; (2Sa. 7:23). ‘...But the kindness of the peoples is sin’ — all the acts of charity and mercy that the idolatrous nations do is a sin for them, for they do it only to put on airs, and whoever puts on airs is thrown into Gehenna: ‘The proud and haughty man, scorner is his name, he works in wrath of pride’ (Pro. 21:24), and ‘wrath’ is Gehenna: ‘A day of wrath is that day’ (Zep. 1:15).”
- G. Said Rabban Gamaliel, “We still have to hear what the Modiite has to say.”
- H. R. Eliezer the Modiite answered and said, “‘Righteousness exalts a nation’ — this refers to Israel: ‘Who is like your people Israel, one nation in the earth’; (2Sa. 7:23). ‘...But the kindness of the peoples is sin’ — all the acts of charity and mercy that the idolatrous nations do is a sin for them, for they do it only to reproach us: ‘The Lord has brought it and done according as he spoke, because you have sinned against the Lord and have not obeyed his voice, therefore this thing is come upon you’ (Jer. 40: 3).”
- I. R. Nehunia b. Haqqanah answered and said, “‘Righteousness exalts a nation, but the kindness’ — for Israel. But ‘sin’ is for the peoples.”
- J. Said Rabban Yohanan b. Zakkai to his disciples, “What R. Nehuniah b. Haqqanah has said makes more sense than what I have had to say and what you have had to say, since he assigns righteousness and mercy to Israel, but to gentiles, sin.”
- K. *That then bears the implication that he too had had something to say? And what was it?*
- L. *It is that which has been taught on Tannaite authority:*
- M. Said to them Rabban Yohanan b. Zakkai, “Just as a sin-offering atones for Israel, so an act of charity atones for the nations of the world.”
- IV.46** A. *Ifra Hormiz, mother of King Shapur, sent four hundred zuz to R. Ammi. He would not accept them. He sent them to Raba, who accepted them to keep peace with the government. R. Ammi heard and was outraged. He said to him, “Don’t you concur with this verse: ‘When the boughs thereof are withered, they shall be broken off, the women shall come and set them on fire’ (Isa. 27:11)?”*
- B. *And Raba?*
- C. *He acted to keep peace with the government.*
- D. *So did R. Ammi not want to keep peace with the government?*
- E. *He should have passed out the money to gentile poor.*
- F. *But Raba did pass it out to gentile poor!*

G. *He was angry because [11A] he was not fully informed about what had happened.*

**IV.47** A. *It has been taught on Tannaite authority:*

- B. They said concerning Benjamin the Righteous that he was in charge of the charity fund. One time a woman came before him during years of famine. She said to him, "My lord, take care of me."
- C. He said to her, "By the Temple service! There is nothing in the charity fund."
- D. She said to him, "My lord, if you don't take care of me, lo, there is a woman and her seven sons who are going to die."
- E. He went and took care of her out of his own property.
- F. After some days he fell ill and was tending toward death. The ministering angels said before the Holy One, blessed be He, "Lord of the world, you have said, 'Whoever preserves a single Israelite life is as though he had preserved a whole world,' and Benjamin the Righteous kept alive a woman and her seven sons, so should he die after so few years!"
- G. Forth with they tore up the decree concerning him.
- H. *A Tannaite statement:* They added twenty-two years to his life.

**IV.48** A. *Our rabbis have taught on Tannaite authority:*

- B. There was the incident involving Munbaz the king, who emptied out his store houses and the store houses of his fathers during years of famine, and his brothers and the house of his father ganged up against him and said to him, "Your fathers have collected and added to what their fathers hoarded, but you spread it around."
- C. He said to them, "My fathers collected treasures below, but I have collected treasures above: 'Truth springs out of the earth and righteousness looks down from heaven' (Psa. 85:11).
- D. "My fathers collected treasures where a hand can reach, but I have collected treasures where a hand cannot reach: 'Righteousness and judgment are the foundation of his throne' (Psa. 97: 2).
- E. "My fathers collected treasures that do not yield fruit, but I have collected treasures that do yield fruit: 'Say of the righteous that it shall be well with them, for they shall eat the fruit of their deeds' (Isa. 3:10).
- F. "My fathers collected treasures in the form of wealth, but I have collected treasures in the form of souls: 'The fruit of the righteous is a tree of life and he who is wise wins souls' (Pro. 11:30).
- G. "My fathers collected treasures for others, but I have collected treasures for myself: 'And for you it shall be righteousness' (Deu. 24:13).

- H. “My fathers collected treasures for this world, but I have collected treasures for the world to come: ‘Your righteousness shall go before you and the glory of the Lord shall be your reward’ (Isa. 58: 8).”

**V.1 A. [If] one has purchased a permanent residence, lo, he is equivalent to all the other townsfolk forthwith:**

- B. *The Mishnah’s statement does not accord with the position of Rabban Simeon b. Gamaliel, for it has been taught on Tannaite authority:*
- C. Rabban Simeon b. Gamaliel says, “If one has purchased in the town [only] land that is suitable for building a house, lo, he is equivalent to all the other townsfolk.”
- D. *Well, what we have are two Tannaite formulations of the position of Rabban Simeon b. Gamaliel.*

I.1 asks about the implications of a detail of the Mishnah’s statement. II.1, III.1 complement the Mishnah’s rule with a Tannaite entry. Nos. 2-3 present a set of secondary issues and rulings. The issue of No. 3 shades over into a variety of secondary rulings on who has to pay a given tax, running on through Nos. 4-7+8. IV.1 harmonizes two Tannaite statements on the same subject. No. 2 does the same. No. 3 is a continuation of No. 2, and Nos. 4, 5, 6 in sequence are tacked on to No. 3. No. 7 then stands at the head of a further composite of rules of collecting and distributing charity, Nos. 7-48. V.1 introduces a further Tannaite position on the Mishnah’s rule’s subject.

**1:6**

- A. **They do not divide up a courtyard unless there will remain [an area of] four cubits [by four cubits] for this one, and four cubits [by four cubits] for that one;**
- B. **nor [do they divide up] a field, unless there will remain nine qabs’ space of ground for this one, and nine qabs’ space for that one.**
- C. **R. Judah says, “Unless there will be nine half-qabs of space for this one, and nine half-qabs of space for that one.”**
- D. **Nor [do they divide up] a vegetable patch unless there will be a half-qab of space for this one and a half-qab of space for that one.**
- E. **R. Aqiba says, “A quarter-qab’s space.”**
- F. **Nor [do they divide up] (1) a banquet hall, (2) watchtower, (3) dovecote, (4) cloak; (5) bathhouse, or (6) olive press,**

- G. unless there will be sufficient space for this one and sufficient space for that one [to make some reasonable use of his share].
- H. This is the operative principle: Whatever may be divided and [retain] its original designation do they divide.
- I. But if not, they do not divide [such an object].
- J. Under what circumstances? When both parties do not concur.
- K. But if both parties concur,
- L. even if the measurements are less than specified,
- M. they divide [the area].
- N. But as to Sacred Scriptures, even though both parties concur, they do not divide them.

**I.1** A. [They do not divide up a courtyard unless there will be an area of four cubits by four cubits for this one, and four cubits by four cubits for that one:] Said R. Assi said R. Yohanan, “The four cubits of which they have spoken is in addition to the space in front of the doors” [four cubits for use in loading and unloading (Simon), yielding eight in all].

- B. *So, too, it has been taught on Tannaite authority:*
- C. They do not divide up a courtyard unless there will be an area of eight cubits by eight cubits for this one, and eight cubits by eight cubits for that one.
- D. *Yeah, but we learned as the Tannaite formulation, **four cubits by four cubits for this one, and four cubits by four cubits for that one!***
- E. *That shows that the Mishnah is to be read as R. Assi maintains.*
- F. *That is decisive.*
- G. *And there are those who lay the matters out as contradictory, in this way:*
- H. *We have learned in the Mishnah, **They do not divide up a courtyard unless there will be an area of four cubits by four cubits for this one, and four cubits by four cubits for that one,** but, by contrast, it has been taught on Tannaite authority: They do not divide up a courtyard unless there will be an area of eight cubits by eight cubits for this one, and eight cubits by eight cubits for that one!*
- I. Said R. Assi said R. Yohanan, “The four cubits of which they have spoken is in addition to the space in front of the doors.”

- I.2** A. Said R. Huna, “A courtyard is subdivided proportionate to the number of its doorways.” [Simon: Each party takes his share in the courtyard proportionate to the number of his doors.]
- B. But R. Hisda said, “They assign four cubits to each doorway, but the rest is divided equally.”
- C. *There is a Tannaite formulation of the rule that accords with the formulation of R. Hisda:*
- D. The doorways in a courtyard are assigned four cubits. If one party had a single doorway and the other two, the one who has a single doorway takes four cubits, and the one who has two takes eight. The rest is then divided equally. If one party had a doorway eight cubits wide, he takes eight cubits facing his doorway and four cubits in the courtyard.
- E. *What’s this reference to* and four cubits in the courtyard?!
- F. Said Abbaye, “*This is the sense of the statement at hand*: He takes eight cubits along the length of the courtyard and four along the breadth.”
- I.3** A. *Said Amemar, “A pit for holding date pits is assigned four cubits on all sides. But we apply that rule only in a case in which the owner has not indicated a special door from which he goes to the pit [in which case he requires space to get behind the pit]. [11B] But if he has a special door for reaching it, it is assigned only four cubits in front of his door.”*
- I.4** A. Said R. Huna, “A covered way open at the sides is not assigned four cubits. *How come? The operative consideration for providing the space of four cubits is to allow for unloading animals, but here it is possible for the man to go outside [the covered area] and unload the animals there.*”
- B. *Objected R. Sheshet [by citing the following established rule:]* “All the same are gates of houses and gates of covered ways open at the sides — they are assigned four cubits of working space.”
- C. *When that Tannaite formulation was set forth, it pertained in particular to the covered way open at the sides that serves a house of study.*
- D. *But it’s obvious that the covered way open at the sides that serves a house of study is assigned four cubits of working space, since it is a room [with sides with lattice windows, and there is no available unloading space in that room (Simon)]!*
- E. *Rather, reference is made to a covered way open at the sides built in the Roman manner [Simon: which had only sides a few feet high, not reaching to the roof, yet preventing unloading].*

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

B. A gatehouse, a covered area open at the sides, and a balcony [reached by a ladder or stair from the courtyard (Simon)] are assigned four cubits. If there were five rooms opening onto the balcony, however, they are assigned only the four cubits [among all five of them].

**I.6** A. *R. Yohanan addressed this question to R. Yannai: “A hen-coop — is it or is it not assigned four cubits?”*

B. *He said to him, “The operative consideration for providing the space of four cubits is to allow for unloading animals, but here the chickens can climb up the wall to get out and climb down the wall to get in.”*

**I.7** A. *Raba addressed this question to R. Nahman: “A room half of which is roofed over and half not — is it assigned four cubits or is it not assigned four cubits?”*

B. He said to him, “It is not assigned four cubits. *It is no question concerning a room in which the roofing is over the inside, that it is not assigned four cubits, since the man can go into the room and unload. But even if the roof is over the outer part, he still can go right in and unload under the outer part.*”

**I.8** A. *R. Huna addressed this question to R. Ammi: “One of the residents of an alleyway who wanted to open a door onto another alleyway — can the residents of the the alleyway validly object or can they not validly object?”*

B. He said to him, “The residents of the the alleyway can validly object.”

C. “Does the assignment of troops for billeting follow a division proportionate to the number of doors or proportionate to the number of residents of each of the houses?”

D. He said to him, “It is proportionate to the number of residents of each of the houses.”

E. *So, too, it has been taught on Tannaite authority:*

F. The dung in the courtyard is divided proportionate to the number of doors belonging to each household, but the billeting of troops is proportionate to the number of residents of each of the houses.

**I.9** A. Said R. Huna, “One of the residents of an alleyway who wanted to fence in the space facing his door [Simon: the door of a courtyard opening on to an alleyway that leads to the public thoroughfare] — the other residents can validly object on the ground that he is forcing more bypassers to make use of their space” [following Simon’s interpretation and translation].

- B. *The following was raised by way of objection:* Five courtyards open to a given alleyway — all the inner ones share with the outermost one the use of the part facing it, but the outermost one can use that part only. The remainder of the inner ones share with the second, but the second has the use only of the part facing itself and the outside one. It further follows that the innermost courtyard of all of them has sole use of the part facing itself, but shares with all the others use of the part facing them. [Simon: Why then should he not be allowed to fence in the space facing his door, seeing that the others have no right to use that part?]
  - C. *There is a conflict among Tannaite formulations of the rule, for it has been taught on Tannaite authority:* “One of the residents of an alleyway who wanted to open a door onto another alleyway — the residents of the alleyway can validly object. If it had been closed up and he wanted to reopen it, they cannot validly object,” the words of Rabbi.
  - D. R. Simeon b. Eleazar says, “Five courtyards open to a given alleyway — all may make use of it” [as Huna maintains].
  - E. *Who ever mentioned the matter of courtyards anyhow!*
  - F. *The formulation exhibits a flaw, and this is how it should read:* “They cannot validly object. And so too, five courtyards open to a given alleyway — all may make use of the outer part, but the outermost one can use that part only. The remainder of the inner ones share with the second, but the second has the use only of the part facing itself and the outside one. It further follows that the innermost courtyard of all of them has sole use of the part facing itself, but shares with all the others use of the part facing them,” the words of Rabbi. [This then contradicts Huna.]
  - G. R. Simeon b. Eleazar says, “Five courtyards open to a given alleyway — all may make use of it” [as Huna maintains].
- I.10** A. The master has said: “One of the residents of an alleyway who wanted to open a door that had been closed up and he wanted to reopen it, they cannot validly object”:
- B. Said Raba, “That rule pertains only to a case in which he had not taken down the posts of the closed door [revealing that his intention was some day to reopen it], but if he had taken down the doorposts when he closed the door, then the residents of the courtyard can validly object to his reopening it.”
  - C. *Said Abbaye to Raba, “There is a Tannaite formulation of a rule that supports your position:* **[12A]** A room that has been shut up retains nonetheless four cubits of space in the courtyard [if the courtyard is subdivided], but if one has broken



down its doorposts, it does not retain a share of four cubits of the courtyard. A room [containing a corpse] that has been shut up does not impart uncleanness to the space around it. If one took down the doorposts, the room does convey uncleanness to the space round about [to the distance of four cubits].

**I.11** A. Said Rabbah bar bar Hannah said R. Yohanan, “As to alleyways that open up onto another town and the inhabitants of the town want to close it off, the residents of that [other] town have the right validly to object to their doing so. *It is no issue that that is the case if there is no other way, but even if there is an alternative route, they have the power to stop them, by reason of the rule that R. Judah said Rab said: ‘A foot path to which the public has established a right of way may not be disrupted.’*”

**I.12** A. Said R. Anan said Samuel, “As to alleyways that open up onto the public way, and the people living in the alleyways wanted to set up doors at the entrance — the public has a valid right to object.”

B. *It was supposed that that rule applied only to the distance of four cubits from the public way, following what R. Zira said R. Nahman said, for said R. Zira said R. Nahman, “The four cubits that are adjacent to the public domain are classified as public domain.” But that is not the case. That rule pertained in particular to issues of uncleanness, but as to the present case, sometimes people from the public domain are forced into the alleyway for some considerable distance by pressure of a crowd.*

**II.1** A. **Nor [do they divide up] a field, unless there will be nine qabs’ space of ground for this one, and nine qabs’ space for that one. R. Judah says, “Unless there will be nine half-qabs of space for this one, and nine half-qabs of space for that one:”**

B. *There really is no dispute here. The one authority refers to the conditions prevailing in his locale, and the other to conditions prevailing in his locale.*

C. *So what is the rule for Babylonia?*

D. *Said R. Joseph, “There has to be sufficient ground for a day of ploughing.”*

E. *So what is sufficient ground for a day of ploughing?*

F. *If it is a day of ploughing in seed time [the ground being soft, having been ploughed earlier, in autumn (Simon)], that is not two full days of ploughing in plough time, but if it is to be a day of ploughing in plough time, that is not a full day of ploughing in seed time!*

- G. *If you prefer, I shall say that it is a day of ploughing in plough time, and in seed time it takes a full day where one would plough twice.*
- H. *If you prefer, I shall say that it is a day of ploughing in seed time, and in plough time two full days are needed in tough ground.*

**II.2** A. *If a trench is divided —*

- B. *Said R. Nahman, “There must be enough ground for each party to allow a day’s work in watering the field.”*

**II.3** A. *In the case of a vineyard,*

- B. *Said the father of Samuel, “Each must have three qab’s space left.”*
  - C. *So, too, it has been taught on Tannaite authority:*
  - D. *He who says to his fellow, “A share in a vineyard I am willing to you” —*
  - E. *Sumkhos says, “He may not give him less than three qab’s space.”*
  - F. *Said R. Yosé, “These represent nothing more than words of prophecy” [and have no legal standing].*
- G. *So what is the rule for Babylonia?*
- H. *Said Raba bar Qisna, “Three rows, each with twelve vines, enough for someone to hoe around in a full day of work.”*

## **The Status of Prophecy and Sagacity after the Destruction of the Temple**

Because of Yosé’s statement, F, that words of prophecy have no legal standing, the following free-standing set is inserted.

- II.4** A. *Said R. Abdimi of Haifa, “From the day on which the house of the sanctuary was destroyed, prophecy was taken away from prophets and given over to sages.”*
- B. *So are sages not also prophets?*
- C. *This is the sense of the statement:* Even though it was taken from the prophets, it was not taken from sages.
- D. *Said Amemar, “And a sage is superior to a prophet: ‘And a prophet has a heart of wisdom’ (Psa. 90:12). Who is compared to whom? Lo, the lesser is compared to the greater.”*
- E. *Said Abbayye, “You may know that [sages retain the power of prophecy,] for if an eminent authority makes a statement, it may then be stated in the name of some other eminent authority [who can have gotten it only by prophecy].”*

- F. *Said Raba, "So what's the problem? Maybe both were born under the same star."*
- G. *Rather, said Raba, "You may know that that is so, for an eminent authority may say something, and then the same thing may be reported [12B] in the name of R. Aqiba bar Joseph."*
- H. *Said R. Ashi, "So what's the problem? Maybe as to this particular matter both were born under the same star."*
- I. *Rather, said R. Ashi, "You may know that it is the case, because an eminent authority may say something, and then the same thing may be reported as a law revealed by God to Moses at Mount Sinai."*
- J. *But perhaps the sage just makes a good guess [literally: is no better than a blind man groping about to a window]?*
- K. *But doesn't the sage give a reason for what he says [so it cannot be merely a good guess]!*

**II.5** A. *Said R. Yohanan, "When the house of the sanctuary was destroyed, prophecy was taken away from the prophets and handed over to idiots and children."*

- B. *As to idiots, what does this mean?*
- C. *It is in line with the case involving Mar b. R. Ashi, who was standing in the manor of Mahoza and heard an idiot exclaim, "The man who is going to be chosen head of the session in Mata Mehassia signs his name Tabyumi."*
- D. *He said to himself, "So among the rabbis, who signs his name Tabyumi? I am the one. That means the hour is mine!"*
- E. *He went there. Before he got there, rabbis had appointed R. Aha of Difta as the head. When they heard he had come, they sent off a pair of rabbis to him to take counsel with him.*
- F. *He kept them with him. They sent another pair, whom he also detained, and so it went on until ten were there.*
- G. *When ten had assembled, he commenced and repeated Tannaite formulations and gave an exposition of Scripture, since they open such a discourse only when there are at least ten present.*
- H. *R. Aha recited in his own regard, "Anyone who is in disfavor will not quickly be shown favor, and anyone who is in favor will not quickly be shown disfavor."*
- I. *As to children, what does this mean?*

- J. *It is in line with the case involving the daughter of R. Hisda. She was sitting on her father's lap, and in session before him were Raba and Rami bar Hama. He said to her, "Which one of them do you want?"*
- K. *She said to him, "Both."*
- L. *Said Raba, "And I want to come last."*

- II.6** A. Said R. Abdimi of Haifa, "Before someone eats and drinks, he is of two minds [not easily reaching a decision], but after he eats and drinks, he is of only one mind: 'A hollow man is two-hearted' (Job. 11:12), and the same word occurs at Exo. 27: 8 with the translation into Aramaic meaning 'hollow with planks.'"
- B. Said R. Huna b. R. Joseph, "He who is accustomed to drink wine — even though his heart is closed like a virgin, the wine will open it: 'New wine shall make the maids open out' (Zec. 9:17)."

### **Further Rules on Dividing Up Property: Special Problems**

- II.7** A. Said R. Huna b. R. Joshua, "It is obvious that the share of the firstborn and the ordinary share going to the same son must be adjacent. But what is the rule in the case of the levirate husband [the deceased childless man's surviving brother, who has married the widow, and also gets a double portion, his own plus the deceased's]?"
- B. *Said Abbaye, "It is the same. How come? The firstborn is what the All-merciful has called him [at Deu. 25: 6]."*
- C. Raba said, "Said Scripture, 'And he shall be the firstborn' (Deu. 25: 6) means, he is classified as a firstborn, but the share of the divided property that comes to him is not that of the firstborn." [Simon: He receives a double portion as a firstborn, but he cannot demand that the two portions be contiguous as a firstborn can.]
- II.8** A. *Somebody bought land near the estate of his father-in-law. When it came to divide up the estate, he said, "Give me mine next to my own field."*
- B. Said Rabbah, "This is a case in which they impose on someone the rule that he not act in a Sodomite manner [the other party may not act spitefully, but must give a benefit that costs the other party nothing]."
- C. *Objected to this ruling R. Joseph, "But the other brothers can say to him, 'We value this field very highly, like the property of the family of Bar Merion.'"*
- D. *The decided law is in accord with the position of R. Joseph.*

**II.9** A. *An estate consisting of two fields with two channels running by them [and one brother wants the field adjacent to one he now owns] —*

- B. Said Rabbah, “This is a case in which they impose on someone the rule that he not act in a Sodomite manner [the other party may not act spitefully, but must give a benefit that costs the other party nothing].”
- C. *Objected to this ruling R. Joseph, “But in a case such as this, sometimes the channel on one side may continue to flow while the other dries up.”* [Simon: The other brother has a right to insist on having the fields equally divided so that he should have a field by each channel, since each field has a channel; the other brother stands to lose nothing by acceding to his request.]
- D. *The decided law is in accord with the position of R. Joseph.*

**II.10** A. *In the case of two fields adjoining a single channel,*

- B. Said R. Joseph, “This is a case in which they impose on someone the rule that he not act in a Sodomite manner [the other party may not act spitefully, but must give a benefit that costs the other party nothing].”
- C. *Objected to this ruling Abbaye, “The one who has two fields in the middle can say to the other, ‘I want you to have more field workers’* [Simon: if his two fields are separated, he will want more men to work them, and therefore the fields of the other, located in between, will be better guarded].
- D. *The decided law is in accord with the position of R. Joseph, because having a larger number of field workers is really a trivial issue.*

**II.11** A. **[13A]** *If there is a channel on one side and a river on the other, the field is to be divided diagonally.*

**III.1** A. **Nor [do they divide up] (1) a banquet hall, (2) watchtower, (3) dovecote, (4) cloak; (5) bathhouse, or (6) olive press, unless there will be sufficient space for this one and sufficient space for that one:**

- B. If after dividing them up, there would not be sufficient space for this one and for that one, what is the law?
- C. *R. Judah says, “One partner has the right to say to the other, ‘You name a price for my share, or I’ll name a price for your share’ [holding the whole together].”*
- D. *R. Nahman said, “One partner has not got the right to say to the other, ‘You name a price for my share, or I’ll name a price for your share’ [holding the whole together].”*
- E. *Said Raba to R. Nahman, “From your perspective, in holding that one partner has not got the right to say to the other, ‘You name a price for my share, or I’ll*

*name a price for your share' [holding the whole together], if there is a firstborn and another son to whom their father has left a slave and an unclean animal, what are they to do?"*

- F. He said to him, "I say, they work for this one one day and for that one [the firstborn] two days."
- G. *An objection [to the position of R. Judah] was raised: "He who is half-slave and half-free works for his master one day and for himself one day," the words of the House of Hillel. Said to them the House of Shammai, "You have taken good care of his master, but of himself you have not taken care. To marry a slave girl is not possible, for half of him after all is free. [To marry] a free woman is not possible, for half of him after all is a slave. Shall he refrain? But was not the world made only for procreation, as it is said, 'He created it not a waste, he formed it to be inhabited' (Isa. 45:18). But: For the good order of the world, they force his master to free him. And he [the slave] writes him a bond covering half his value." And the House of Hillel reverted to teach in accord with the opinion of the House of Shammai [M. Git. 4:5]. [But that was only because of the stated argument, not because he could say, "You name a price" (Simon).]*
- H. *This case is different, for while the slave can say, "I'll name a price," he cannot say to the master, "You name a price."*
- I. *Come and take note: Two brothers, one poor, one rich, and their father left them a bathhouse and an olive press — [if the father] had built them to rent them out — the rent is held in common. [If] he made them for his own use, lo, the rich one says to the poor one, [13B] "You buy slaves, and let them wash you down in the bath, you take olives and make oil in the press" [M. B.B. 10:7A-G] [and there is no possibility of having him say, You name your price and I'll name mine]!*
- J. *Here, too, while the poor brother can say, "You name a price," he cannot honestly say, "And I'll name a price" [since he hasn't got any money].*
- K. *Come and take note: This is the operative principle: Whatever may be divided and [retain] its original designation do they divide. But if not, they do not divide [such an object] — but they assign a monetary value for it [and assign the one who gets the whole the cost of paying compensation, which proves that a partner has the power to say, "You name a price and I'll name a price"].*
- L. *In point of fact, we are dealing with a conflict among Tannaite formulations of the rule, for it has been taught on Tannaite authority:*

- M. [If the courtyard is too small to divide, but one party says,] “You take the prescribed minimum, and I’ll take less” — they accept his proposal.
- N. Rabban Simeon b. Gamaliel says, “They do not accept his proposal.”
- O. *Now what sort of situation can be in mind here? If we say matters are as set forth, then what possible reason can explain the position of Rabban Simeon b. Gamaliel! Rather, the formulation is flawed, and this is the sense of the matter:* [If the courtyard is too small to divide, but one party says,] “You take the prescribed minimum, and I’ll take less” — they accept his proposal. If he says, “You name a price or I’ll name a price,” they accept his proposal.
- P. And Rabban Simeon b. Gamaliel comes along and says, “They do not accept his proposal.”
- Q. *Not at all. In point of fact, matters are as stated, and as to the question you raise, Now what sort of situation can be in mind here? If we say matters are as set forth, then what possible reason can explain the position of Rabban Simeon b. Gamaliel, his reason is this: he can say to the one who offers to take less, “If you want me to pay for the extra, I haven’t got any money, and if you want to give me a gift, I don’t take gifts: ‘he who hates gifts shall live’ (Pro. 15:27).”*

**III.2** A. Said Abbaye to R. Joseph, “The opinion of R. Joseph in fact derives from Samuel, for we have learned in the Mishnah: **But as to Sacred Scriptures, even though both parties concur, they do not divide them**, in connection with which Samuel said, ‘This teaching pertains only if the whole is in a single scroll, but if it is on two scrolls, they do divide it. *If you say that one man has no right to say, ‘You name a price or I’ll name a price,’ then why limit the rule to only one scroll? One does not apply the same to two scrolls [since they won’t be equal in value, and how can one force the other to divide unless he can say to him, ‘You name a price for the extra value or let me’ (Simon)?”*

B. Explained R. Shalman, “It refers to a case in which both parties concur.”

**III.3** A. Said Amemar, “The decided law is, *One partner has the right to say to the other, ‘You name a price for my share, or I’ll name a price for your share’ [holding the whole together].”*

B. Said R. Ashi to Amemar, “And what about what R. Nahman said?”

C. He said to him, “Who the hell knows,” meaning, *it makes no sense to me.*

D. *So it doesn’t, does it? And lo, Raba bar Hinnena and R. Dimi bar Hinnena were left by their father two slave girls, one who knew how to bake and cook, the other,*



*to spin and weave. They came before Raba, who ruled, "The rule does not apply, 'You name a price or I'll name a price.'"*

- E. *That case is exceptional, because both parties want to own both slaves, so when one said, "You take one and I'll take one," this is not the same as, "You name a price or I'll name a price."*
- F. *But what of a copy of Scriptures on two scrolls, where both are needed to complete the scroll, and here, Samuel said, "This teaching pertains only if the whole is in a single scroll, but if it is on two scrolls, they do divide it"?*
- G. *Explained R. Shalman, "It refers to a case in which both parties concur."*

The Mishnah-statement is not cited verbatim, and the following vast appendix on dividing up a Scroll of the Torah begins merely as an amplification of a detail in III.2A, III.3F. In fact, however, the composite takes shape around the exposition of the proposition of the Mishnah that I have inserted at the head; it would be an error to see what follows merely as an appendix to III.2A/III.3F; there would be no obvious parallel in the tractates examined to this time for such a massive intrusion of a free-standing composite out of all relationship to either Mishnah-exegesis or Scripture-exegesis. But that judgment is not yet sustained through a complete survey of all tractates.

**IV.1 A. [SUPPLY:] BUT AS TO SACRED SCRIPTURES, EVEN THOUGH BOTH PARTIES CONCUR, THEY DO NOT DIVIDE THEM.**

- B. *Our rabbis have taught on Tannaite authority:*
- C. *"One fastens together on a single scroll the Torah, Prophets, and Writings," the words of R. Meir.*
- D. *R. Judah says, "The Torah must be kept by itself, the prophets by themselves, and the writings by themselves."*
- E. *And sages say, "Each one must be kept by itself."*
- F. *And said R. Judah, "There was the case of Baitus b. Zonin, who had eight prophets fastened together, doing so on the instruction of R. Eleazar b. Azariah."*
- G. *And some say, "He had each one separate."*
- H. *Said Rabbi, "There was a case in which they brought before us a copy of the Torah, Prophets, and Writings all fastened together, and we declared it valid."*
- I. *Between each book of the Pentateuch is to be left a space of four lines, so too between one prophet and the next. In the case of the minor prophets, the space*



need be only three lines. If the scribe completes one book at the bottom of a column, he should in any event start the next at the top of the next column.

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

- B. He who wants to fasten together the Torah, Prophets, and Writings may do so. At the beginning he should leave sufficient space for winding around the cylinder, and at the end sufficient space for winding around the whole circumference of the scroll when the scroll is rolled up. If the scribe completes one book at the bottom of a column, he should in any event start the next at the top of the next column.
- C. **[14A]** And when he wants to divide, he may do so.
- D. *So what does that mean?*
- E. *This is what it means:* And when he wants to divide, he may do so. [Simon: He should take care that in case he decides to divide, one of the scrolls does not begin with an empty space of four lines.]
- F. *The following was raised in contradiction to the foregoing:* At the beginning and at the end of a scroll, sufficient space must remain to roll around. *What is the meaning of* to roll around? *If it means to roll around the cylinder, then it presents a contradiction to the statement about the circumference* [which would require a larger piece at the end (Simon)]. *If it is to roll around the circumference, it contradicts the statement about the cylinder* [which would require less at the beginning (Simon)].
- G. *Said R. Nahman bar Isaac, "The reference is to both matters [beginning and end of the scroll]."*
- H. *R. Ashi said, "When that Tannaite statement was set forth, it concerned a scroll of the Torah alone, as has been taught on Tannaite authority:* All other scrolls are rolled up from the beginning to the end, but the scroll of the Torah is rolled up at the middle, since it will have a cylinder at each end.
- I. *Said R. Eliezer b. R. Sadoq, "That is how the scribes of scrolls who were in Jerusalem would make their scrolls."*

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

- B. They do not make a scroll of the Torah so that its length is not greater than its circumference or that its circumference is greater than its length [when it is rolled up].
- C. They asked Rabbi, "What then should be the size of a scroll of the Torah?"
- D. He said to them, "If it is written on thick parchment, six handbreadths, and if it is written with thin parchment, I don't know."

- IV.4** A. *R. Huna wrote out seventy scrolls of the Torah and he reached the precise measurements only with one.*
- B. *R. Aha bar Jacob wrote one on calf-skin and hit the measurement exactly. The other rabbis gazed with envy at him, and he dropped dead.*
- C. [Two other cases of rabbinic envy include the one in which, first,] Rabbis said to R. Hamnuna, “R. Ammi wrote out four hundred scrolls of the Torah.”
- D. *He said to him, “Perhaps that means that four hundred times he wrote the words, ‘scroll of the Torah’ in the verse, ‘Moses commanded the Torah to us’ (Deu. 33: 4) [four hundred times, no one could write out four hundred scrolls of the Torah in one lifetime]!”*
- E. *[Second,] said Raba to R. Zira, “R. Yannai planted four hundred vineyards.”*
- F. *He said to him, “Maybe each one was two vines facing two vines and a fifth as a tail [that is, the minimum amount]!”*

- IV.5** A. *An objection was raised [to IV.3.B]: “The ark that Moses made was two and a half cubits in length and a cubit and a half in breadth, and a cubit and a half in height, measuring by a cubit of six handbreadths, and the tablets were six in length and six in breadth and three thick, lying along the length of the ark. How much of the length of the ark is consumed by the tablets? Twelve handbreadths. That leaves three. Deduct one handbreadth, half for each side of the ark, leaving two, and in these two the scroll of the Torah was deposited. That it was there is shown by the verse, “There was nothing in the ark except for the two tablets of stone that Moses put there” (1Ki. 8: 9). “Nothing” and “except” represent two exclusionary clauses in succession, which bear the implication that something not mentioned is encompassed, and here that means, the scroll of the Torah that had been deposited in the ark. So you have taken account of the length of the ark, how about the breadth? How much of the breadth of the ark do the tablets use up? Six handbreadths, leaving three. One and a half go for the thickness of each side, leaving two, permitting the scroll to be put in and removed without squeezing,” the words of R. Meir.*
- B. R. Judah says, “It was measured by a cubit that was made up of only five handbreadths. As to the tablets, they were six long and six wide and three thick, and they were lying lengthwise in the ark. How much did they consume of the ark? Twelve handbreadths. That left half a handbreadth, a finger’s breadth for each side [there being four fingerbreadths in a handbreadth] for each side. So

much for the length of the ark, how about the breadth? How much of the breadth of the ark was taken up by the tablets? Six handbreadths. That left a handbreadth and a half. Take away from them half a handbreadth, a finger's breadth for each side. That leaves a handbreadth. This is where the columns were deposited: 'King Solomon made himself a palanquin of the wood of Lebanon, he made the pillars thereof of silver, the bottom of gold, the seat of purple' (Son. 3: 9-10). At the side of the ark was placed the coffer in which the Philistines had sent a gift to the god of Israel: 'And put the jewels of gold that you return him for a guilt-offering in a coffer by the side thereof and send it away that it may go' (1Sa. 6: 8), and on this was placed the scroll of the Torah: 'Take this book of the Torah and put it by the side of the ark of the covenant of the Lord' (Deu. 31:26). It was located at the side of the ark and not in it. How do I interpret, 'There was nothing in the ark except...'? This bears the implication that [14B] the sherds of the tablets were also deposited in the ark."

- C. *Now if it should enter your mind that the circumference of the scroll was six handbreadths — a circumference of three handbreadths requires a width of one. Since then the scroll was closed in the middle, there has to be space for the two cylinders, and between them it must have been a space over and above the two handbreadths. How did this get in to the two handbreadths left [if there was a scroll in the ark, as Meir has maintained]?*
- D. Said R. Aha bar Jacob, "The scroll that was read in the Temple court was rolled around one cylinder."
- E. *Still, how could two handbreadths fit into exactly two handbreadths?*
- F. Said R. Ashi, "The scroll was rolled up to a certain point, then put in the ark, then the remainder was rolled on top."
- G. *And from the perspective of R. Judah, before the ark came, where did they place the scroll of the Torah?*
- H. *There was a projecting ledge from the ark, on which the scroll was located.*
- I. *And how does R. Meir interpret the language, "by the side thereof" [At the side of the ark was placed the coffer in which the Philistines had sent a gift to the god of Israel: 'And put the jewels of gold that you return him for a guilt-offering in a coffer by the side thereof and send it away that it may go' (1Sa. 6: 8), and on this was placed the scroll of the Torah: 'Take this book of the Torah and put it by the side of the ark of the covenant of the Lord' (Deu. 31:26)]?*
- J. *He takes that language to mean that the scroll is to be placed at the side of the tablets, not between them; nonetheless, it was in the ark, though at the side.*

- K. *And from the perspective of R. Meir, where were the silver sticks located [there being no room for them in the ark, alongside the scroll at the base of the tablets of the ten commandments]?*
- L. *They were outside.*
- M. *And on the basis of what verse of Scripture does R. Meir derive the conclusion that the fragments of the first tablets of the Ten Commandments were deposited in the ark?*
- N. *He derives that fact along the lines of the reading of R. Huna, for said R. Huna, “What is the meaning of the verse of Scripture, ‘Which is called by the Name, even the name of the Lord of Hosts that sits on the Cherubim’ (2Sa. 6: 2)? Repeating ‘name’ teaches that the tablets and fragments thereof were deposited in the ark.”*
- O. *So how does R. Judah interpret the same phenomenon?*
- P. *He requires that formulation in line with what R. Yohanan said, for said R. Yohanan said R. Simeon b. Yohai, “This teaches that the four lettered name of God and all euphemisms thereof were deposited in the ark.”*
- Q. *And the other party — does he not require the verse for the same purpose?*
- R. *Yes he does.*
- S. *Then how does he know that the fragments of the first tablets were deposited in the ark?*
- T. *He derives that fact from what is taught as a Tannaite statement by R. Joseph, for R. Joseph taught as a Tannaite statement, “‘...which you broke and which you shall put them’ (Deu. 10: 2) — this teaches that both the tablets and the fragments of the tablets were deposited in the ark.”*
- U. *And R. Judah?*
- V. *He requires that language in accord with what R. Simeon b. Laqish said, for said R. Simeon b. Laqish, “‘...which you broke and which you shall put them’ (Deu. 10: 2) — said the Holy One, blessed be He, to Moses, ‘Good for you for breaking them!’”*

## **The Correct Order of Books of Scripture**

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

- B. This is the correct order of the prophets: Joshua, Judges, Samuel, Kings, Jeremiah, Ezekiel, Isaiah, the twelve prophets.

### **IV.7** A. *Let’s consider:*

- B. *Hosea came first: “God spoke first to Hosea” (Hos. 1: 2).*
- C. But did he speak first of all with Hosea? And were there not any number of prophets from Moses to Hosea?
- D. And said R. Yohanan, “He was the first of the group of four prophets who prophesied at that time: Hosea, Isaiah, Amos, and Micah.”
- E. *So should not Hosea come first?*
- F. *Well, since his prophesies are written down along with those of Haggai, Zechariah, and Malachi, and since Haggai, Zechariah, and Malachi are designated as the conclusion of prophecy, he is reckoned along with them.*
- G. *So why not write out his prophecy on its own and put it first?*
- H. *Well, his scroll is so small that if copied on its own it might get lost.*

**IV.8** A. *Let’s consider:*

- B. *Isaiah in point of fact is prior to Jeremiah and Ezekiel, so why should he not be located first in line?*
- C. *Since the end of the book of Kings is about the destruction, and Jeremiah is wholly devoted to destruction, and Ezekiel starts off with destruction but ends up with consolation, while Isaiah is wholly consolation, we locate destruction adjacent to destruction, consolation to consolation.*

**IV.9** A. This is the correct order of the writings: Ruth, Psalms, Job, Proverbs, Qohelet, Song of Songs, Lamentations, Daniel, the scroll of Esther, Ezra, and Chronicles.

**IV.10** A. *From the perspective of him who says that Job. lived in the time of Moses, should not Job. come up at the first?*

- B. *We are not going to commence with a record of suffering.*
- C. *Yeah, well, Ruth is also about suffering.*
- D. *But that is about suffering with a happy ending, in line with what R. Yohanan said, for said R. Yohanan, “Why was she called Ruth? Because from her came forth David, who lavished on the Holy One, blessed be He, hymns and praises.”*

## **Who Wrote Various Books of Scripture?**

**IV.11** A. Who wrote them?

- B. Moses wrote his own book and part of Balaam and Job.
- C. Joshua wrote the book that is called by his name and the last eight verses of the Torah.

- D. Samuel wrote the book that is called by his name and the book of Judges and Ruth.
- E. David wrote the book of Psalms, including in it the work of ten elders: Adam, Melchizedek, Abraham, Moses, Heman, Yeduthun, Asaph, [15A] and the three sons of Korah.
- F. Jeremiah wrote the book that is called by his name, the book of Kings, and Lamentations.
- G. Hezekiah and his colleagues wrote Isaiah, Proverbs, Song of Songs, and Qohelet.
- H. The Men of the Great Assembly wrote Ezekiel, the Twelve Minor Prophets, Daniel, and the scroll of Esther.
- I. Ezra wrote the book that is called by his name and the genealogies of the book of Chronicles up to his own time.
  - J. *That accords with the position of Rab, for* said R. Judah said Rab, “Ezra left Babylonia to go up to the land of Israel only after he had written his own genealogy.”
  - K. *Who finished the book of Chronicles?*
  - L. Nehemiah b. Hachaliah.

- IV.12** A. A master has said: “Joshua wrote the book that is called by his name and the last eight verses of the Torah”:
- B. *That which has been taught on Tannaite authority accords with the view of him who says that the last eight verses in the Torah were written by Joshua. For it has been taught on Tannaite authority:*
  - C. “‘So Moses, servant of the Lord, died there’ (Deu. 34: 5) — is it possible that Moses could have written, “and Moses died there”? Rather, up to this point Moses did the writing, and from this point onward, Joshua wrote the rest,” the words of R. Judah, *or some say*, R. Nehemiah.
  - D. Said to him R. Simeon, “Is it possible that a scroll of the Torah should lack a single letter? And is it not written, ‘Take this scroll of the Torah’ (Deu. 31:26) [Simon: and this was said by Moses before he died]. Rather, up to this point, the Holy One, blessed be He, said the words, and Moses said them over again and then wrote them down. From this point onward, the Holy One, blessed be He, said the words, and, in tears, Moses wrote them down [without repeating them],, in line with this: ‘Then Baruch answered them, he pronounced all these words to me with his mouth and I wrote them with ink in the book’ (Jer. 36:18).”

**IV.13** A. *In accord with which authority is that which R. Joshua bar Abba said R. Giddal said Rab said, “The last eight verses of the Torah must be read as a single synagogue lection [and not divided]”? May we say it is not in accord with R. Simeon?*

B. *No, it may even accord with R. Simeon. Since these verses are different from the rest of the Torah in one aspect, they are different in others as well.*

**IV.14** A. Joshua wrote the book that is called by his name:

B. But is it not written, “And Joshua son of Nun servant of the Lord died” (Jos. 24:29)?

C. *Eleazar finished it off.*

D. But is it not written, “And Eleazar the son of Aaron died”(Jos. 24:33)?

E. *Phineas finished it.*

**IV.15** A. Samuel wrote the book that is called by his name and the book of Judges and Ruth:

B. But is it not written, “Now Samuel was dead” (1Sa. 28: 3)?

C. *Gad the seer and Nathan the prophet finished it.*

**IV.16** A. David wrote the book of Psalms, including in it the work of ten elders: Adam, Melchizedek, Abraham, Moses, Heman, Yeduthun, Asaph, and the three sons of Korah:

B. *How come Ethan the Ezrahite wasn’t reckoned?*

C. Said Rab, “Ethan the Ezrahite is the same as Abraham. Here it is written, ‘Ethan the Ezrahite’ (Psa. 89: 1), and elsewhere, ‘Who has raised up righteousness from the east’ (Isa. 41: 2).”

**IV.17** A. Moses, Heman: thus each is reckoned as an individual, but has not Rab stated, “Heman is the same as Moses. Here it is stated, ‘Heman’ and elsewhere with reference to Moses, ‘In all my house he is faithful’ [a word that uses the same consonants as Heman]”?

B. *There were two Hemans.*

**IV.18** A. Moses wrote his own book and part of Balaam and Job:

B. *That supports the view of R. Levi bar Lahma, for said R. Levi bar Lahma, “Job. lived in the time of Moses. Here it is written, ‘O that my words were now written’ (Job. 19:23) and elsewhere, ‘For wherein now shall it be known’ (Exo. 33:16).”*

- C. *On the same basis, however, I might claim he lived in the time of Isaac: “Where now is he who took venison” (Gen. 27:33). On the same basis, however, I might claim he lived in the time of Jacob: “If so now do this” (Gen. 43:11). On the same basis, however, I might claim he lived in the time of Joseph: “Where now are they pasturing” (Gen. 37:16)!*
- D. *Don’t even think about it! For it is written, “Would that they were inscribed in a book” (Job. 19:23), and Moses is the one who is called “the inscriber”: “And he chose the first part for himself, for there was the inscriber’s portion reserved” (Deu. 33:21).*

### **Composite on Job**

The reference to Job. in the foregoing accounts for the inclusion of the following free-standing composite.

- IV.19** A. Raba said, “Job. lived in the time of the spies. Here it is written, ‘There was a man in the land of Uz, Job. was his name’ (Job. 1: 1), and elsewhere, ‘Where there be wood therein’ (Num. 13:20).”
- B. *So? One has Us, the other Es!*
- C. *This is the sense of the matter: “See if that man is there, whose years are like the years of a tree, and who protects his generation like a tree.”*
- IV.20** A. *One of the rabbis was in session before R. Samuel bar Nahmani, and, in session, he stated, “Job. never lived, but was merely a metaphor!”*
- B. He said to him, “Concerning your position said Scripture, ‘There really was a man in the land of Uz, Job. was his name’ (Job. 1: 1)!”
- C. *“Well what about this: ‘The poor man had nothing but one poor ewe lamb, which he had bought and brought up’ (2Sa. 12: 3). Is that anything but a metaphor? This too is a metaphor.”*
- D. “Yeah, well, then, why say what his name was, and where he lived?”
- IV.21** A. *Both R. Yohanan and R. Eleazar say, “Job. was among those who came up from the exile, and his house of study was located in Tiberias.”*
- B. *An objection was raised: “The length of Job’s life was from the time that Israel entered Egypt until they left”!*
- C. **[15B]** *Say: “As long as from the time they entered Egypt till they left.”*
- D. *An objection was raised: “Seven prophets prophesied to the nations of the world and these are they: Balaam and his father, Job, Eliphaz the Temanite, Bildad the*



Shuhite, Zophar the Naamathite, and Elihu son of Barachel the Buzite [so Job. was a prophet to the gentiles].”

- E. *“Well, wasn’t Elihu son of Barachel an Israelite, since Scripture says that he came from the family of Ram (Job. 32: 2)? He’s included on the list because he prophesied to the gentiles, and Job. too is listed because he prophesied to the gentiles.”*
- F. *“Well, didn’t all the prophets prophesy to the gentiles?”*
- G. *“Well, they prophesied principally to Israel, but these turned principally to the gentiles.”*
- H. *An objection was raised:* There was a certain pious man among the gentiles whose name was Job. He thought that he came into this world only to receive his just reward. The Holy One, blessed be He, brought on him tribulations. He began to curse and blaspheme. So the Holy One, blessed be He, simply doubled his reward in this world, so as to torment him from the world to come.
- I. *Well, as a matter of fact, what we have is a conflict among Tannaite formulations, for it has been taught on Tannaite authority:*
- J. R. Eliezer says, “Job. lived in the time that the judges ruled, in line with this verse: ‘Behold, all you yourselves have seen it, why then are you altogether vain’ (Job. 27:12). Now which generation is the one that is altogether vain? You have to say, it is a generation in which judges have to be judged.”
- K. R. Joshua b. Qorhah says, “Job. lived in the days of Ahasuerus: ‘Let there be sought for the king young virgins, fair to look on’ (Est. 2: 2), and it is written, ‘And there were no women found so fair as the daughters of Job’ (Job. 42:15). Now what is the generation in which they went looking for beautiful girls? You have to say it was in the time of Ahasuerus.”
- L. *But maybe it was in the time of David:* “So they sought for a beautiful girl” (1Ki. 1: 3)!
- M. *In the case of David it was* “in all the borders of Israel,” *in the case of Ahasuerus,* “in all the land.”
- N. R. Nathan said, “He lived in the time of the Queen of Sheba: ‘And the Sabeans made a raid and took them away’ (Job. 1:15).”
- O. Sages say, “He lived in the time of the Chaldaeans: ‘The Chaldaeans made three bands’ (Job. 1:17).”
- P. Some say, “Job. lived in the time of Jacob and married Jacob’s daughter, Dinah: ‘You speak as one of the impious women speak’ (Job. 2:10), and elsewhere in the context of Dinah, ‘Because he had wrought folly in Israel’ (Gen. 34: 7).”

Q. *All these Tannaite authorities take the view that Job. was an Israelite, except for “some say.” For if you should suppose that he was a gentile, after Moses died, did the Presence of God ever again rest upon gentiles? And lo, a master has said, “Moses asked that the Presence of god not rest on gentiles, and that was given to him: ‘That we be separated, I and your people, from all the people that are upon the face of the earth’ (Exo. 33:16).”*

**IV.22** A. Said R. Yohanan, “The generation of Job. was drowning in licentiousness: ‘Behold all of you have seen it, why then are you become altogether vain’ (in line with ‘Return, return O Shulamite, return, return that we may look upon you’ (Son. 6:13).”

B. *But the reference to “see” surely could refer to prophecy, in line with the usage, “The vision of Isaiah son of Amoz” (Isa. 1: 1).*

C. *Yeah, well then what about, “why then are you become altogether vain”?*

**IV.23** A. And said R. Yohanan, “What is the meaning of the verse, ‘And it came to pass in the days of the judging of the judges’ (Rut. 1: 1)? It was a generation that sat in judgment on its judges. The judge would say to a man, ‘Remove the splinter from between your teeth,’ and he would reply, ‘Take the log from between your eyes.’ If the judge said, ‘Your silver is dross,’ he would reply, ‘So your liquor is watered down.’”

**IV.24** A. Said R. Samuel bar Nahmani said R. Jonathan, “Whoever says that the queen of Sheba was a woman only errs. *For what is the meaning of ‘queen of Sheba’? It really means, ‘the kingdom of Sheba.’*”

**IV.25** A. “Now there was a day when the sons of God came to stand before the Lord and Satan came also among them. And the Lord said to Satan, where do you come from? And Satan answered...” (Job. 1: 6-7):

B. He said before him, “Lord of the world, I have surveyed the whole world and found none so faithful as your servant, Abraham, for you said to him, ‘Rise, walk through the land to the length and breadth of it, for to you I will give it’ (Gen. 13:17), and still, he couldn’t find a place for burying Sarah until he bought one for four hundred sheqels of silver. And yet he did not complain against what you did.”

C. “Then the Lord said to Satan, ‘have you considered my servant Job? For there is none like him in the earth’ (Job. 1: 8).”

**IV.26** A. Said R. Yohanan, “What is said about Job. is more impressive than what is said about Abraham. *For about Abraham it is written, ‘For now I know that you fear*

God' (Job. 22:12), but of Job, 'That man was perfect and upright and one that feared God and avoided evil' (Job. 1: 1)."

**IV.27** A. ["That man was perfect and upright and one that feared God and avoided evil" (Job. 1: 1):]

B. *What is the meaning of "avoided evil"?*

C. Said R. Abba bar Samuel, "Job. was generous with money. The customary practice is that if one owes a half a penny to a worker, he spends it somewhere [and gives the worker half of what he buys], but Job would give him the whole penny."

**IV.28** A. "And then Satan answered the Lord and said, Does Job. fear God for nothing? Have you not made a hedge about him and about his house" (Job. 1: 9-10):

B. *What is the meaning of "you have blessed the word of his hands" (Job. 1:10)?*

C. Said R. Samuel bar R. Isaac, "Whoever took a penny from Job. was blessed on that account."

**IV.29** A. *What is the meaning of "his cattle has increased in the land" (Job. 1:10)?*

B. Said R. Yosé bar Hanina, "The cattle of Job. broke through the prevailing rule in the world. The custom of the world is that wolves kill goats, but Job's cattle killed wolves."

**IV.30** A. "But put forth your hand now and touch everything he has, and he will renounce you to your face. And the Lord said to Satan, behold, all he has is assigned to your control, only do not touch the man himself....And it fell on a day when his sons and daughters were eating and drinking wine in their eldest brother's house that there came a messenger to Job. and said, 'The oxen were ploughing'" (Job. 1:11-14):

B. *What is the meaning of "the oxen were ploughing and the asses were feeding beside them" (Job. 1:14)?*

C. Said R. Yohanan, "This teaches that the Holy One, blessed be He, gave Job. a taste [16A] of the world to come."

**IV.31** A. "And it fell on a day when his sons and daughters were eating and drinking wine in their eldest brother's house that there came a messenger to Job. and said, 'The oxen were ploughing and the asses were feeding beside them, and the Sabeans fell upon them and took them and slew the servants with the edge of the sword, and I alone have escaped to tell you.' While he was yet speaking there came another and said, 'The fire of God fell from heaven and burned up the sheep and the servants and consumed them, and I alone have escaped to tell you.' While

he was yet speaking there came another and said, ‘The Chaldeans formed three companies and made a raid upon the camels and took them and slew the servants with the edge of the sword, and I alone have escaped to tell you.’ While he was yet speaking there came another and said, ‘Your sons and daughters were eating and drinking wine in their eldest brother’s house, and behold a great wind came across the wilderness and struck the four corners of the house and it fell upon the young people, and they are dead, and I alone have escaped to tell you.’ Then Job arose and tore his robe and shaved his head and fell on the ground and worshipped and said, ‘Naked I came from my mother’s womb, and naked shall I return; the Lord gave and the Lord has taken away; blessed be the name of the Lord.’ In all this Job did not sin or charge God with wrong. Again, there was a day when the sons of God came to present themselves before the Lord, and Satan also came among them to present himself before the Lord. And the Lord said, ‘Whence have you come?’ And Satan answered the Lord, ‘From going to and fro on the earth and from walking up and down on it.’ And the Lord said to Satan, ‘Have you considered my servant Job, that there is none like him on the earth, a blameless and upright man, who fears God and turns away from evil? He still holds fast his integrity, although you moved me against him to destroy him without cause.’ Then Satan answered the Lord, ‘Skin for skin! All that a man has he will give for his life. But put forth your hand now and touch his bone and his flesh and he will curse you to your face.’ And the Lord said to Satan, ‘Behold he is in your power, only spare his life’ (Job. 1:13-2: 6).”

- B. “And the Lord said, ‘Whence have you come?’ And Satan answered the Lord, ‘From going to and fro on the earth and from walking up and down on it’”:
- C. He said before him, “Lord of the world, I have surveyed the whole world and found none so faithful as your servant, Abraham, for you said to him, ‘Rise, walk through the land to the length and breadth of it, for to you I will give it’ (Gen. 13:17), and still, he couldn’t find a place for burying Sarah until he bought one for four hundred sheqels of silver. And yet he did not complain against what you did.”
- D. “Then the Lord said to Satan, ‘Have you considered my servant Job? For there is none like him in the earth’ (Job. 1: 8).”

**IV.32** A. “And the Lord said to Satan, ‘Have you considered my servant Job, that there is none like him on the earth, a blameless and upright man, who fears God and turns away from evil? He still holds fast his integrity, although you moved me against him to destroy him without cause’”:

- B. Said R. Yohanan, “Were it not written out in a verse of Scripture, it would not be possible to say it! God looks like someone who listens to the last person who talked to him.”

**IV.33** A. *A Tannaite statement:*

- B. Satan comes down and tempts, goes up and causes anger. He gets permission and takes a soul.

**IV.34** A. “Then Satan answered the Lord, ‘Skin for skin! All that a man has he will give for his life. But put forth your hand now and touch his bone and his flesh and he will curse you to your face.’ And the Lord said to Satan, ‘Behold he is in your power, only spare his life.’ So Satan went forth from the presence of the Lord and afflicted Job. with loathsome sores from the sole of his foot to the crown of his head, and he took a potsherd with which to scrape himself and sat among the ashes” (Job. 2: 4-8):

- B. Said R. Isaac, “The torment that afflicted Satan was greater than that of Job. It is like the case of a servant whose master says to him, ‘Go break open a cask and guard the wine from spilling.’”

**IV.35** A. Said R. Simeon b. Laqish, “Satan, the impulse to do evil, and the angel of death are one and the same. Satan: ‘And Satan went forth from the presence of the Lord’ (Job. 2: 7). Impulse to do evil: ‘Every imagination of the thoughts of his heart is only evil continually’ (Gen. 6: 5), and here, ‘Only upon himself do not put your hand’ (Job. 2: 6). The angel of death: ‘Only spare his life,’ which shows that Job’s life was in his power.”

**IV.36** A. Said R. Levi, “Satan and Peninah did what they did for the sake of Heaven.

- B. *“When Satan saw the Holy One favoring Job, he said, ‘God forbid that God should forget the love of Abraham.’*

- C. *“As to Peninah: ‘And her rival provoked her very much to upset her’ (1Sa. 1: 6).”*

- D. *When R. Aha bar Jacob gave this exposition in Pappunayya, Satan came along and kissed his feet.*

**IV.37** A. “In all this Job. did not sin with his lips” (Job. 2:10):

- B. Said Raba, “With his lips he did not sin, but in his heart he sinned.

- C. *“What is it that he said? ‘The earth is given into the hand of the wicked, he covers the faces of its judges, if it is not he, who then is it’ (Job. 9:24).”*

**IV.38** A. Said Raba, “Job. tried to overturn the dish.”

- B. Said Abbaye to him, “Job. spoke only with reference to Satan.”

- C. *There is the same disagreement among Tannaite formulations:*
- D. “The earth is given into the hand of the wicked, he covers the faces of its judges, if it is not he, who then is it” (Job. 9:24):
- E. R. Eliezer says, “Job. tried to overturn the dish.”
- F. Said to him R. Joshua, “Job. spoke only with reference to Satan.”

**IV.39** A. “Although you know that I am not guilty and there is none to deliver out of your hand?” (Job. 10: 7):

- B. Said Raba, “Job wanted to exculpate the entire world from judgment. He said before him, ‘Lord of the world, You have created the ox with cloven hoofs, and you have created the ass with sealed hoofs; you have created Paradise and you have created Gehenna; you have created the righteous and you have created the wicked? So who can stop you from doing whatever you like!’
- C. *“And what did his companions respond? ‘But you are doing away with the fear of God and hindering meditation before God’ (Job. 15: 4). True enough, the Holy One, blessed be He, created the impulse to do evil, but he also created the Torah against it as the antidote.”*

**IV.40** A. *Expounded Raba, “What is the meaning of the verse of Scripture: ‘The blessing of him who was about to perish came upon me, and I caused the widow’s heart to sing for joy’ (Job. 29:13)?*

- B. “‘The blessing of him who was about to perish came upon me’: this teaches that he would steal a field from an orphans’ estate and improve it and then give it back to them.
- C. “‘And I caused the widow’s heart to sing for joy’: *wherever there was a widow who could not find a husband, he would assign his name to her, and then somebody would quickly come along and marry her.*”

**IV.41** A. “O that my vexation were weighed, and all my calamity laid in the balances” (Job. 6: 2-3):

- B. *Said Rab, “Dirt should be put into Job’s mouth, because he makes himself the equal of Heaven!”*

**IV.42** A. “There is no umpire between us, who might lay his hand upon us both” (Job. 9:33):

- B. *Said Rab, “Dirt should be put into Job’s mouth! Is there a servant who rebukes his master?”*

- IV.43** A. “I made a covenant with my eyes, how then could I look at a woman” (Job. 31: 1):
- B. *Said Rab, “Dirt should be put into Job’s mouth. He avoided staring at other men’s wives, but Abraham didn’t even stare at his own: ‘Behold, now I know that you are a beautiful woman to look at’ (Gen. 12:11) — meaning, up to then he had not even stared at her.”*
- IV.44** A. “As the cloud is consumed and vanishes, so he who goes down to Sheol shall come up no more” (Job. 7: 9):
- B. Said Raba, “On the basis of this statement it is clear that Job. denied the resurrection of the dead.”
- IV.45** A. “For he breaks me with a tempest and multiplies my wounds without cause” (Job. 9:17):
- B. Said Rabbah, “It was through a tempest that Job. blasphemed, so it was through a tempest that he was answered.
- C. “It was through a tempest that Job. blasphemed: ‘For he breaks me with a tempest.’ He said before him, ‘Lord of the world, has a tempest passed before you and made you confuse my name with the word for enemy [which uses the same consonants but in a different order, thus, *Iyyob* and *Oyyeb*]?’
- D. “...So it was through a tempest that he was answered: ‘Then the Lord answered Job. out of the tempest: “Who is this that darkens counsel by words without knowledge? Gird up your loins like a man, I will question you, and you will answer me”’ (Job. 38: 1-3).
- E. “He said to him, ‘Many hairs have I created in man, and every hair I have created in its own hole, so that two should not grow from a single aperture, for if two grew from a single hole, they would impair the sight of man. So I don’t confuse one hole with another, and am I going to confuse your name with the word for enemy?’
- F. ““Who has cleft a channel for the water flood’ (Job. 38:25): ‘Many drops I have created in the clouds, for every drop, a distinct mold, so that two drops should not issue from the same mold, for if two drops issued from the same mold, they would erode the soil, and it would produce no crop. I don’t get confused between one drop and another, and am I going to confuse your name with the word for enemy?’”
- G. *So how do we know that the word for channel means mold?*

- H. Said Rabbah bar Shila, “‘And he made a trench as great as would contain two measures of seed’ (1Ki. 18:32).”
- I. “‘Who has cleft a channel for the torrents of rain and a way for the thunderbolt’ (Job. 38:25): ‘A multitude of thunderclaps have I created in the clouds, and for each there is a separate path, so that two claps should not travel on the same path, since if two claps travelled by the same path, they would wipe out the whole world. Now if I can keep apart one thunderclap from another, am I going to confuse your name with the word for enemy?’
- J. “‘Do you know when the mountain goats bring forth? Do you observe the calving of the hinds?’ (Job. 39: 1). ‘The wild goat is heartless towards her offspring. When she crouches **[16B]** to deliver, she goes up to the top of the mountain, so the young will fall down and be killed. But I assign an eagle to catch it on its wings and set it before her. And if it were a single second too soon or too late, it would be killed. I can keep apart one moment from another, and am I going to confuse your name with the word for enemy?’
- K. “‘Do you observe the calving of the hinds?’ (Job. 39: 1). ‘The hind has a narrow womb. When it crouches to deliver, I assign a snake to bite her at the mouth of the womb, and it is delivered of the offspring. If it were done a minute too soon or a minute too late, it would do. I can keep apart one moment from another, and am I going to confuse your name with the word for enemy?’”
- IV.46** A. “Job. speaks without knowledge, his words are without insight” (Job. 34:35):
- B. Said Raba, “On the basis of this statement we learn that a person is not held responsible for what is said under duress.”
- IV.47** A. “Now when Job’s three friends heard of all this evil that had come upon him, they came each from his own place, Eliphaz the Temanite, Bildad the Shuhite, and Zophar the Naamathite. They made an appointment together to come to condole with him and comfort him. And when they saw him from afar, they did not recognize him; and they raised their voices and wept; and they tore their robes and put dust on their heads toward heaven. And they sat with him on the ground seven days and seven nights and no one spoke a word to him, for they saw that his suffering was very great” (Job. 2:11-13):
- B. *What is the meaning of “They made an appointment together”?*
- C. Said R. Judah said Rab, “This teaches that all of them entered through the same gate, *even though it has been taught on Tannaite authority*: The distance between each of them and the next was three hundred parasangs.”
- D. *And how did they know anyhow?*



- E. *Some say, "They had crowns [bearing a portrait, which changed as things happened]."*
- F. *Some say, "They had trees, which if distorted or withered would give a sign."*
- G. *Said Raba, "That is in line with what people say: 'either friends like Job's or death.'"*

**IV.48** A. "And it happened when men began to multiply on the face of the ground and daughters were born to them" (Gen. 6: 1):

- B. R. Yohanan said, "[As to the meaning of the word 'multiply,' the letters of which may yield fecundity or strife] it means that fecundity came into the world."
- C. R. Simeon b. Laqish said, "It means that strife came into the world."
- D. Said R. Simeon b. Laqish to R. Yohanan, "From your perspective, that fecundity came into the world, how come the daughters of Job. were not doubled in number [as were his cattle, Job. 42:12 (Simon)]?"
- E. He said to them, "While they were not doubled in number, they were in beauty: 'He also had seven sons and three daughters, and he called the first Jemimah, the second, Keziah, the third Keren Happuch' (Job. 42:13-14).
- F. "'Jemimah': because she was clear as day [the letters of Jemimah and day are the same];
- G. "'Keziah': because she smelled like cassia [keziah];
- H. "'Keren Happuch': — *as they say in the household of R. Shila* — she had a skin like the horn of an antelope."
- I. *In the West they ridiculed that explanation, since a skin like the horn of an antelope would hardly be a mark of beauty!*
- J. *Rather, said R. Hisda, "It is like a garden crocus of the finest type. 'Puch' means pigment, 'though you enlarge your eyes with paint' (Jer. 4:30)."*

**IV.49** A. *To R. Simeon b. Rabbi was born a daughter. He was disappointed. Said to him his father, "Fecundity has come into the world."*

- B. Said to him Bar Qappara, "Empty consolation is what your father has offered to you. *For it has been taught on Tannaite authority:* It is not possible to have a world without either males or females, but happy is the one whose children are males, and woe for him whose children are females. It is not possible to have a world without either a spice dealer or a tanner. But happy is the one who makes his living as a spice dealer, and woe is the one who makes his living as a tanner."

## How Abraham Was Blessed

The following composite, beginning with a composition well-integrated with the foregoing, in fact is free-standing and introduced to deal with its own topic. Implicit is the comparison of the ultimate blessings accorded to Job. and to Abraham, but the composite clearly pursues its own interest.

- C. *There is a Tannaite conflict on this matter:*
- D. **“And the Lord blessed Abraham in all things” (Gen. 24: 1):**
- E. **What is the meaning of “in all things”?**
- F. **R. Meir says, “He had no daughter.”**
- G. **R. Simeon says in the name of R. Judah, “He did have a daughter.”**
- H. **Other say, “He had a daughter, and her name was ‘with all.’”**
- I. **R. Eliezer the Modiite said, “Abraham had the power to read the stars, and he was much in demand among the rules of east and west.”**
- J. **R. Simeon b. Yohai says, “There was a precious stone dangling around the neck of our father Abraham, and any sick person who saw it would be healed. When our father Abraham died, the Holy One, blessed be He, hung it around the orb of the sun” [T. Qid. 5:17A-C].**
- K. *Said Abbaye, “That is in line with what people say: as the day goes forward, the illness declines.”*
- L. Another view [of the meaning of “in all things”]: Esau did not rebel so long as he was alive.
- M. Another view [of the meaning of “in all things”]: Ishmael repented in his lifetime.

**IV.50** A. How do we know that Esau did not rebel so long as he was alive? B.

“And Esau came in from the field and he was faint” (Gen. 24:29).

- C. *A Tannaite statement:*
- D. It was the day on which Abraham our father died, and our father Jacob prepared a broth of lentils to comfort his father Isaac.
- E. *Why lentils?*
- F. *They say in the West in the name of Rabbah bar Mari, “Just as a lentil has no mouth, so the mourner has no desire to speak.”*

- G. Another explanation: Just as a lentil is round, so mourning comes around to everybody in the world.
- H. *What's the difference?*
- I. It is whether or not a meal of consolation should include eggs [which have no mouth but are not round].

**IV.51** A. Said R. Yohanan, "On that day that wicked man committed five sins. He had sexual relations with a betrothed maiden, he killed someone, he denied God, he denied the resurrection of the dead, and he disposed of the birthright.

- B. "He had sexual relations with a betrothed girl, in line with this verses, 'he came in from the field' (Gen. 25:29), and 'But if the man find the damsel that is betrothed in the field and the man take hold of her and lie with her' (Deu. 22:25).
- C. "'That he was famished' means that he murdered someone: 'For my soul faints before the murderers' (Jer. 4:31).
- D. "He denied God: 'What benefit is this to me,' and 'This is my God and I will make him a habitation' (Exo. 15: 2).
- E. "He denied the resurrection of the dead: 'Behold, I am going to die.'
- F. "He spurned the birthright: 'So Esau despised his birthright.'"

**IV.52** A. And how do we know that Ishmael repented in his lifetime?

- B. *It is in line with the incident involving Rabina and R. Hama bar Buzi, who were in session before Raba, and Raba dozed off. Said Rabina to R. Hama bar Buzi, "Do you people really take the position that wherever the term 'give up the ghost' is used in connection with someone's dying, it always means that person died a righteous man?"*
- C. *"Yup."*
- D. *"Well, what about the generation of the flood ['And all flesh gave up the ghost' (Gen. 7:21)]?"*
- E. *"Well, we draw that conclusion only if both 'give up the ghost' and 'gather in' are mentioned."*
- F. *"So what about Ishmael, who 'gave up the ghost' and was 'gathered in' (Gen. 25:17)?"*

- G. *In the meantime Raba awoke. He said to them, "Half-baked! This is what R. Yohanan said, 'Ishmael repented in his lifetime,' for it is said, 'And Isaac and Ishmael his sons buried him' (Gen. 25:17)!"*
- H. *Yeah, well, maybe they're in order of wisdom?*
- I. *Yeah, well, what about, "And Esau and Jacob his sons buried him" (Gen. 35:29)! Aren't they in the order of wisdom?*
- J. *The point is simple: since Isaac is listed first, it shows that Ishmael gave him precedence, and from the fact that he gave him precedence, we conclude that in Abraham's lifetime he repented.*

**IV.53** A. *Our rabbis have taught on Tannaite authority:*

- B. There were three persons whom the Holy One, blessed be He, gave a foretaste in this world [17A] of the life of the world to come: Abraham, Isaac, and Jacob.
- C. Abraham: "The Lord blessed Abraham in all" (Gen. 24: 1).
- D. Isaac: "Because I ate of all" (Gen. 27:33).
- E. And Jacob: "For I have all" (Gen. 33:11).
- F. There were three persons over whom the evil inclination had no control: Abraham, Isaac, and Jacob.
- G. In all three instances the language appears, "in all," "of all," "all."
- H. Some say, "David too: 'My heart is wounded within me' (Psa. 109:22)."
- I. *And the other party?*
- J. *He speaks of his own distress.*

**IV.54** A. *Our rabbis have taught on Tannaite authority:*

- B. There were six over whom the angel of death had no power: Abraham, Isaac, Jacob, Moses, Aaron, and Miriam.
- C. Abraham, Isaac, Jacob: in all three instances the language appears, "in all," "of all," "all."
- D. Moses, Aaron, and Miriam: in all three instances they died "by the mouth of the Lord" (Num. 33:38, Deu. 34: 5).
- E. But "by the mouth of the Lord" *is not stated in the case of Miriam!*
- F. Said R. Eleazar, "Miriam too died by a kiss. That is shown by a verbal analogy formed of the use of the word 'there' in both her case and in the case of Moses.
- G. "And how come Scripture does not say 'by the mouth of the Lord' as in the case of Moses (Deu. 34: 5)? Because saying such a thing would be inappropriate [in the case of a woman]."

**IV.55** A. *Our rabbis have taught on Tannaite authority:*

- B. There were seven over whom the worm had no power: Abraham, Isaac, Jacob, Moses, Aaron, Miriam, and Benjamin son of Jacob.
- C. Abraham, Isaac, Jacob: in all three instances the language appears, “in all,” “of all,” “all.”
- D. Moses, Aaron, and Miriam: in all three instances they died “by the mouth of the Lord” (Num. 33:38, Deu. 34: 5).
- E. Benjamin son of Jacob: “And to Benjamin he said, the beloved of the Lord, he shall dwell thereon in safety” (Deu. 33:12).
- F. Some say, “David too: ‘My flesh also shall dwell in safety’ (Psa. 16: 9).”
- G. *And the other?*
- H. *He was asking for mercy.*

**IV.56** A. *Our rabbis have taught on Tannaite authority:*

- B. There were four who died through the advice of the snake [to Eve, not through any sin they ever did]: Benjamin son of Jacob, Amram father of Moses, Jesse father of David, and Kilab son of David.
- C. *All of them represent a tradition not sustained by a proof-text except for the case of Jesse father of David, in which instance Scripture is explicit: “And Absalom set Amasa over the host instead of Joab. Now Amasa was the son of a man whose name was Isra the Israelite, who had sexual relations with Abigail daughter of Nahash, sister of Zeruiah, Joab’s mother” (2Sa. 27:25). Was she really the daughter of Nahash? Wasn’t she the daughter of Jesse: “And Jesse’s sons’ sisters were Zeruiah and Abigail” (1Ch. 3:16)? But, she was the daughter of him who died through the counsel of the serpent [nahash].*

I.1 glosses the Mishnah’s rule. No. 2 then builds on the facts established at No. 1. Nos. 3, 4 supplement the same rule with further, parallel data. No. 5 does the same, now with a Tannaite formulation, and Nos. 6-9 revert to the program of Nos. 3, 4. So the Tannaite classification of an item bears no decisive implications for its place in a larger composite. What we have is a sequence of thematically joined compositions, all serving a single larger purpose. No. 10 provides a talmud to No. 9. Nos. 11-12 carry forward the prior anthological composite. II.1 irons out an apparent contradiction in rulings. Nos. 2, 3 then supplement the Mishnah’s rule with congruent rules for other cases. No. 4 is tacked on by way of explanation of the odd statement at 3.H. Nos. 5+6 then form a supplement to No. 4. Nos. 7-11 resume the program of amplifying the consideration of the principle

at hand, but it moves in its own direction. III.1 asks a question left open by the Mishnah but required for a full understanding of its rule. No. 2 complements the foregoing, and No. 3 completes the exposition. The purpose of the vast composite at IV is clear as signified.