

VII

BAVLI TRACTATE SHEBUOT CHAPTER SEVEN

FOLIOS 44B-49A

7:1-8

7:1

- A. All those who are subjected to oaths [that are required] in the Torah take [said] oaths and do not pay [the claim against them].
- B. And who are they who take an oath and collect [what they claim is owing to them]?
- C. (1) a hired hand, (2) the victim of a theft, (3) the victim of a beating, (4) he whose contrary litigant is not trusted [even if he takes] an oath, (5) and a shopkeeper concerning [what is written in] his account book.
- D. A hired hand [C] — how so?
- E. [If] he said to him, “Give me my wage, which you have in your hand” —
- F. he says to him, “I already gave it to you,” —
- G. and this one says, “I never got it” —
- H. he takes an oath and collects [what he claims].
- I. R. Judah says, “[That is so] only if there is a concession of part of the claim.
- J. “How so?
- K. “If he said to him, ‘Give me my salary of fifty denars which I have in your hand,’
- L. “and the other party says, ‘You already received a gold denar [half of what is owing to you].’”

7:2

- A. The victim of a theft [M. 7:1C2] — how so?
- B. [If people] were giving testimony against a person that he had gone into his house to exact a pledge without permission,
- C. and [the victim of the theft] says, “You took my utensils,” —
- D. and the other party says, “I never took them” —
- E. lo, this one takes an oath and collects [what he claims].

- F. R. Judah says, “[That is so] only if there will be a concession of part of the claim.
G. “How so?
H. “He said to him, ‘Two utensils of mine did you take,’
I. “and the other party says, ‘I took only one of them.’”

7:3

- A. The victim of a beating [M. 7:1C3] — how so?
B. [If people] were giving testimony against a person that [the plaintiff] had gone into his [the defendant’s] hand whole and come forth injured,
C. and he said, “You beat me up,” —
D. and he says, “I never beat you up” —
E. lo, this one takes an oath and collects [compensation].
F. R. Judah says, “[That is so] only if there will be a concession of part of the claim.
G. “How so?
H. “If he said to him, ‘You made two wounds on me,’
I. “and the other party said, ‘I made only one on you.’”

7:4

- A. He whose contrary litigant is not trusted [even if he takes] an oath [M. 7:1C4] — how so?
B. [45A] All the same are an oath regarding testimony, an oath regarding a bailment, and even a rash oath —
C. [if] one of the litigants was a dice player, gave out loans on usury, [was] a pigeon racer, or a dealer in Seventh-Year produce [M. San. 3:3],
D. the other litigant takes an oath and collects [his claim].
E. “[If] both of them were suspect [in the matters just now listed], the oath returns to its normal place [and is taken by the one against whom the claim is made],” the words of R. Yosé.
F. R. Meir says, “Let them divide up [the claim at issue].”

7:5

- A. A storekeeper concerning [what is written in his] account book [M. 7:1 C5] — how so?
B. It is not that he may say to him, “It is written in my account book that you owe me two hundred zuz.”
C. But [if the householder] said to him, “Give my son two seahs of wheat,” [or] “Give my worker change for a sela,”
D. and he says, “I already gave it to him,” —
E. and they say, “We never got it” —
F. [the storekeeper] takes an oath and collects what is owing to him, and [the workers] take an oath and collect what they claim from the householder.
G. Said Ben Nannos, “How so?
H. “But [either] these or those then are taking a vain oath!

- I. “Rather, [the storekeeper] collects what is owing to him without taking an oath at all, and [the workers] collect what they claim [not to have received] without taking an oath.”

7:6

- A. [If] one said to the storekeeper, “Give me produce for a denar,”
B. and he gave it to him —
C. he said to him, “Give me the denar,” —
D. he said to him, “I already gave it to you, and you put it in the till” —
E. let the householder take an oath.
F. If he gave him a denar and said to him, “Give me produce” —
G. he said to him, “I already gave it to you and you brought it home” —
H. let the storekeeper take an oath.
I. R. Judah says, “Whoever has the produce in hand — his hand is on top.”
J. [If] he said to the money changer, “Give me small coins for a denar,”
K. and he gave them to him —
L. he said to him, “Give me the denar” —
M. he said to him, “I already gave it to you, and you put it in the till” —
N. let the householder take an oath.
O. If he gave him a denar and said to him, “Give me small change,”
P. he said to him, “I already gave them to you, and you tossed them into your wallet,”
Q. let the money changer take an oath.
R. R. Judah says, “It is not customary for a money changer to hand over even an issar before he collects his denar!”

7:7

- A. Just as they have said [M. Ket. 9:7], (1) A woman who impairs her marriage settlement collects only by taking an oath,
B. [and] (2) [if] a single witness testifies that it has been collected, she collects it only by taking an oath;
C. [and] (3) she collects from indentured property and from property belonging to the estate only by taking an oath;
D. [and] (4) she who collects her marriage settlement not in her husband’s presence collects it only by taking an oath,
E. so (5) heirs of an estate collect [debts owing to the deceased] only through an oath:
F. “(1) We swear that father gave us no instructions [in this matter], (2) father said nothing to us about it, and (3) we did not find among his bonds evidence that this bond had been paid off.”
G. R. Yohanan b. Beroqah says, “Even if the son was born after the death of the father, lo, this one must take an oath before he collects [what is owing to the estate].”

- H. Said Rabban Simeon b. Gamaliel, “If there are witnesses that the father had stated when he was dying, ‘This bond has not yet been paid off,’ [the son] may collect [the debt] without taking an oath.”

7:8

- A. And these [must] take an oath even when there is no claim [laid against them]:
- B. (1) partners, (2) tenants, (3) guardians, (4) a woman who manages her household, and (5) a manager of a common legacy (“son of the household”).
- C. [If] he said to him, “What is your claim against me?”
- D. “I want you to take an oath to me” —
- E. he is liable.
- F. [Once] the partners have divided up the property, or the tenant farmers, then one cannot impose an oath upon the other.
- G. [If the requirement to take] an oath happened to come upon him from some other source [cause],
- H. they impose upon him an oath covering the entire [enterprise].
- I. The advent of the Sabbatical Year releases the requirement to take an oath.

I.1 A. All those who are subjected to oaths which are [required] in the Torah take [said] oaths and do not pay [the claim against them]:

- B. *How do we know this on the basis of Scripture?*
- C. “[The oath of the Lord shall be between them both, to see whether he has not put his hand unto his neighbor’s goods.] And the owner thereof shall accept it and he shall not pay” (Exo. 22:10). [The owner accepts the oath, and the bailee does not have to pay (Silverstone).]
- D. So the person who would have to pay has to take the oath [so that he does not have to pay].

II.1 A. And who are they who take an oath and collect [what is owing to them]? (1) a hired hand:

- B. *What distinguishes the hired hand that rabbis ordained for him the right to take an oath and collect his wages?*
- C. Said R. Judah said Samuel, “Laws of exceptional importance were repeated here.”
- D. *Were these laws? Were they not ordinances?*
- E. Rather, said R. Judah said Samuel, “Ordinances of exceptional importance were ordained here.”
- F. “...exceptional importance...” *implies that there are also those that are inconsequential!*
- G. Rather, said R. Nahman said Samuel, “Permanent ordinances were ordained here. Specifically, while the taking of the oath ordinarily would be incumbent on the householder, rabbis took away the oath that pertained to the householder and assigned it to the worker, for the sake of the worker’s livelihood.”
- H. *And for the sake of the worker’s livelihood shall we cause a loss to the householder?*

- I. *The householder himself prefers the worker to take an oath and be paid, so that workers will be glad to be employed by him.*
- J. *But the worker himself will prefer that the householder take an oath and be exempt, so that he should give him work.*
- K. *The worker has to find workers.*
- L. *The workers have to find work.*
- M. [The operative consideration is this:] the employer is preoccupied with the numerous workers [and may have lost track of whom he has paid].
- N. *If that is the operative consideration, then pay the worker without requiring him to take an oath?*
- O. *It is so as to reassure the employer.*
- P. *Then let the employer pay in the presence of witnesses?*
- Q. *It's too much trouble.*
- R. *Then let him pay in advance.*
- S. *Both of them prefer credit [the employer may not have the money, the worker may lose it in the field].*
- T. **[45B]** *If so, then even if the dispute concerns a stipulated amount, the same rule should apply. But why has it been taught on Tannaite authority, "If the craftsman says, "You stipulated a payment of two," and the other says, "I stipulated a payment for you of only one," then let the one who lays claim on the other produce proof [and no oath is imposed]?"*
- U. *The wage that is stipulated is certainly going to be remembered full well.*
- V. *If so [referring to S], then even if the set time has passed, he should be believed [without taking an oath]. But how come we have learned in the Mishnah: **[If the stated time has passed [and he did not collect his salary], he does not take an oath and collect his salary?***
- W. The prevailing assumption is that a householder will not violate the law against holding back wages.
- X. But lo, you have already said that the employer is preoccupied with the workers [and may have lost track of whom he has paid]!
- Y. *That consideration pertains only before the time of the obligation to pay has arrived. But once the time of the obligation to pay has come, he makes a point of the matter and remembers it.*
- Z. Then is the worker going to violate the law against robbery? [Surely not! If we assume the employer must have paid, because he will not violate the Torah, we should assume the worker will not violate the law of the Torah and therefore the worker should be believed.]
- AA. *In the case of the employer, two presumptions work in his favor, while in the case of the worker, only one.*
- BB. *In the case of the employer, two presumptions work in his favor: one, that he is not going to violate the law, "It shall not remain...", and the second, that the worker is not going to permit him to delay paying the wages.*
- CC. *while in the case of the worker, only one. specifically, the one just now stated.*

- II.2.** A. [With reference to the same statement, **And who are they who take an oath and collect [what is owing to them]? a hired hand:**] said R. Nahman said Samuel, “They repeated this rule only in a case in which the householder hired the worker in the presence of witnesses. But if he hired him not in the presence of witnesses, since he can say to him, ‘I never hired you,’ he can plead, ‘I hired you but I’ve already paid you your wages.’”
- B. Said to him R. Isaac, “Right on.”
- C. And so stated R. Yohanan.
- D. *Does then that statement bear the implication that R. Simeon b. Laqish would disagree?*
- E. *There are those who say that he was holding off and kept silence, and there are those who say, he went out for a drink and kept silent.*

II.3. A. *So too it has been stated:*

- B. Said R. Menassayya bar Zebid said Rab, “They repeated this rule only in a case in which the householder hired the worker in the presence of witnesses. But if he hired him not in the presence of witnesses, since he can say to him, ‘I never hired you,’ he can plead, ‘I hired you but I’ve already paid you your wages.’”
- C. *Said R. Ammi bar Hama, “What a first rate tradition!”*
- D. *Said to him Raba, “So what’s first rate about it? If that is really true, then as to the oath of bailment that the All-Merciful has imposed, where in the world will you find a case in which it applies? After all, since the bailee can always say to him, ‘It never happened,’ he can say to him, ‘It was an unavoidable accident.’ [So why would the Torah impose an oath in the case of a bailment?]*”
- E. *“Obviously, in a case in which the bailment was left in the presence of witnesses.”*
- F. *“Yeah, well, since he can always say to him, ‘So I returned it to you,’ he can certainly plead, ‘It was an unavoidable accident.’”*
- G. *“Obviously, the oath would apply in a case in which he made the bailment on the evidence of a document [and if the document is not returned, the bailee cannot claim that he returned the animal, for if he had, he would have gotten the document back.]”*
- H. *It follows that both [Raba and R. Ammi] concur: he who deposits a bailment with his fellow before witnesses — the other need not return it to him before witnesses. If he does so on the evidence of a document, he has to return it to him before witnesses.*

II.4. A. *R. Ammi bar Hama recited in connection with R. Sheshet the verse, “And David laid up these words in his heart” (1Sa. 21:13).*

- B. *For R. Sheshet came upon Rabbah bar Samuel. He said to him, “Has my lord learned anything interesting about the hired hand?”*
- C. *He said to him, “Yes indeed! We have learned as a Tannaite statement: **An employee — [if he claimed his salary] within the stated time takes an oath [that he has not been paid] and collects his salary. [If the stated time has passed and he did not collect his salary, he does not take an oath and collect his salary. But if there are witnesses that he had in fact laid claim for his***

salary, lo, this one takes an oath and collects his salary] [M. **B.M. 9:12I-O**]. How so? When the employer says to him ‘I’ve already paid you your salary,’ while he claims, ‘You never paid me.’ But if the worker says, ‘You hired me,’ and the employer says, ‘I never hired you,’ if the employer says, ‘I promised you a sela,’ and the worker says, ‘You promised me two,’ then he who lays claim against his fellow bears the burden of proof [T. **B.M. 10:6D-J**].”

- D. *Now since the second clause insists upon proof, it must follow that the first case is settled without his bringing proof [witnesses, and if there is none, then one cannot take the oath and receive the claim].*
 - E. *Said R. Nahman bar Isaac, [46A] “Both the opening and the closing clauses rest on the premise that proof is involved [that is, witnesses to the transaction]; the proof that brings about the requirement of paying the Tannaite framer of the passage mentions explicitly, but the proof that does not bring about the requirement of paying he does not mention explicitly.”*
- II.5.** A. *Said R. Jeremiah bar Abba, “From the household of Rab they sent word to Samuel, ‘May our lord instruct us:*
- B. *“The craftsman says, ‘You agreed to pay me two,’ and the other says, ‘I agreed to pay you only one,’ who is required to take the oath?”*
 - C. *“He said to them, ‘In this case the householder takes the oath, and the craftsman loses out. For people assuredly remember the stipulated sum.’”*
 - D. *Is this so? And lo, Rabbah bar Samuel repeated as a Tannaite statement: “If the employer says, ‘I promised you a sela,’ and the worker says, ‘You promised me two,’ then he who lays claim against his fellow bears the burden of proof. Then if he does not bring witnesses, the claim is annulled. But why should this be the case? Let the householder take the oath and the craftsman lose out?”*
 - E. *Said R. Nahman, “The intent of the Tannaite formulation of the passage is to cover both angles: if he brings proof, he may collect what is owing, but if the householder takes the oath, then the craftsman will lose out.”*
 - F. *An objection was raised: He who hands over his cloak to a craftsman for mending,— the craftsman claims, “You stipulated a payment of two,” and the other says, “I stipulated a payment for you of only one,” then let the one who lays claim on the other produce proof [and no oath is imposed], then, so long as the cloak is in the possession of the craftsman, the obligation to bring proof is in the hands of the householder. If the craftsman handed it over to him at the proper time, he may take an oath and collect his fee. If the proper time has passed, then let the one who lays claim on the other [the craftsman] produce proof [and no oath is imposed]. So, in any event, if it was handed over at the proper time, he takes an oath and collects what he claims. And why should this be the case? Let the householder take the oath and the craftsman lose out?”*
 - G. *Said R. Nahman bar Isaac, “So who is the authority behind this formulation? It is R. Judah, who has said, ‘So long as the obligation to take the oath inclines toward the householder, the hired hand takes the oath and receives what he claims.’” [Silverstone: Wherever Scripture requires the householder to take the*

oath, e.g., he admits part of the claim, as here, the oath is transferred from him to the employee.]

- H. *Which statement of R. Judah is under discussion here? May we then say it is R. Judah of our Mishnah-passage? Surely he takes the more stringent position, for we have learned in the Mishnah: A hired hand — how so? [If] he said to him, “Give me my wage, which you have in your hand” — he says to him, “I already gave it to you,” — and this one says, “I never got it” — he takes an oath and collects [what he claims]. R. Judah says, “[That is so] only if there is a concession of part of the claim. How so? If he said to him, ‘Give me my salary of fifty denars which I have in your hand,’ and the other party says, ‘You already received a gold denar [half of what is owing to you].’” Rather, it must be R. Judah of the external Tannaite formulation, for it has been taught on Tannaite authority: An employee — [if he claimed his salary] within the stated time takes an oath [that he has not been paid] and collects his salary. [If the stated time has passed and he did not collect his salary, he does not take an oath and collect his salary. And said R. Judah, “Under what circumstances? It is when he said to him, ‘Pay me my wages of fifty zuz, which are in your possession and belong to me,’ and the other says, ‘You have received a golden denar out of that sum [twenty-five zuz],’ or if he said to him, ‘You promises two,’ and the other says, ‘I promised you only one.’ But if he said to him, ‘I never hired you,’ or if he says, ‘Sure, I hired you, but I paid you off,’ then he who lays claim against his fellow bears the burden of proof.” [Silverstone: the worker has to bring witnesses, and if not, the employer is exempt, for he denies the whole claim.]*
- I. *Objected R. Shisha b. R. Idi, “So in the case in which the dispute has to do with how much has been stipulated [the worker takes an oath], we have the position of R. Judah and not rabbis. But, since when R. Judah takes the more stringent position [Silverstone: in the Mishnah, where there is no partial admission on the part of the employer, Judah does not allow the hired hand to take an oath and collect], the rabbis are the more lenient [they do permit him to take an oath and collect], in a case in which R. Judah is the more lenient [the amount stipulated is subject to dispute], will rabbis then be more stringent [and not allow the worker to take the oath]? [Not very likely.]”*
- J. *So what is the upshot? Will rabbis also concur [where the amount stipulated is disputed, the worker takes the oath]? Then who would stand behind what Rabbah bar Samuel learned as a Tannaite rule: if there was a stipulated sum that was subject to dispute [the employer says, ‘I promised you a sela,’ and the worker says, ‘You promised me two,’] then he who lays claim against his fellow bears the burden of proof [T. B.M. 10:6D-J]? Now whose view is represented here? It can be neither R. Judah nor rabbis!*
- K. *Rather, said Raba, “This is what is at issue: R. Judah takes the view that the oath imposed by the Torah is an ordinance in favor of the hired hand, but in the case of the oath imposed by rabbis, which is itself an ordinance, we do not plaster one ordinance upon another [Silverstone: by removing this oath from the employer and giving it to the laborer]. And rabbis maintain that even in the case of an oath that is required on the authority merely of the rabbis, we also ordain an*

ordinance that favors the hired hand, but that is only in the case of a dispute about the stipulated wage, for this the employer is expected to remember.” [Silverstone: so in fact R. Judah may sometimes take the more stringent position when sages take the more lenient one, as in the case where there is no partial admission, and sometimes sages will be more stringent when Judah is more lenient, as in the case in which the dispute is about the stipulated amount; the reason is that these cases depend upon different principles. Thus the ruling that the laborer takes the oath in the case of dispute about the amount is Judah’s, not sages’ view, and Rabbah bar Samuel agrees with sages.]

III.1 A. The victim of a theft [M. 7:1C2] — how so? [If people] were giving testimony against a person that he had gone into his house to exact a pledge without permission, and [the victim of the theft] says, “You took my utensils,” and the other party says, “I never took them” — lo, this one takes an oath and collects [what he claims]:

- B. *[Since all the witnesses saw is that the creditor went in to seize the pledge, but they did not see him actually take it,] perhaps he never seized the pledge? For did not R. Nahman say, “If someone held an ax in his hand and said, ‘I’m going to go and chop down Mr. So-and-so’s palm tree,’ and it was found cut down and thrown onto the ground, he do not rule that this man actually has cut it down”? It follows that people can boast but not do a thing. Here too, maybe the man made a boast but did nothing!*
- C. *Say the rule in this language: [that he had gone into his house and] exacted [a pledge without permission].*
- D. *So let’s see the pledge that he grabbed [and that will tell us what the pledge was, so why does the householder have to take an oath]?*
- E. *Said Rabbah bar bar Hannah said R. Yohanan, “We deal with a case in which he lays claim on the clothing that he may have taken under his cloak.” [Silverstone: the householder claims that the other took from him small articles, which could easily be hidden under his cloak; and though the witnesses saw he took something, they did not see precisely what it was; therefore the householder takes an oath.]*

III.2. A. Said R. Judah, “If they saw him hiding objects under his cloak and he came out [46B] he said, ‘So I bought them,’ he is not believed [even under oath]. And that is the case only in the instance of a householder who does not ordinarily put his household goods up for sale, but in the case of a householder who may well put up his goods for sale, the other is believed.”

- B. *“And in the instance of a householder who does not ordinarily put his household goods up for sale the rule [that the other is not believed] applies only concerning objects that people do not ordinarily hide; but in the case of objects that people ordinarily hide away, he is believed [to claim that he bought them, for though the householder would not usually sell off his possessions, in this case he needed the money (Silverstone)].*
- C. *“And in the case of objects that people do not ordinarily hide, we do not say he is not believed, unless it is a person who is not fastidious, but if he is fastidious, then that is his ordinary manner. [He is believed to claim he bought them though he carries them hidden under his cloak (Silverstone)].*

- D. “And we do not say that he is not believed, except when the householder says he lent them and the other claims he bought them. *But if the householder claims he stole them, the householder does not have the power to make such a claim, because we do not take for granted that the other is a robber.*
- E. “And we do not say that the other is not believed except when the articles are those that it is customary to lend or hire out, but if the articles are those that it is not ordinary to lend or hire out, he is believed [to claim he bought them].:”
- F. For R. Huna bar Abin sent word: “In the case of articles which ordinarily are lent or hired out, if the other said, ‘I bought them,’ he is not believed.”
- G. *That is along the lines of the case in which Raba seized from an estate a pair of scissors for cutting cloth and a scroll of lore, these being things that ordinarily are lent or hired out.*

III.3. A. [With reference to **If people were giving testimony against a person that he had gone into his house to exact a pledge without permission, and the victim of the theft says, “You took my utensils,” and the other party says, “I never took them” — lo, this one takes an oath and collects what he claims.**] said Raba, “Even a guard may take such an oath [if the householder was absent, then the caretaker takes the oath], and even the guard’s wife may take the oath to the same effect.”

B. *R. Pappa raised this question, “If it was his hired hand or his dependant [who are not responsible for minding the house (Silverstone)], what is the law?”*

C. *The question stands.*

III.4. A. *Said R. Yemar to R. Ashi, “If he claimed a silver cup, what is the rule? [Does the householder take an oath and collect?]*”

B. *He said to him, “We look at the facts of the case. If the householder is reputed to be rich, or if he was reputed to be reliable so people would deposit with him valuable articles, he does take an oath and gets the cup. But if not, he doesn’t.”*

IV.1 A. **The victim of a beating [M. 7:1C3] — how so? [If people] were giving testimony against a person that [the plaintiff] had gone into his [the defendant’s] hand whole and come forth injured, and he said, “You beat me up,” and he says, “I never beat you up” — lo, this one takes an oath and collects [compensation]. R. Judah says, “[That is so] only if there will be a concession of part of the claim. How so? If he said to him, ‘You made two wounds on me,’ and the other party said, ‘I made only one on you:’”**

B. [As to the rule that the injured person takes the oath that the other party has inflicted the injury,] said R. Judah said Samuel, **“That is the case only in a situation in which the injury was somewhere where the injured party could have made it himself, but if it were in a spot in which the injured party could never have made it himself, he collects without taking an oath [T. B.Q. 9:28F].”**

C. *Yeah, but how about the possibility that he rubbed himself against a wall and inflicted the injury that way?*

D. *R. Hiyya repeated as a Tannaite formulation: it is a case in which teeth marks appeared on his back or in his arm pits.*

- E. *Yeah, but maybe someone else than the accused did it?*
- F. *There was no one else around.*

V.1 A. **He whose contrary litigant is not trusted [even if he takes] an oath [M. 7:1C4] — how so? All the same are an oath regarding testimony, an oath regarding a bailment, and even a vain oath: [if] one of the litigants was a dice player, gave out loans on usury, [was] a pigeon racer, or a dealer in Seventh-Year produce [M. San. 3:3], the other litigant takes an oath and collects [his claim]. “[If] both of them were suspect [in the matters just now listed], the oath returns to its normal place [and is taken by the one against whom the claim is made]” the words of R. Yosé. R. Meir says, “Let them divide up [the claim at issue].”**

- B. *What is the meaning of and even a rash oath?*
- C. *The sense of the formulation is, “it goes without saying,” that is, it goes without saying that not only if he is guilty in such cases as these [having taken a false oath of testimony or bailment], in which he has denied owing money, but even in the case of a vain oath, in which it is a mere verbal denial, he is no longer believed on oath.*
- D. *So then the Tannaite framer of the passage should also make reference to a rash oath!*
- E. *Where he lists oaths, they are of the kind that, at the time of swearing, one swears falsely; but as to a rash oath, it is possible to say that he is swearing the oath in truth, he does not list such an item.*
- F. *Well, that covers such oaths as, “I shall eat,” or “I shall not eat.” But what about the oaths saying, “I have eaten,” or “I have not eaten” [in which the facts are already settled] — what is to be said here?*
- G. *The framer of the passage addresses vain oaths and [47A] all oaths that are of that classification.*

VI.1 A. **[if] one of the litigants was a dice player, gave out loans on usury, [was] a pigeon racer, or a dealer in Seventh-Year produce:**

- B. *Why inflate the list?*
- C. *The Tannaite framer of the passage has made explicit both a disqualification based on the law of the Torah and one based on rabbinic rulings.*

VII.1 A. **“[If] both of them were suspect [in the matters just now listed], the oath returns to its normal place [and is taken by he one against whom the claim is made],” the words of R. Yosé. R. Meir says, “Let them divide up [the claim at issue].”**

- B. *Said Raba to R. Nahman, “How are we to recite this Mishnah-paragraph [in regard to the opinions of the several authorities]?”*
- C. *He said to him, “Don’t know.”*
- D. *“So what’s the law?”*
- E. *“Can’t say.”*
- F. *It has been stated:*
- G. *Said R. Joseph bar Minyomi said R. Nahman, “R. Yosé says, ‘Let them divide up the claim at issue.’”*

- H. And so did R. Zebid bar Oshaia repeat the Tannaite formulation: "R. Yosé says, 'Let them divide up the claim at issue.'"
- I. There are those who say: "R. Zebid repeated the Tannaite formulation, 'Said R. Oshaia, 'R. Yosé says, 'Let them divide up the claim at issue.''"
- J. *Said R. Joseph bar Minyomi, "R. Nahman decided a case in such a way that they were to divide what was at issue."*

VIII.1 A. the oath returns to its normal place [and is taken by he one against whom the claim is made]

- B. *Where does it revert?*
- C. Said R. Ammi, "Our rabbis in Babylonia said, 'The oath reverts to Sinai' [Silverstone: since both claimant and defendant are suspect of swearing falsely, neither can take the oath; it goes back to Sinai, since it cannot be applied; the case cannot be tried by the court, and one or the other must produce evidence.]
- D. "Our rabbis who are in the land of Israel said, 'The oath reverts to the one who is obligated to take it anyhow [it is the defendant who admits part of the claim, and since he cannot take the oath, he has to pay the whole claim].'"

VIII.2. A. Said R. Pappa, "'Our rabbis in Babylonia' refers to Rab and Samuel.'Our rabbis in the Land of Israel' refers to R. Abba."

- B. "Our rabbis in Babylonia' refers to Rab and Samuel." *for we have learned in the Mishnah: so heirs of an estate collect [debts owing to the deceased] only through an oath [M. 7:7E]. And in that connection, we reflected as follows: from whom is the debt collected? Should we say from the borrower? The father could have gotten back his money without an oath, and should they have to take an oath? Rather, it means, And so also orphans cannot collect payment from orphans without taking an oath. And both Rab and Samuel say, "This rule pertains only if the lender died in the lifetime of the borrower. But if the borrower died in the lifetime of the lender, the lender is already obligated to take an oath to the children of the borrow, and someone may not then leave as an inheritance to his children the requirement to take an oath."* [Thus 1.B belongs to Rab and Samuel.]
- C. "Our rabbis in the Land of Israel' refers to R. Abba:"
- D. *For there was the case when somebody grabbed a bar of silver from his fellow. The case came before R. Ammi. R. Abba was in session before him. The owner of the silver brought a single witness to the effect that the other had grabbed the bar. The other said, "Well, yes, I grabbed it, but I grabbed what is mine."*
- C. *Said R. Ammi, "How should the judges decided this case? Shall he pay? But there are not two witnesses. Shall he be exempt? But there is a witness to the effect that he grabbed it. Shall he take an oath? Well, since he has conceded, 'Yes, I grabbed it, but I grabbed what is mine,' he is classified as a robber [who is not subject to an oath]."*
- D. *Said to him R. Abba, "You have a case in which the oath reverts to the one who is liable to take the oath [that is, the debtor], and since he cannot take an oath, he is going to have to pay [and the witness by not testifying has definitely deprived the creditor, and all concur the witness is liable]."* [Silverstone: if the witness had

withheld his evidence, he would have deprived the man of his silver, so all concur he must bring an offering for taking a false oath.] [Thus 1.C belongs to Abba.]

VIII.3. A. *Said Raba, “The position of R. Abba stands to reason, for R. Ammi repeated as a Tannaite formulation: “‘The oath of the Lord shall be between them both’ (Exo. 22:10) — and not between the heirs.’ Now what sort of a case is in mind? Should we say that the one said to the other, ‘Your father owed my father a hundred zuz,’ and the other replied, ‘Well, he owed him, but it was fifty, not the other fifty,’ then how is he any different from his father [admitting half, denying half, he should take the oath his father would have had to take]? Rather, is it not a case in which he said to him, ‘A maneh belonging to father is in your father’s hand,’ and he said to him, ‘Of fifty I am informed, of fifty I know nothing.’ [47B] Now if you say, in such a case his father would have had to take an oath, then it is necessary for Scripture explicitly to exempt the heir from having to do so. But if you say that his father in such a case would also not have had to take the oath [Silverstone: as Rab and Samuel say, when an oath cannot be imposed, it returns to Sinai and there is no oath taking nor paying], then why do we need a verse of Scripture in order to exempt the heirs?” [Silverstone: the fact that we do need the verse to exempt the heirs implies that the father would have to pay, and this supports Abba’s view.]*

- B. *And how do Rab and Samuel interpret the reference to the oath of the Lord?*
- C. *They require it in line with that which has been taught on Tannaite authority:*
- D. Simeon b. Tarfon says, “‘The oath of the Lord shall be between them both’ (Exo. 22:10) — teaching that the oath falls upon them both.”

Sayings of Simeon b. Tarfon

The collection of sayings attributed to Simeon b. Tarfon is now tacked on in full. Nothing more intersects with our talmud.

VIII.4. A. Simeon b. Tarfon says, “How on the basis of Scripture do we know that pimping is subject to an admonition?

- B. “‘You shall not commit adultery’ (Exo. 20:13) — you shall not bring about adultery.”

VIII.5. A. “And you murmured in your tents” (Deu. 1:27):

- B. Simeon b. Tarfon says, “You spied out and shamed the tent of the Omnipresent.”

VIII.6. A. “As far as the great river, the river Euphrates” (Deu. 1: 7):

- B. Simeon b. Tarfon says, “*Go to a fatty and get fat.*”
- C. *A member of the household of R. Ishmael repeated as a Tannaite formulation: “The employee of a king is a king.”*

IX.1 A. **A storekeeper concerning what is written in his account book — how so? It is not that he may say to him, “It is written in my account book that you owe me two hundred zuz.” But if the householder said to him, “Give my son two seahs of wheat,” [or] “Give my worker change for a sela,” and he says, “I already gave it to him,” and they say, “We never got it” — the storekeeper takes an oath and collects what is owing to him, and the workers take an oath and collect what they claim from the householder:**

- B. *It has been taught on Tannaite authority:*
- C. Said Rabbi, "What's the point of this oath?"
- D. Said to him R. Hiyya, "*It is taught in the Mishnah: [the storekeeper] takes an oath and collects what is owing to him, and [the workers] take an oath and collect what they claim from the householder.*"
- E. *Did he accept this answer from him or not?*
- F. *Come and take note of that which has been taught on Tannaite authority: Rabbi says, "The workers take the oath to the storekeeper" [T. Sheb. 6:5H]. Now, if it were the case [that Rabbi maintained that both parties should take the oath], it should say that the workmen take the oath to the householder [for he holds that the shopkeeper and workmen take the oath and get what is owing from the householder (Silverstone)].*
- G. Said Raba, "The workers take the oath to the householder in the presence of the storekeeper, *so that they may be ashamed to lie because of his presence [that they had not received the money if they had gotten it].*"

X.1 A. [But either these or those then are taking a vain oath:] *it was stated:*

- B. Two pair of witnesses contradict one another —
- C. Said R. Huna, "This one may come and give testimony by itself, and that one may come and give testimony by itself."
- D. *R. Hisda said, "Why in the world do I have to deal with mendacious witnesses?"*
- E. *What is at issue in their dispute is a case in which there are two creditors, two debtors, and two bonds. [Silverstone: two separate cases of lender, borrower, and bond; one set of these witnesses had signed the bond in one case, the other in the other case. According to Huna, both bonds are correct and legally enforceable, and according to Hisda, both bonds are invalid.]*
- F. Where there is one creditor and one debtor and two bonds, the holder of the bond is at a disadvantage. [Silverstone: one lender lent one borrower two loans, for which he produces two documents, on one of which one set of witnesses had signed, and on the other of which the other had signed. Both parties concur that since this lender wants to collect money from the borrower on both documents, one of which false witnesses had signed, he may get paid for one loan only, the lesser, and loses the greater, for the borrower may maintain that the witnesses who had signed on the larger amount are false; since the lender cannot prove the contrary, he collects on the smaller bond.]
- G. In the case of two creditors and one debtor and two bonds, *we find ourselves in the situation described by our Mishnah's rule. [We know one is swearing falsely, but we cannot deprive either party of his money; here too both creditors collect.]*
- H. Where there are two debtors and one creditor and two documents, *what is the ruling [of Huna?]* [Silverstone: the lender produces two bonds against two debtors. Does Huna hold that since it is one man who produces both documents, one false, the court cannot uphold his claim at all, for each may maintain the document against him is false; or since his claim is against two persons, he produces one document at a time and collects, since Huna holds that each set of witnesses is believed on its own. According to Hisda, the claims cannot be enforced, since both sets of witnesses are disqualified, even one by one.]

- I. *That question stands.*
- J. *Objected R. Huna bar Judah, [48A] “[If one of the two witnesses to the new moon] said that the sliver that he saw was two ox goads high, and the other said it was three, their testimony is valid [and they saw the new moon]. If one said three and the other five, their testimony is null. But they may join together to testify otherwise. Now what is the meaning of that statement, if it is not that they may join together to give valid testimony in a monetary claim [even though in the matter of the new moon, we know for sure that one of them is a liar]?”*
- K. *Said Raba, “What it means is that he and someone else may join for other testimony in connection with the new moon, for now there are two against one, and the statement of one is null as against the statement of two.”*

XI.1 A. **[If] one said to the storekeeper, “Give me produce for a denar,” and he gave to him — he said to him, “Give me the denar, “ he said to him, “I already gave it to you, and you put it in the till” — let the householder take an oath. If he gave him a denar and said to him, “Give me produce” — he said to him, “I already gave it to you and you brought it home” — let the storekeeper take an oath. R. Judah says, “Whoever has the produce in hand — his hand is on top:”**

- B. *It has been taught on Tannaite authority:*
- C. *Said R. Judah, “Under what conditions [does the storekeeper take an oath]? It is if the fruit is heaped in a pile and lying there and the litigants are contesting them. But if he has thrown the fruit into the basket on his shoulder, then he who wants to collect from the other [the storekeeper] has to prove his case [that the storekeeper has not been paid].”*

XII.1 A. **[If] he said to the money changer, “Give me small coins for a denar,” and he gave them to him — he said to him, “Give me the denar” — he said to him, “I already gave it to you, and you put it in the till” — let the householder take an oath. If he gave him a denar and said to him, “Give me small change,” he said to him, “I already gave them to you, and you tossed them into your wallet,” let the money changer take an oath. R. Judah says, “It is not customary for a money changer to hand over even an issar before he collects his denar:”**

- B. *It is necessary to set forth both cases [the fruit-seller, the money changer]. For had we been told the first of the two, we might have supposed that it is in that case in particular that rabbis maintain the householder takes the oath, because fruit may decay, and because it rots, they do not keep it [the seller tosses it into the basket before getting the money so the purchaser will not change his mind], but in the matter of coins, since they don’t rot, I might have said that sages concur with R. Judah. And if the rule had been stated in that other case, it is in that other case in particular that R. Judah made his ruling, but in this case, I might have said that he concurs with rabbis. So both cases are required.*

XIII.1 A. **Just as they have said [M. Ket. 9:7], (1) A woman who impairs her marriage settlement collects only by taking an oath; (2) [if] a single witness testifies that it has been collected, she collects it only by taking an oath; (3) she collects from indentured property and from property belonging to the**

estate only by taking an oath; (4) she who collects her marriage settlement not in her husband's presence collects it only by taking an oath, so (5) heirs of an estate collect [debts owing to the deceased] only through an oath: "(1) We swear that father gave us no instructions [in this matter], (2) father said nothing to us about it, and (3) we did not find among his bonds evidence that this bond had been paid off." R. Yohanan b. Beroqah says, "Even if the son was born after the death of the father, lo, this one must take an oath before he collects [what is owing to the estate]." Said Rabban Simeon b. Gamaliel, "If there are witnesses that the father had stated when he was dying, 'This bond has not yet been paid off,' [the son] may collect [the debt] without taking an oath:"

- B. *From whom is the debt collected? Should we say from the borrower? The father could have gotten back his money without an oath, and should they have to take an oath? Rather, it means, And so also orphans cannot collect payment from orphans without taking an oath.*
- C. *Both Rab and Samuel say, "This rule pertains only if the lender died in the lifetime of the borrower. But if the borrower died in the lifetime of the lender, the lender is already obligated to take an oath to the children of the borrow, and someone may not then leave as an inheritance to his children the requirement that they take an oath."*

XIII.2. A. *They sent word to R. Eleazar, "What is the character of this oath?"* [Silverstone: can they always exact money with this oath, even if the debtor died in the lifetime of the creditor?]

- B. *He sent word back to them, "The heirs take the oath of heirs and collect what is coming to them."* [Silverstone: if the borrower died during the lifetime of the lender and then the lender died, his heirs take the oath that is imposed in such a case on heirs that their father had not told them that the debt due to them had been paid, and they collect the money from the borrower;'s heirs. Eleazar differs from Rab and Samuel and holds that someone may bequeath to his children the obligation to take an oath, though this is not the same oath that the father would have had to take.]
- C. *In the time of R. Ammi, they sent the same question, and he said, "Are they going on and sending the same question?"*
- D. *But if we had found some operative consideration in the matter, would we not have sent it to them?*
- E. *Rather, said R. Ammi, "Since this matter has come to our hand, we shall say something about it:*
- F. *"If the creditor had already come to court and laid claim against the estate of the debtor and had been told to take an oath, and before the oath, had died, he cannot bequest this oath to his heirs; [the claim lapses]. But if he had not yet come to court and died, his heirs take the oath of heirs and collect what is owing to them."*
- G. *To this proposition objected R. Nahman, "But is it the action of the court that makes the man liable to take an oath? From the moment that the debtor died, the creditor was already made liable to take an oath to the children of the debtor."*

- H. *Rather, said R. Nahman, "If the position of Rab and Samuel is valid, it is valid, and if it is not valid, it is not valid."*
- I. *It follows that he was subject to doubt. But has not R. Joseph bar Minyumi said, "R. Nahman made a practical decision in a case that the rival claimants should divide what is claimed"? [the oath does not lapse, and he does not concur with Rab and Samuel (Silverstone)].*
- J. *He made that statement quite within the framework of the position of R. Meir, but he does not concur. [Silverstone: the ruling of Rab and Samuel is applicable to Meir's view that the oath returns to Sinai, and on this, Nahman says Ammi's differentiation makes no sense; but Nahman does not agree with Meir.]*
- K. *[To the position of Rab and Samuel] objected R. Oshaia, "If the widow died, her heirs may raise the subject of her marriage-settlement for twenty five years." [Silverstone: the widow was not paid her marriage settlement from her husband's estate and died. She bequeaths this claim to her heirs, but they must raise the subject and claim it within twenty five years of the husband's death. The widow could not have claimed the marriage settlement of the heirs without taking an oath; when she dies, her heirs can claim it with the oath of heirs. Hence, though the borrower died during the lifetime of the lender, here the husband who owes the marriage settlement has died while the wife survived, and the lender, here, the wife, was liable to take an oath to the heirs, she may bequeath the oath to her heirs].*
- L. *Here with what sort of a case do we deal? It is one in which she took the oath and then died [so her heirs do not take an oath but merely collect what is owing to her estate].*
- M. *Come and take note: **[He who was married to two wives and died — the first [wife] takes precedence over the second, and the heirs of the first take precedence over the heirs of the second.] [If] he married the first and she died, then he married the second, and he died, the second and her heirs take precedence over the heirs of the first [M. Ket. 10:1].** [Silverstone: when he died, the second wife, then alive, has a claim against his estate; if she dies before receiving the money, her heirs collect; but the heirs of the first wife have no claim on the marriage settlement, since she died before her husband. When the marriage settlement has been paid to the heirs of the second wife, the heirs of the first wife also participate in their father's inheritance together with their step brothers. But the heirs of the second wife can exact payment of the marriage settlement; the second wife herself can obtain the marriage settlement only with an oath from the husband's heirs; her heirs must also take an oath, hence she can bequeath an oath to her heirs, an argument against Rab and Samuel.]*
- N. *Here again, with what sort of a case do we deal? It is one in which she took the oath and then died [so her heirs do not take an oath but merely collect].*
- O. *Come and take note: **[If he wrote to her, "Neither vow nor oath may I impose upon you," then he cannot impose an oath on her.] But he imposes an oath upon her heirs and upon those who are her lawful successors [If he said], "Neither vow nor oath may I impose upon you, upon your heirs, or upon your legal successors," he cannot impose an oath upon her or upon her heirs***

or legal successors.] But his heirs do impose an oath upon her, upon her heirs, or upon her legal successors [M. Ket. 9:5A-F]. [Silverstone: here it cannot be said that she had already taken the oath and then died, for in that case her heirs would not require an oath, while here the husband's heirs may make the wife's heirs take an oath.]

P. *Said R. Shime'i, "The formulation of the Mishnah-passage is such as to set forth alternatives: 'her' if she is a widow, 'her heirs' if she is divorced."* [Silverstone: the husband's heirs make her take an oath if she is a widow, but if she dies before collecting her marriage settlement, her heirs cannot get it from the husband's heirs, because she cannot bequeath the obligation to take an oath. Where the husband's heirs may make her heirs take an oath, that is where she was divorced, and her husband is liable to pay the marriage settlement without an oath, for he had agreed in writing that he would not demand an oath; then she died before obtaining the settlement, then the husband died; the marriage settlement was due her without an oath, this money she may claim to bequeath to her heirs; but if her heirs exact payment from her husband's they have to take an oath.]

Q. *Objected R. Nathan bar Hoshai'a, "The power of the son is greater than the power of the father, [48B] for the son may collect either by taking an oath or not by taking an oath while the father collects only by taking an oath. [The heir of the creditor collects from the heir of the debtor by taking an oath or not, if there were witnesses to the father's admission that the debt was unpaid. The father collects from the heirs of the debtor only by taking an oath (Silverstone)]. Now under what circumstances does this rule apply? It can only be that the debtor has died during the lifetime of the creditor. [Silverstone: the father exacts payment only with an oath can only refer to a case in which the borrower is already dead, and the father, the creditor, is claiming from the heirs, for if the borrower were alive, the lender would not need to take an oath since he can produce his bond.] And yet it is taught: the son may collect either by taking an oath or not by taking an oath. With an oath means the oath taken by heirs; without an oath is in line with what R. Simeon b. Gamaliel says [Said Rabban Simeon b. Gamaliel, "If there are witnesses that the father had stated when he was dying, 'This bond has not yet been paid off,' the son may collect the debt without taking an oath."]*

R. *Said R. Joseph, "In accord with whom is this formulation? It accords with the position of the House of Shammai, which takes the view that a bond that is ready for collection is classified as if it were already collected."*

[Reference is made to the following: **If their husbands died before they drank the bitter water — The House of Shammai say, "They receive the marriage contract and do not undergo the ordeal of drinking the bitter water." And the House of Hillel say, "They do not undergo the ordeal of drinking the bitter water and do not receive the marriage contract" (M. Sot. 4:2G-I):** What is the point at issue. The House of Shammai take the view that a bond that is due for collection as is the marriage-settlement, which has not been nullified as yet is treated as collected. The widow is entitled to collect the marriage-settlement on the death of the husband, and nothing has impaired that entitlement as yet. The property thus is regarded as hers for settlement of her claim. The heirs of the husband would have to prove that she had committed adultery, if they now wish to

deprive her of the property indentured in the marriage-settlement. The House of Hillel take the view that a bond that is due for collection is not treated as collected.]

XIII.3. A. *R. Nahman came to Sura and went to see R. Hisda and Rabbah b. R. Huna. They said to him, "Will the master come and uproot this rule of Rab and Samuel [that someone may not bequeath the requirement to take an oath to his son]?"*

B. *He said to them, "Have I gone to the trouble of coming this vast distance merely to uproot this rule of Rab and Samuel [that someone may not bequeath the requirement to take an oath to his son]?"*

C. *"So then give us this: don't add to it [and apply it only to the case of which they spoke]."*

D. *"For instance?"*

E. *"For instance what R. Pappa said, 'He who impairs his bond and died — his oaths may take the oath of heirs and collect on the strength of the bond.'" [The bond holder admitted having collected part, so has to take an oath to get the rest; if he dies, his oaths can swear the oath of heirs, and here we do not apply the ruling of Rab and Samuel about not bequeathing the right to take an oath and collect (Silverstone)].*

XIII.4. A. *A certain man who died left a guarantor [for the loan, who, upon the man's death, became surety for the loan; the burrower died as well, so the creditor has to take an oath to collect; then the creditor died, and his heirs claim the money from the guarantor of the loan]. R. Pappa considered ruling, "In a case of this kind the principle, don't add to it [and apply it only to the case of which they spoke] applies."*

B. *Said R. Huna b. R. Joshua to R. Pappa, "Will the guarantor of the loan not go after the orphans [to collect what is owing]?" [Silverstone: so the heirs of the creditor, if permitted to taken an oath and claim the loan from the guarantor, will ultimately be depriving the debtor's heirs because of the oath, and to such a case the ruling of Rab and Samuel applies].*

XIII.5. A. *A certain man died and left as his heir only a brother. [The borrower had died, leaving children; the lender's brother claims the debt from the borrower's children.] Rammi bar Hamma considered ruling, "In a case of this kind too the principle, don't add to it [and apply it only to the case of which they spoke] applies."*

B. *Said to him Raba, "What difference does it make to me whether the claim is, 'My father did not leave me orders,' and 'my brother did not leave me orders.'" [There is none, and the lender cannot bequeath such an oath to his sons, so also to his brother (Silverstone).]*

XIII.6. A. *Said R. Hama, "Now that the decided law has not been stated either in accord with Rab and Samuel or in accord with R. Eleazar, a judge who rules in accord with Rab and Samuel has done a valid deed, and who rules in accord with R. Eleazar has done a valid deed."*

XIII.7. A. *Said R. Pappa, "As to a bond in the hands of an estate [in a case in which the borrower has died during the lifetime of the lender, then the lender has died*

(Silverstone)], we do not tear it up, but we also do not collect the loan on the strength of it.

- B. “‘we also do not collect the loan on the strength of it:’ because of the ruling of Rab and Samuel.
- C. “‘we do not tear it up:’ on the principle that a judge who rules in accord with R. Eleazar has done a valid deed.”

XIII.8. A. A certain judge ruled in accord with the position of R. Eleazar. There was a neophyte rabbi in town. He said to him, “I can bring an epistle from the West to indicate that the law does not follow the position of R. Eleazar.”

- B. He said to him, “So when you bring it [tell me about it].”
- C. The disciple came before R. Hama, who said to him, “A judge who rules in accord with R. Eleazar has done a valid deed.”

XIV.1 A. And these [must] take an oath even when there is no claim [laid against them]: (1) partners, (2) tenants, (3) guardians, (4) a woman who manages her household, and (5) a manager of a common legacy. [If] he said to him, “What is your claim against me?” — “I want you to take an oath to me” — he is liable:

- B. [If we maintain that people have to take an oath even when there is no claim against them,] so are we dealing with total idiots?
- C. This is the sense of the statement: **And these [must] take an oath even when there is no claim [laid against them]** of a precise, but only of a dubious order: (1) partners, (2) tenants, (3) guardians, (4) a woman who manages her household, and (5) a manager of a common legacy.

XIV.2. A. A Tannaite formulation:

- B. **The manager of a common legacy** of whom they have spoken refers not merely to somebody who comes and goes at will, but someone who hires and fires workers, buys and sells produce.

XIV.3. A. And what differentiates the named parties [that they have to take an oath when the claim is subject to doubt]?

- B. It is because these give themselves leeway [in the management of funds, and so are subjected to an oath that they have not along the way taken for their own what was common property].
- C. Said R. Joseph bar Minyumi said R. Nahman, “But that is the rule only when the claim at issue between them is at least two pieces of silver. [If it is less than that, it is not actionable.]”
- D. In accord with what authority is that position?
- E. It is in accord with Samuel [Samuel said, “What is covered by the claim itself must be worth two pieces of silver, so that, even if he denied owing only a perutah or admitted owing only a perutah, he is liable to take the oath imposed by the judges”].
- F. But has not R. Hiyya repeated a Tannaite ruling in support of the position of Rab?
- G. Repeat the formulation as “what is subject to denial...,” as Rab has said.

XV.1 A. [Once] the partners have divided up the property, or the tenant farmers, then one cannot impose an oath upon the other. [If the requirement to take] an oath happened to come upon him from some other source [cause], however, they impose upon him an oath covering the entire [enterprise]:

B. *The question was raised: What is the law on superimposing upon an oath taken on the authority of rabbis this further, supererogatory oath?*

C. *Come and take note:* If one borrowed money from another on the eve of the Sabbatical Year, and, at the end of the Sabbatical Year, became a partner with him or with a tenant, the supererogatory oath is not assigned to him [along with the oath taken by reason of the partnership]. [Silverstone: if he denied the loan completely that had taken place on the eve of the Sabbatical Year, and now, having become a partner at the end of the Sabbatical Year, an oath is imposed on him because the partner has accused him of misappropriation of the funds of the partnership, the court does not include in the present oath any reference to his denial of the loan, the Sabbatical Year having cancelled the loan.] *The operative consideration then is that the loan was taken out on the eve of the Sabbatical Year, in which case the Sabbatical Year has come along and has removed the burden of that debt. Lo, in the context of any of the other years of the seven-year cycle, we should then impose upon him the supererogatory oath* [and that is so even though the oath is only by reason of rabbinic authority; thus the oath imposed by rabbis also is accompanied by supererogatory issues.]

D. *Do not go and say that in the case of any of the other years of the seven-year cycle, we should then impose upon him the supererogatory oath. Rather, this is the inference to draw:* if he became partner or tenant with him on the eve of the Sabbatical Year, and then at the end of the Sabbatical Year he borrowed money from him, we impose on him the supererogatory oath [Silverstone: if they dissolved the partnership, and then at the end of the Sabbatical Year one partner borrowed from the other and later admitted a portion of the loan but denied the rest, in which case he is liable for an oath on the authority of the Torah, we impose on him also the previous oath, which his partner imposes by accusing him, after the dissolution of the partnership, of prior fraud. Hence it is because he is liable to take an oath on the authority of the Torah that we include also the prior rabbinic oath. The Sabbatical Year does not cancel the requirement to take the oath; it cancels only the requirement to take oaths attached to loans, as well as the loans themselves.]

E. *So it is stated in so many words:*... if he became partner or tenant with him on the eve of the Sabbatical Year, and then at the end of the Sabbatical Year he borrowed money from him, we impose on him the supererogatory oath.

F. *Should we therefore not draw the inference that we do superimpose upon an oath taken on the authority of rabbis this further, supererogatory oath?*

G. *Yup.*

XV.2. A. Said R. Huna, [49A] “On the occasion of the required swearing of all classifications of oaths we superimpose supererogatory oaths, except on the occasion of the oath taken by the hired hand, on which we do not impose supererogatory oaths.”

- B. R. Hisda said, "In the case of all classifications of oaths, we impose a lenient ruling only in the case of the oath of the hired hand, in which case we impose a lenient ruling."
- C. *So what's at issue between these two formulations?*
- D. *At issue between them is whether or not the court makes the effort to find an opening in his case for a supererogatory oath* [Huna will ask about any further claims against the defendant in which the oath might be imposed, Hisda says that is not the case (Silverstone)].

XVI.1 A. The advent of the Sabbatical Year releases the requirement to take an oath:

- B. *What is the scriptural basis for the rule?*
- C. Said R. Giddal said Rab, "Said Scripture, 'And this is the word of the year of release' (Deu. 15: 2) — even a word [an oath] is released."

I.1 commences with the routine opening. II.1 asks a complementary type of question of Mishnah-exegesis, now the foundations in law and logic for the Mishnah's rule. Nos. 2-3 continue the clarification of the Mishnah's law, introducing considerations on rules of pleading and evidence that the Mishnah invites. Nos. 4, 5 continues the exposition of the inner workings of the law. III.1 clarifies the wording of the Mishnah in line with its implicit imprecision. No. 2 extends the foregoing by a set of qualifications. Nos. 3, 4 supplement the Mishnah's law. IV.1 clarifies the conditions under which the rule applies. V.1 clarifies the formulation of the Mishnah. VI.1 asks why the entry is needed, since the gambler is classified as a robber, who has already been covered. VII.1 goes over the proper wording of the Mishnah-paragraph. VIII.1 clarifies the rule of the Mishnah, and No. 2 supplements a detail of the foregoing. No. 3, with a tacked on footnote at Nos. 4-6, continues the amplification of No. 1. IX.1 provides a somewhat curious exegesis of the Mishnah. X.1 addresses not the Mishnah-statement but the basic issue raised by the observation that if conflicting parties take an oath, someone is lying. XI.1 restates the Mishnah's rule in somewhat different language. XII.1 asks a standard question and gives a standard answer. XIII.1 clarifies the rule of the Mishnah, and Nos. 2, 3, with an appendix at Nos. 4-9, expand on that item. XIV.1 asks an obvious question. Nos. 2, 3 provide another clarification, the whole in the category of Mishnah-exegesis. XV.1 asks a necessary question of Mishnah-exegesis. No. 2 extends the conclusion of No. 1. XVI.1 finds a scriptural basis for the rule.