

II.

BAVLI QIDDUSHIN CHAPTER TWO

FOLIOS 41A-58B

2:1A-C

- A. A man effects betrothal on his own or through his agent.
- B. A woman becomes betrothed on her own or through her agent.
- C. A man betroths his daughter when she is a girl on his own or through his agent.

- I.1** A. [A man effects betrothal on his own or through his agent:] *If it is clearly stated that a man effects betrothal through his agent, can there be any question that a man effects betrothal on his own?*
- B. Said R. Joseph, “The formulation bears the sense that it is a religious duty better carried out by him than by his agent.”
- C. *That is in line with what R. Safra did, namely, he personally singed the head of an animal [for use on the Sabbath].*
- D. *Raba salted fish.*
- E. *There are those who say that even in this matter there is a prohibition [against having an agent do what can do for oneself,] in accord with what R. Judah said Rab said, for said R. Judah said Rab, “It is forbidden for a man to betroth a woman before actually seeing her, lest he discern in her some unappealing trait and she be repulsive to him, while the All-Merciful has said, ‘You will love your neighbor as yourself’ (Lev. 19:18).”*

F. *And as to R. Joseph's statement?*

G. *When it was made it addressed the concluding part of the rule.*

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

B. A woman may accept a token of betrothal either on her own part or through an agent.

C. *If it is clearly stated that* A woman may accept a token of betrothal through an agent, *can there be any question that* it may be done on her own?

D. Said R. Joseph, "The formulation bears the sense that it is a religious duty better carried out by her than by her agent."

E. *That is in line with what R. Safra did, namely, he personally singed the head of an animal [for use on the Sabbath].*

F. *Raba salted fish.*

G. *And no prohibition pertains to this case, in line with what R. Simeon b. Laqish said, "It is better to dwell two bodies together than to live a widow."*

II.1 A. **A man betroths his daughter when she is a girl [prepubescent] on his own or through his agent:**

B. *May then he do so when she is prepubescent but not when she is a minor? Then that supports the position of Rab. For* said R. Judah said Rab, and some say, R. Eleazar, "It is forbidden for a man to betroth his daughter when she is a minor; he may do so only when she grows up and says, 'I want So-and-so.'"

II.2 A. *As to the fact that an agent may participate, how on the basis of Scripture do we know that fact?*

B. *As has been taught on Tannaite authority:*

C. "When a man takes a wife and...she does not find favor in his eyes...then he shall write her a writ of divorce and he shall send [her out of his house]" (Deu. 24: 1) – this teaches that the husband appoints an agent.

D. "And he shall send her" – this teaches that she may appoint an agent.

E. "Then he shall send, then he shall send her..." – this teaches that the agent may appoint an agent.

F. *So we have found the principle of agency in the matter of divorce. How on the basis of Scripture do we find that same principle when it comes to a betrothal? And should you propose that we derive the*

principle as it covers betrothals from the rule governing writs of divorce, the two processes are to be differentiated, for it is the definitive trait of a writ of divorce that it may be carried out willy-nilly [which is not so in respect to a betrothal, the woman having to concur].

G. Said Scripture, “And she shall go forth and she shall be...,” by which Scripture treats as comparable marriage to divorce: *Just as an agent may be appointed to carry out a writ of divorce, so one may do so when it comes to a betrothal.*

II.3 A. *And what about that which we have learned in the Mishnah: One who says to his agent, “Go and separate heave-offering [for me]” – he [the agent] separates heave-offering in accordance with the disposition of the householder. [And] if he does not know the disposition of the householder, he separates the average amount, one-fiftieth. [41B] [If the agent at A-B or C-D unintentionally] separated one-tenth less or more [than the percentage he needed to separate] – that which he separates [still] is [valid] heave-offering [M. Ter. 4:4A-G]? Now how do we know this? Should you say, derive the principle from the rule governing writs of divorce, the two processes are to be differentiated, for it is the definitive trait of a writ of divorce that it is a secular issue.*

B. Scripture said, “Thus you also shall offer heave-offering,” (Num. 18:11) encompassing an agent, where “you” would have been enough to cover an agent as well [without the “also”].

C. *But why not have Scripture make reference to the matter in respect to heave-offering, and we should derive the other matters, marriage and divorce, from that item?*

D. *Because one could propose the following flaw in the argument: It is possible to separate heave-offering by mere intention [in which case an agent can do it too, but these other procedures require an action].*

E. *And what about that which we have learned in the Mishnah: An association, the Passover-offering of which was lost, and which said to someone, “Go and*

find and slaughter another one for us,” and that one went and found and slaughtered [another], but they, too, went and bought and slaughtered [one for themselves] – if his was slaughtered first, he eats his, and they eat with him of his. But if theirs was slaughtered first, they eat of theirs, and he eats of his. And if it is not known which of them was slaughtered first, or if both of them were slaughtered simultaneously, then he eats of his, and they do not eat with him, and theirs goes forth to the place of burning, but they are exempt from having to observe the second Passover [M. Pes. 9:9A-J] – *how do we know that an agent serves here? And should you answer, derive the principle from the rule governing these [issues involving the separation of heave-offering], the agent may serve here because these are secular matters in comparison to Holy Things.*

F. *It derives in accord with what R. Joshua b. Qorha said, for said R. Joshua b. Qorha, “How on the basis of Scripture do we know that a person’s agent is equivalent to the person himself? ‘And the whole assembly of the congregation shall kill the Passover sacrifice at evening’ (Exo. 12: 6) – now does the entire assembly actually slaughter the Passover-offering? And is it not the fact that only a single individual does it? But on the basis of this formulation, we learn that a person’s agent is equivalent to the person himself.”*

G. *Well, now why should the All-Merciful not make reference to the matter with respect to Holy Things, and we might then derive these other matters by analogy to that?*

H. *Because one could propose the following flaw in the argument: It is possible to validate the use of an agent with respect to Holy Things, because most of the rites concerning Holy Things are carried out by agents [the priesthood].*

I. *Well, while one class cannot be derived from another, why not derive the rule governing one from two of the others [showing that what is common to both also pertains to the third (Freedman)]?*

J. *Which of the two?*

K. *Well, why not let the All-Merciful omit the rule with respect to Holy Things, and derive the rule governing Holy Things from these other items?*

L. *Well what characterizes these other things is that both of them are classified as secular with regard to Holy Things [so they would be governed by a different rule].*

M. *Then why not have the All-Merciful omit the proof with regard to writs of divorce and derive the rule from these other cases of valid agency?*

N. *Well what characterizes these other things is that both of them are governed by proper intentionality even though no action is taken.*

O. *Then why not have the All-Merciful omit the proof with regard to heave-offering, and derive the rule from these other cases of valid agency?*

P. *True enough.*

Q. *Then what's the point of the language, "you, you also" (Num. 18:11)?*

R. *It is required in line with what R. Yannai said, for said R. Yannai, "'You also': Just as you are responsible to the covenant, so your agents must be responsible to the covenant."*

S. *Well, why do we need a verse of Scripture to make that point? For it derives from what R. Hiyya bar Abba said R. Yohanan said, for said R. Hiyya bar Abba said R. Yohanan, "A slave may not be appointed an agent to receive delivery of the writ of divorce of a wife from the*

hand of her husband, since he does not fall under the law of writs of divorce or betrothals.”

T. *Nonetheless, it is entirely required to make the point in our context, for I might otherwise have supposed that a slave cannot serve as an agent since he cannot free a married woman at all, [being subject to neither the law of marriage nor the law of divorce], but a gentile can designate heave-offering for his own crops, in line with what we have learned in the Mishnah: A gentile and a Samaritan – that which they separate is [valid] heave-offering [M. Ter. 3:9A-B]. Might I then suppose that he may also serve as an agent for an Israelite? So we are informed that that is not the case.*

U. *And from the perspective of R. Simeon, who exempts [gentiles, so that they may not designate heave-offering and their act in doing so is null], as we have learned in the Mishnah: Heave-offering separated by a gentile imposes the status of heave-offering [upon unconsecrated produce with which it is mixed] and [non-priests who accidentally eat it] are liable on its account to [pay back its value and] the [added] fifth (Lev. 22:10-14). But R. Simeon exempts [heave-offering separated by a gentile from these stringencies] [M. Ter. 3:9E-K], [what is to be said] about the use of the phrase, “you, you also” (Num. 18:11)?*

V. *It is required, for it might have entered your mind to suppose that since a master has said, “‘You’ not your share coppers, ‘you’ but not your partners, ‘you,’ but not your guardians, ‘you,’ but not one who separates heave-offering for crops that are not his,” I might go on, “‘you,’*

but not your agents.” So we are informed that that is not the case.

W. Well, so much for R. Joshua b. Qorhah’s position. But from the viewpoint of R. Jonathan, who makes use of the language at hand for a different exegetical purpose altogether, what is to be said? For it has been taught on Tannaite authority: R. Jonathan says, “How on the basis of Scripture do we know that every Israelite, all together, may carry out their obligation to the Passover-offering [42A] on the basis of a single Passover-offering? ‘And the whole assembly of the congregation shall kill the Passover sacrifice at evening’ (Exo. 12: 6) – now does the entire assembly actually slaughter the Passover-offering? And is it not the fact that only a single individual does it? But on the basis of this formulation, we learn that every Israelite, all together, may carry out their obligation to the Passover-offering on the basis of a single Passover-offering,” how does he know that an agent may be appointed for Holy Things?

X. From the facts of that matter themselves [for priests are agents]!

Y. But maybe that classification of agency is exceptional, because in that case there is to begin with the possibility of a partnership!

Z. Rather, it derives from the following: “And they shall take to them every man a lamb, according to their fathers’ houses, a lamb for a household” (Exo. 12: 3) [Freedman: thus one was to take in behalf of a whole household].

AA. But maybe in that case, too, the classification of agency is exceptional, because in that case there is to begin with the possibility of a partnership!

BB. *If so, then what need to I have for two verses of Scripture? If it does not pertain to the matter to which it belongs, then apply it to a matter to which it does not belong.*

CC. *Nonetheless, it is required in line with what R. Isaac said, namely, “An adult can acquire on behalf of others but minors cannot acquire in behalf of others a share in the Passover lamb.”*

DD. *That fact derives from reference to the language, “According to every man’s eating you shall make your count for the lamb” (Exo. 12: 4) [man, not minor].*

EE. *Still, it is required to make the point that they may slaughter a Passover-offering in behalf of even a single individual.*

FF. *He concurs with him who maintains, they may not slaughter a Passover-offering in behalf of even a single individual.*

GG. *And what about what R. Giddal said Rab said, namely, “How on the basis of Scripture do we know that a person’s agent is equivalent to the person himself? As it is said, ‘And you shall take one prince of every tribe to divide the land for inheritance’ (Num. 34:18) [each acting for the whole tribe],” why not derive the law of agency from this verse?*

HH. *But do you really suppose that the division of the land was governed by the principle of agency? Lo, minors are not subject to the law of agency! [But they got portions in the land, so the princes acted not under the law of agency but under a different and special principle]. Rather, it is in accord with what Raba bar R. Huna said, for said*

Raba bar R. Huna said Rab, “How on the basis of Scripture do we know that one may confer an advantage on a third party even not in his presence? As it is said, ‘And you shall take one prince of every tribe to divide the land for inheritance’ (Num. 34:18).”

II. *But do you really think that it was advantageous? Surely the division involved disadvantages as well, for some people prefer mountainous land and not flat plains, and others prefer flat plains and not mountainous land!* [One cannot accept a disadvantage without the other’s authorization, so this is not the principle in play here (Freedman).]

JJ. *Rather, it is in accord with what Raba bar R. Huna said, for* said Raba bar R. Huna said R. Giddal said Rab, “How on the basis of Scripture do we know that when minors come to divide their father’s estate, the court appoints a guardian on their behalf, whether this is to their advantage of disadvantage....”

KK. *Do you really say, “to their disadvantage”? Why should that ever be a disadvantage? Rather; to their subsequent disadvantage, even though to begin with, the intention is that it is to their advantage?*

LL. “From the verse: ‘And you shall take one prince of every tribe to divide the land for inheritance’ (Num. 34:18).”

II.4 A. Said R. Nahman said Samuel, “When orphans come to divide up their father’s estate, the court

appoints a guardian for them who selects for them the best share. When they grow up, they have the right to reject his choice [and demand a new division, so the guardian's power pertains only to the yield of the estate up to the time of the protest].” *In his own account*, R. Nahman says, “When they grow up, they do not have the power to reject the guardian's choice in their behalf, for otherwise, what is the value of the court's power anyhow?”

B. *But does R. Nahman admit the argument*, for otherwise, what is the value of the court's power anyhow? *And haven't we learned in the Mishnah: [If] the estimate of the value made by judges was a sixth too little or a sixth too much, their sale is void. Rabban Simeon b. Gamaliel says, “Their sale is confirmed. For if it is so [that the sale is void], of what value is the decision of a court?” [M. Ket. 11:5A-C]*, and said R. Huna bar Hinena said R. Nahman, “The decided law accords with the position of sages”!

C. *No problem, [42B] the one refers to a case in which the judges made a mistake, the other, a case in which they didn't make a mistake.*

D. *Well, if they didn't make a mistake, on what basis do the heirs protest?*

E. *They can protest against the sites [they have individually been given].*

II.5

A. Said R. Nahman, "When brothers divide an estate, they are classified in relationship to one another as purchasers. If there is an error of less than a sixth from true value, the transaction is confirmed; if it is more than a sixth, it is null. If it is exactly a sixth, it is valid, but the amount of the error has to be returned."

B. Said Raba, "That rule that we have stated, that an error for less than a sixth of true value leaves the transaction intact, *applies only if one did not appoint an agent, but if he appointed an agent, he can plead, 'I sent you to gain an advantage for me but not to do me injury.'* And when we say, 'if it is more than a sixth, it is null,' *that is only if one did not say, 'We will divide up according to the estimate of the value that the court assigns,' but if this was stipulated, the transaction is valid. For we have learned in the Mishnah: [If] the estimate of the value made by judges was a sixth too little or a sixth too much, their sale is void.* Rabban Simeon b.

Gamaliel says, ‘Their sale is confirmed. For if it is so [that the sale is void], of what value is the decision of a court?’ [M. Ket. 11:5A-C]. And when we say, ‘If it is exactly a sixth, it is valid, but the amount of the error has to be returned,’ *that pertains only to movables, but as to real estate, the law of price gouging does not apply to land. And as to real estate, what we have said applies only if the division was made by valuation, but not if the division was made by the measurement of a cord [by area, with the fields being equal in quality, so the error was made only in measurement]. That is in accord with Rabbah, for said Rabbah, ‘Anything that yields an error in measure, weight or number, even if less than the standard of price gouging, is subject to refund.’*”

- II.6** A. *Now when we learned in the Mishnah, He who causes a fire to break out through the action of a deaf-mute, idiot, or minor, is exempt from punishment under the laws of man, but liable to punishment under the laws of heaven. [If] he did so through the action of a person of sound senses, the person of sound senses is liable [M. B.Q. 6:4A-B]. But why should this be the case? Why not say, a man’s agent is equivalent to the man himself [so the sender is liable]?*
- B. *That case is exceptional, since it is an established principle that an agent cannot be appointed to carry out a violation of the law, for we say, as between the opinion of the master and the opinion of the disciple, whose opinion do we obey?*

- II.7** A. *And as to that which has been taught on Tannaite authority: [If the agent] did not carry out his errand [in committing an act of sacrilege], the agent [is responsible and inadvertently] has committed the act of sacrilege [M. Me. 6:1C-D] – when the person carried out the commission of the householder, then in any event the householder has performed an act of sacrilege. But why not say, an agent cannot be appointed to carry out a violation of the law?*
- B. *The case of sacrilege is exceptional, because the sense of the word “sin” derives from the context of heave-offering: Just as an agent can be appointed to designate heave-offering, so an agent can be appointed in regard to sacrilege.*
- C. *Well, then, why not derive an encompassing principle from the same item [that you really can appoint an agent for a transgression and be responsible for what he does]?*
- D. *Impossible, for the matters of sacrilege and trespass represent two verses of Scripture that go over the same matter [where the matter of agency pertains, although law violations are present], and wherever there are two verses that go over the same matter, there is no possibility of forming a general rule out of the two cases that are treated therein.*
- E. *As for the matter of sacrilege, it is as we have just now said.*
- F. *As for the matter of trespass, it is in line with that which has been taught on Tannaite authority:*
- G. *“Then the householder shall be brought to the judges...for all manner of trespass” (Exo. 22: 8) –*
- H. *the House of Shammai say, “This teaches that one is responsible for intentionality as much as for deed.”*
- I. **And the House of Hillel say, “He is liable [for damages incurred] only when he will actually make use of the bailment, since it is said, ‘If he has not put his hand to his neighbor’s property’ (Exo. 22: 7).”**
- J. *Said the House of Shammai to the House of Hillel, “But has it not been stated, ‘for all manner of trespass’?”*
- K. *Said the House of Hillel to the House of Shammai, “But has it not been stated, ‘If he has not put his hand to his neighbor’s property’?”*

L. “If so, what is the sense of ‘for all manner of trespass’?”

M. “One might have supposed that I know only that the thief himself is liable for what happens to the object that is stolen or the bailment. But if he said to his slave or his agent [to do the damage], how do we know that he bears responsibility? Scripture states, ‘for all manner of trespass.’”

N. *That poses no problem, then, from the perspective of the House of Hillel. But as to the House of Shammai, who read the verse to indicate that one is responsible for intentionality as much as for deed, [43A] why then can't we derive a general principle from this case?*

O. *Because the matter of sacrilege and slaughter and sale of a beast represent two verses of Scripture that go over the same matter [where the matter of agency pertains, although law violations are present], and wherever there are two verses that go over the same matter, there is no possibility of forming a general rule out of the two cases that are treated therein.*

P. *As to sacrilege, it is as we have just now said.*

Q. *As to slaughter and sale of a stolen beast, what is the source?*

R. Said Scripture, “If a man steal an ox or a sheep and kill it or sell it, he shall pay five oxen for an ox” (Exo. 21:37) – just as selling may be done through a third party, so slaughtering the beast may be done through a third party.

S. *A Tannaite authority of the household of R. Ishmael stated: “‘Or’ serves to encompass under the culpability of this action also an agent.”*

T. *A Tannaite authority of the household of Hezekiah stated: “‘For’ serves to encompass under the culpability of this action also an agent.”*

U. *Well, now, that poses no problem, then, from the perspective of him who says, wherever there are two verses that go over the same matter, there is no possibility of forming a general rule out of the two cases that are treated therein. But from the perspective of him who says, there is every possibility of forming a general rule out of the two cases that are treated therein, what is to be said?*

V. *Scripture has explicitly revealed the matter in respect to sacrifices slaughtered outside of the tabernacle when it says, “blood shall be imputed to that man, he has shed blood” (Lev. 17: 4) – that man, not his agent.*

II.8 A. *Now that we have found that that rule applies to the case of sacrifices slaughtered outside of the tabernacle. How do we know that the same rule applies throughout the Torah [that an agent who violates the law of the Torah is culpable, not the one who sent him]?*

B. *The principle is derived from the analogy of the rule governing sacrifices slaughtered outside of the tabernacle.*

C. *Well, instead of deriving the rule in particular from the case of sacrifices slaughtered outside of the Temple, why not derive the rule from these other matters [sacrilege, killing and selling, where agency does pertain]?*

D. *Scripture further went and stated, “And that man [in particular, not he who sent him] shall be cut off” – and since it has no bearing on its own context, apply it to the entire context of the remainder of the Torah.*

II.9 A. *Well, from the perspective of him who has said, wherever there are two verses that go over the same matter, there is no possibility of forming a general rule out of the two cases that are treated therein, how does he interpret the repeated use of “that [man]”?*

B. *One serves to eliminate the case of two men who hold a single knife and slaughter a beast outside of the Temple courtyard.*

C. *The other serves to indicate: “That [man]” – not someone who is under constraint; “that [man]” – not someone who acts in ignorance; “that [man]” – not someone who is confused.*

D. *And as to the other party?*

E. *He would derive that message if Scripture had spelled the word “that” in a simpler manner, rather than in the more complex way that it does. What then is to be learned from the more complex way of spelling the word? The point he wishes to prove.*

F. *And as to the other party?*

G. *He derives no message from the choices made as to spelling the word under discussion.*

II.10 A. *And as to that which is stated as a Tannaite rule: He who says to his agent, “Go kill So-and-so” – the agent is liable if he does so, and the one who sends him is exempt.*

B. *Shammai the Elder says in the name of the prophet Haggai, “The one who sends him is liable as well: ‘You have slain him with the sword of the children of Ammon’ (2Sa. 12: 9).”*

C. *What is the scriptural basis for the position of Shammai the Elder?*

D. *He takes the position, wherever there are two verses that go over the same matter, there is every possibility of forming a general rule out of the two cases that are treated therein. And, further, he derives no message from the choices made as to spelling the word under discussion earlier.*

E. *Or, if you prefer, I shall say, he most certainly does derive a message from the choices made there, but what is the sense here of liable? It is, liable under the laws of Heaven.*

F. *Well, then, must it follow that the initial Tannaite authority takes the position that even under the laws of Heaven he is exempt? Rather, what is at issue concerns a greater or a lesser penalty [the lesser penalty as an indirect cause, as against Shammai’s view that he is the actual murderer and is subject to the greater penalty].*

G. *Or, if you prefer, I shall say, that case is exceptional because the All-Merciful itself revealed the matter, namely: “You have slain him with the sword of the children of Ammon” (2Sa. 12: 9).*

H. *And as to the other party?*

I. “Lo, it counts against you as the sword of the children of Ammon. Just as on account of the sword of the children of Ammon you are not punished, so for Uriah the Hittite’s death you are not punishable.”

J. *How come? He was rebelling against the kingdom, in saying to him, “And my lord Joab, and the servants of my Lord, are encamped in the open field; shall I then go into my house to eat and drink and lie with my wife” (2Sa. 11:11).*

K. *Said Raba, “Should you propose to maintain that Shammai takes the view, wherever there are two verses that go over the same matter, there is no possibility of forming a general rule out of the two cases that are treated therein, and, further, he derives no message from the choices made as to spelling the word under discussion earlier, then he would concur in the case of one who says to his agent, “Go, have sexual relations with a consanguineous relation and eat forbidden fat, that he is liable and the one who sends him exempt, for we don’t find in the entire Torah that one party derives benefit while the other bears guilt.”*

II.11 A. *It has been stated:*

B. Rab said, “An agent may serve as a witness.”

C. *The household of R. Shila say, “An agent may not serve as a witness.”*

D. *What is the operative consideration behind the ruling of the household of R. Shila? Should we say, because he doesn’t instruct him in so many words, “Be a witness for me”? Then what about this case: If one betrothed a woman before two men and didn’t say to them, “You are my witnesses,” in such a case, too, would the betrothal be invalid?*

E. Rather, said Rab, “An agent may serve as a witness” – *the principal in that way strengthens the case* [making the agent a witness too (Freedman)].

F. *The household of R. Shila say, “An agent may not serve as a witness” – for a master has said, “a person’s agent is equivalent to the person himself,” in which case the agent is equivalent to the man himself [and cannot testify to his own act].*

G. *An objection was raised: "If someone said to three persons, 'Go and betroth that woman for me,' one of them serves as his agent and two as witnesses," the words of the House of Shammai. The House of Hillel say, "All of them are classified as agents, and an agent cannot serve as a witness." Now the dispute pertains only to a case in which there are three persons, but in the case of two persons, all concur that they cannot serve as witnesses.*

H. *He made his statement in accord with the Tannaite authority of the following, which has been taught on Tannaite authority: R. Nathan says, "The House of Shammai say, 'An agent and one witness [may serve to attest an action],' while the House of Hillel say, 'An agent and two witnesses.'"*

I. *So then are you asking me to believe that Rab accords with the House of Shammai?*

J. *So reverse the attributions.*

K. *R. Aha b. Raba repeated the Tannaite version with reversed attributions: "Rab said, 'An agent cannot be a witness,' The household of R. Shila say, 'An agent may serve as a witness.'"*

L. *The decided law is, an agent may serve as a witness.*

II.12 A. Said Raba said R. Nahman, "If one said to two persons, 'Go and betroth that woman for me,' those who serve as his agents also serve as his witnesses, and so is the law with regard to a writ of divorce [43B], and so is the law with regard to property cases."

II.13 A. *And it was necessary to make mention of all three classes of action, for if the matter had been mentioned only in regard to a betrothal, that might have been supposed to be because they come along to make her forbidden to all other men, but as for divorce, where they make her permitted, we might take precautions because one of the men may have wanted her for himself. And if we were told that the matter pertained to divorce, we might have supposed that the women would not be eligible to marry these two men, but as for property cases, we might suppose that the witnesses are sharing in the action; so all three items are required.*

II.14 A. *And what is R. Nahman's view? If he takes the view, He who lends money to his fellow before witnesses has to collect the money before witnesses as well, still, these are interested parties, for if they should say, "we didn't pay him back," the debtor can say to them, "Then pay me"* [Freedman: for he may have entrusted them the money before witnesses, which is the same as lending it to them; they are personally concerned and as such are inadmissible as witnesses].

B. *So it must follow that he takes the position, He who lends money to his fellow before witnesses doesn't have to collect the money before witnesses, for, since they can claim, "We paid it back to the debtor," they also can testify, "We paid it back to the creditor."*

C. *But now that rabbis have ordained an oath of inducement [which requires them to take that oath anyhow], these witnesses have to swear that they repaid the creditor, so the creditor takes an oath that he didn't receive the repayment, and the debtor has to repay the creditor.*

II.15 A. **A man betroths his daughter when she is a girl on his own or through his agent:**

B. *There we have learned in the Mishnah: A betrothed girl – she and her father receive her writ of divorce. Said R. Judah, "Two hands together do not make acquisition simultaneously. But her father receives her writ of divorce alone. And any girl who is not able to keep watch over her writ of divorce cannot be divorced"* [M. Git. 6:2G-K].

C. Said R. Simeon b. Laqish, "As is the dispute with respect to writs of divorced, so there is a dispute with respect to betrothals."

D. And R. Yohanan said, "There is a dispute as to writs of divorce, but as to betrothals, all parties concur that the father may do so, but she may not."

II.16 A. *And said R. Yosé bar Hanina, "What is the operative consideration behind R. Yohanan's account of the position of rabbis? In the matter of the writ of divorce, she reverts thereby to the domain of her father, so either she or her father may receive the writ; but as to a betrothal, in which case she removes herself from the domain of her father, her father but not she receives the token of divorce."*

B. *Well, what about the act of bespeaking a levirate widow on the part of a prospective levirate husband, in which case she frees herself from her father's domain, and yet it has been taught on Tannaite authority: [44A] A minor girl who is widowed at the stage of a*

betrothal – the act of bespeaking may be done with her only with the father's full knowledge and consent, and as to a prepubescent girl, it may be with or without the father's full knowledge and consent?

C. *Rather, if such a statement has been made, this is how it was formulated: Said R. Yosé bar Hanina, "What is the operative consideration behind R. Yohanan's account of the position of rabbis? In the matter of betrothal, which requires her consent, her father can accept the token but she can't [the consent of the person who cedes the woman is required, and here it is the father], but in the matter of a writ of divorce, which is imposed on her willy-nilly, either she or her father can accept the writ."*

D. *Well, what about the act of bespeaking a levirate widow on the part of a prospective levirate husband, which she has to accept, and yet it is taught as a Tannaite statement, the act of bespeaking may be done either with her or with her father's consent!*

E. *That speaks of an act of bespeaking that is imposed on her willy-nilly, and it represents the view of Rabbi, for it has been taught on Tannaite authority: He who performs an act of bespeaking with his deceased childless brother's widow against the woman's will – Rabbi says, "He has acquired possession of her." And sages say, "He has not acquired possession of her."*

F. *What is the operative consideration behind the position of Rabbi? He derives the rule from the one governing the act of intercourse with the wife of the deceased childless brother; just as the actual act of sexual relations with the widow of the deceased childless brother may be carried out willy-nilly, so the act of betrothal of a deceased childless brother's widow [that is, the act of bespeaking] likewise may be done even against her will.*

G. *And rabbis?*

H. *They derive the rule by comparison to the law governing a betrothal in general [since that is the analogy governing the act of bespeaking in the present case:] Just as an act of betrothal in general is valid only if the woman consents, so the act of betrothal of a deceased childless brother's widow must be only with her consent.*

I. *What is at stake in this dispute?*

J. *One authority takes the view that the governing analogy for matters concerning the deceased childless brother's widow should derive from the rules governing the deceased childless brother's widow, and the other authority takes the view that matters having to do with betrothals should be derived from rules governing betrothals in general.*

II.17 A. *Reason supports the response of R. Yohanan [the declaration made against her will], since the language is used, which is not the case with respect to tokens of betrothal [which only the father can receive]. But may one say that that represents a refutation of the position of R. Simeon b. Laqish ["As is the dispute with respect to writs of divorced, so there is a dispute with respect to betrothals"]?*

B. *R. Simeon b. Laqish may say to you, "Lo, who is the authority behind this ruling? It is R. Judah, who has said, **Two hands together do not make acquisition simultaneously. But her father receives her writ of divorce alone.**"*

C. *Well, if it refers to R. Judah's position, then what's the sense of the language, which is not the case with respect to writs of betrothal? What's required is, which is not the case with writs of divorce!*

D. *True enough. But along with setting forth the Tannaite rule with respect to the act of bespeaking by the levir, which is comparable to the act of betrothal, the Tannaite rule went on to say, which is not the case with respect to writs of betrothal.*

E. *And from R. Judah's perspective, how come the act of bespeaking is exceptional?*

F. *Since the woman is already subject to the bond with him [the act of bespeaking is not a major step, which either she or the father can accept].*

G. *Well, now that you've reached this point, then R. Yohanan, too, should not present a problem, the act of bespeaking to begin with, being exceptional, for the woman is already subject to the bond with him.*

H. *We have learned in the Mishnah: **A man betroths his daughter when she is a girl on his own or through his agent.** With his messenger, not with hers – so isn't this a refutation of the position of R. Simeon b. Laqish?*

I. *R. Simeon b. Laqish may say to you, “Well, who is the authority behind this view? It is R. Judah.”*

J. *But can you really assign the passage to the view of R. Judah? And lo, a later clause in the same exposition goes on: He who says to a woman, “Be betrothed to me for this date, be betrothed to me with this,” if [either] one of them is of the value of a penny, she is betrothed, and if not, she is not betrothed [M. 2:1D-E], and we have said in that connection, who is the Tannaite authority who requires the language, be betrothed, be betrothed? and said Rabbah, “It is R. Simeon, [in the following: If five people laid claim on him and said to him, ‘Give us the bailment which we have in your hand’ – ‘I swear that you have nothing in my hand’ – he is liable on only one count. ‘I swear that you have nothing in my hand, nor you, nor you’ – he is liable on each and every count. R. Eliezer says, ‘[This is so] only if he states the oath at the end.’] R. Simeon says, ‘[This is so] only if he will state an oath for each and every [claim]’ [M. Shebu. 5:3]. And should you say, in its entirety we have the position of R. Judah, but he concurs with R. Simeon in the matter of requiring a detailed enumeration, in fact is that the position of R. Judah? And has it not been taught on Tannaite authority: ‘If one made a generalized claim, he is liable on only a single count. But if he made a particularized claim [“you” “and you” “and you”], he is liable on each count,’ the words of R. Meir. R. Judah says, “‘By an oath, I do not owe you, you, or you” – he is liable on each count.’ R. Eliezer says, “‘Not to you nor to you nor to you, by an oath” – he is liable on each count.’ R. Simeon says, ‘He is liable on each count only if he will say to each one individually, “By an oath.”’]?”*

K. *Rather, the whole of it represents the position of R. Simeon, and in matters connected with the law of agency concurs with R. Judah [only the father can accept tokens of betrothal, she can’t].*

II.18 A. *R. Assi didn’t go to the house of study. Coming across R. Zira, he asked him, “So what did they say today in the schoolhouse?”*

B. *He said to him, “I didn’t go either. R. Abin went, and he said that the whole crew agrees with R. Yohanan, and even though R. Simeon b. Laqish screamed like a crane, ‘and when*

she has left, she may be another man's wife' (Deu. 24: 2) [so marriage and divorce are governed by the same law, as Simeon b. Laqish maintains], *nobody paid any attention to him.*"

C. *He said to him, "So is R. Abin so reliable?"*

D. *He said, "Certainly is, because the report came as fresh as a fish jumping from the sea into a frying pan."*

E. *Said R. Nahman bar Isaac, "I know this story in the name not of R. Abin b. R. Hiyya or R. Abin bar Kahana, but R. Abin without further patronymic."*

F. *Yeah, so what difference does it make?*

G. *In the possibility of contrasting two statements made by the same authority.*

- II.19** A. *Raba asked this question of R. Nahman: [44B] "Can a prepubescent girl appoint an agent to accept a writ of divorce from her husband? Is she comparable to her father's hand or her father's courtyard?"*
- B. *"Is she comparable to her father's hand: Just as her father may appoint an agent, so she, too, has the power to appoint an agent."*
- C. *"Or perhaps she is comparable to her father's courtyard: Until the writ of divorce actually reaches her hand, she is not divorced."*
- D. *But can Raba really be in doubt on this matter? Lo, hasn't Raba himself stated, "If he wrote a writ of divorce for her and gave it into the hand of her slave while the slave was asleep and she was watching the slave, it is a valid writ of divorce; if he was awake, it is not a valid writ of divorce"? Why isn't it a valid writ of divorce if he is awake? Isn't it because what you have is a courtyard that, without her knowledge and consent, is guarded? And if you should suppose that she is treated as comparable to her father's courtyard, then, even when the writ of divorce reaches her hand, she still should not be divorced, since she would then be classified as her father's courtyard that is guarded not with her father's full knowledge and consent."*
- E. *Rather, in point of fact it was obvious to [Raba] that she is comparable to her father's hand, and, therefore, this is the question that he found troubling: Does she have the same power as does her father's hand, so that she, too, can appoint an agent, or is that not the case?*
- F. *He [Nahman] said to him, "She may not appoint an agent."*

- G. *He raised this objection: “A minor girl who said, ‘Receive my writ of divorce for me’ – it is not a valid writ of divorce until it reaches her hand [M. Git. 6:3A-B] – then if it were a prepubescent girl, lo, this would in fact be a valid writ of divorce.” [Freedman: Such a girl can appoint an agent, since she is not under paternal authority; but Raba’s question refers to such a girl who has a father.]*
- H. *“Here with what situation do we deal? It is a case in which she has no father.”*
- I. *“But lo, since the later clause states as the Tannaite rule, **But if the girl’s father said to him, ‘Go and receive my daughter’s writ of divorce in her behalf,’ if he [the husband] wanted to retract, he may not retract [M. Git. 6:3E-F], it follows that we deal in the opening clause likewise with a case in which she also has a father.”***
- J. *“Not at all, the formulation is flawed, and this is the sense of the matter: A minor girl who said, ‘Receive my writ of divorce for me’ – it is not a valid writ of divorce until it reaches her hand [M. Git. 6:3A-B] – then if it were a prepubescent girl, lo, this would in fact be a valid writ of divorce. Under what circumstances? If she has no father. But if she had a father, and **if the girl’s father said to him, ‘Go and receive my daughter’s writ of divorce in her behalf,’ if he [the husband] wanted to retract, he may not retract [M. Git. 6:3E-F].**”*

II.20 A. *It has been stated:*

- B. A minor who was betrothed without her father’s knowledge and consent –
- C. said Samuel, “She nonetheless requires a writ of divorce and also the exercise of the right of refusal.”
 - D. Said Qarna, “Well, there’s something going on here: If a writ of divorce, why the right of refusal? If the right of refusal, why a writ of divorce?”
 - E. *They said to him, “But Mar Uqba and his court are at Kafri [so let’s go ask].” Then they changed their minds and sent the question to Rab. He said to them, “By God, she nonetheless requires a writ of divorce and also the exercise of the right of refusal. But may there be mercy [from Heaven] that the son of Abba bar Abba [Samuel’s father] should say so.”*
 - F. *How come?*

G. Said R. Aha b. R. Iqa, “She nonetheless requires a writ of divorce: Maybe the father was reconciled to the betrothal;

H. “and also the exercise of the right of refusal: Maybe the father was not reconciled to the betrothal, and people will maintain that betrothal of her sister by the same man is invalid” [and if she gets a writ of divorce, the same man couldn’t betroth her sister, since she is his divorced wife’s sister, so Lev. 18:18 (Freedman)].

II.21 A. Said R. Nahman, “But that is the case [that she requires a writ of divorce] only if they negotiated the betrothal afterward with the father.”

B. Ulla said, “Even the right of refusal is not required.”

C. *Even though they did indeed negotiate a betrothal? Who sets forth such a [ridiculous] Tannaite position?*

D. *The one who set forth this Tannaite position [Ulla’s disagreement with Samuel] did not set forth that Tannaite position [Nahman’s condition].*

E. *There are those who say:* “Ulla said, ‘If a minor accepted a token of betrothal without her father’s knowledge and consent, even the right of refusal is not required [for the entire transaction is null].’”

F. *Objected R. Kahana, “**And in the case of all of them, if they died [before the husband], or exercised the right of refusal, or were divorced [by the childless husband], or turned out to be barren – their co-wives are permitted [to enter into levirate marriage, since they are not now deemed co-wives of a forbidden party].** Now who betrothed her? Should we say that her father betrothed her? Then would the right of refusal suffice? She should get a proper writ of divorce! So it must mean, she betrothed herself, and yet it is taught as the Tannaite rule that she requires the right of refusal!”*

G. *He raised the objection but he resolved it as well:* “It would be a case in which she was treated as an orphan while her father was still alive” [that is, he has married her off as a minor and she was then widowed or

divorced; he has no authority over her afterward, and she is an orphan in her father's lifetime; so even though a minor, her betrothal on her own part is valid and she can then through exercising the right of refusal dissolve it when she reaches maturity (Freedman)].

H. *Objected R. Hamnuna*, "The father may not sell her to relatives [who because of consanguinity cannot designate her as a wife]. In the name of R. Eliezer, they have said, 'He may sell her to relatives.' [45A] But both sides concur that, if she is a widow, he may nonetheless sell her to a high priest, and, if she is a divorcée or a woman who has executed the rite of removing the shoe, he may sell her to an ordinary priest. *Now with respect to this widow, what are the circumstances that are contemplated? Should we say that her father accepted the tokens of betrothal for her? Then can he later on sell her?* A man cannot sell his daughter into slavery after she has been married. *So it just be that she accepted tokens of betrothal in her own behalf, and yet here she is classified as a widow! [Therefore she had been validly married.]*"

I. *R. Amram said R. Isaac*, "Here we deal with a case of designation, within the theory of R. Yosé b. R. Judah, who has said, 'The original money for her was not given for betrothal.'" [The money paid for the slave girl is not for betrothal; when the girl is designated for marriage, it is via the work she owes him, not the money he has given; therefore the father can resell her after the master's death, and it is not regarded as bondage after betrothal, since he didn't accept the original money as betrothal money (Freedman).]

II.22 A. *It has been stated:*

- B. If the man who betrothed a minor without her father's knowledge and consent died, and she fell to the lot of the surviving brothers for levirate marriage –
- C. Said R. Huna said Rab, "The minor girl may exercise the right of refusal against the statement of the levir that he plans to enter into levirate marriage,

but she may not exercise the right of refusal so as to sever the levirate bond itself. [Slotki, Yebamot 13A: She has no power to annul the original marriage in order to exempt herself from the rite of removing the shoe; here, too, the declaration of the minor has no force to annul the original marriage and so to enable the co-wife to marry the levir.] How does this work out? If the levir performed the act of bespeaking, she requires a writ of divorce and also has to go through the rite of removing the shoe and also has to exercise the right of refusal.

- D. "She requires a writ of divorce: perhaps her father was reconciled to the betrothal of the second party [the levir];
- E. "And also has to go through the rite of removing the shoe: Perhaps her father was reconciled to the betrothal of the first party [the now deceased brother];
- F. "And also has to exercise the right of refusal: Perhaps her father was reconciled to the betrothal of neither the second party nor the first, and people may say, the betrothal with her sister is null."

G. But if the levir did not carry out an act of bespeaking, she requires only the rite of removing the shoe. *For what is to be said? Let her also require the exercise of the right of refusal*, lest people say that the betrothal with her sister is invalid? Everybody knows that marriage with the sister of a woman with whom one has performed the rite of removing the shoe is invalid only by rabbinical law, *for* said R. Simeon b. Laqish, "Here Rabbi has taught that the prohibition to marry the sister of a woman one has divorced is based on the law of the Torah, and the prohibition of the sister of a woman with whom one has performed the rite of removing the shoe is based on the rulings of the scribes."

II.23 A. *Two men were drinking wine under the willows in Babylonia. One of them took a cup of wine, gave it to the other, and said, "Let your daughter be betrothed to my son."*

B. *Said Rabina, "Even in the view of him who said, 'we take account of the possibility that the father was reconciled,' [45B] we certainly don't say, 'we take account of the possibility that the son consented' [so there is nothing of which to take account here, the boy's father having no right to do what he did]."*

C. *Said rabbis to Rabina, "But maybe the son had appointed him his agent?"*

- D. *"No man has the balls to appoint his father his agent!"*
- E. *"But maybe in the presence of the father the son had given an indication of what he wanted?"*
- F. *Said Rabbah bar Shimi, "Explicitly did the master say that he does not concur with the view of Rab and Samuel [that we take account of the father's reconciliation, and we don't take account of the son's accepting what he had previously intimated he wanted]."*

II.24 A. *There was a man who in the marketplace betrothed a minor with a bunch of vegetables. Said Rabina, "Even in the view of him who said, 'we take account of the possibility that the father was reconciled,' that is the case only if the act was done in a respectful way and not in a disgraceful way."*

- B. *"Well, then," said R. Aha of Difti to Rabina, "What yields the judgment that he has acted in the disgraceful way? The vegetables, the marketplace?"*
- C. *So what difference does it make?*
- D. *If he betrothed her with silver in the marketplace, or with a bunch of vegetables at home? What's the upshot?*
- E. *He said to him, "One way or the other, it is acting in a disgraceful way."*

II.25 A. *There was someone who said, "She should marry one of my relatives."*

- B. *She said, "She should marry one of my relatives."*
- C. *While they were eating and drinking at the betrothal party, his relative went up to a loft and betrothed her.*
- D. *Said Abbaye, "'The remnant of Israel shall not do iniquity nor speak lies' (Zep. 3:13) [and the father does not consent]."*
- E. *Raba said, "It is an established assumption that someone will not go to the trouble of making a banquet and then waste it. [The meal was prepared to celebrate the wife's relative's betrothal and is not going to be lost, so as Abbaye maintains, the father didn't consent.]"*
- F. *So what's the practical difference?*
- G. *A case in which he went to no trouble and expense with a banquet.*

- II.26** A. If the daughter [of an Israelite] became betrothed with her father's knowledge and consent [to a priest], and her father went overseas and the girl went and got married [consuming the marriage] –
- B. said Rab, "She may continue to eat food in the status of priestly rations [which marriage to the priest confers upon her] until her father comes home and protests against the consummation of the marriage."
- C. R. Assi said, "She may not eat food in the status of priestly rations, lest her father come and protest the consummation of the marriage, and it will retroactively come about that a non-priest is eating priestly rations."
- D. *There was a concrete case, and Rab took account of the position of this statement of R. Assi.*
- E. Said R. Samuel bar R. Isaac, "But Rab concedes that if she died, the husband does not inherit her estate: *We keep money in the hands of the presumptive owner thereof.*"
- II.27** A. If she became betrothed with her father's knowledge and consent and she consummated the marriage without, and her father is here at hand –
- B. R. Huna said, "She may not eat food in the status of priestly rations."
- C. R. Jeremiah bar Abba said, "She may eat food in the status of priestly rations."
- D. R. Huna said, "She may not eat food in the status of priestly rations": *And even in the view of Rab, who has said in the other case that she does so, it is in that case, since the father is not available, that he takes that position, but here, where he is available, the reason that he kept silent is that he is outraged [at the consummation of the marriage without his consent].*
- E. R. Jeremiah bar Abba said, "She may eat food in the status of priestly rations": *And even in the view of R. Assi, it is in that case that he takes the position that he does, lest the father come and object, but in this case, since he has kept silent, he obviously concurs.*
- II.28** A. If she accepted tokens of betrothal without her father's knowledge and consent and consummated the marriage without her father's knowledge and consent, and her father is here at hand –
- B. R. Huna said, "She may eat food in the status of priestly rations."
- C. R. Jeremiah bar Abba said, "She may not eat food in the status of priestly rations."

D. *Said Ulla, "This position of R. Huna is 'like vinegar to the teeth and smoke to the eyes' (Pro. 10:26). If in the case in which her betrothal is valid by the law of the Torah [when done with the father's consent], you take the view that she may not eat food in the status of priestly rations, here, all the more so should he not take the same position?! [46A] So the position of the disciple makes more sense."*

E. *Said Raba, "So what's the operative consideration behind R. Huna's ruling? Since a concrete deed has been done with her, she is now treated as having entered the status of an orphan in her father's lifetime."*

II.29 A. *It has been stated:*

- B. A minor who accepted tokens of betrothal without her father's knowledge and consent –
- C. said Rab, "Either she or her father has the power to repudiate the betrothal."
- D. And R. Assi said, "Her father can but she can't."
- E. *Objected R. Huna to R. Assi, and some say, Hiyya bar Rab to R. Assi, "If a man entice a virgin...she shall surely be his wife; if her father utterly refuses to give her to him' (Exo. 22:15-16) – I know, then, only that her father can do so. How do I know that she can? Because of the duplication of the verb, 'utterly refuse,' that is, under all circumstances."*
- F. Said Rab to them, "Don't go wild. He can answer you, 'it would be a case in which he seduced her without marriage in mind.'"
- G. If he seduced her without marriage in mind, *is it necessary for a verse of Scripture to make this point?!*
- H. Said R. Nahman bar Isaac, "It is to indicate that the seducer has to pay the fine owing to a seduced girl" [even if she herself refuses to marry him].
- I. *Said to him R. Joseph, "If so, that is in line with the following Tannaite formulation: 'He shall surely pay a dowry for her to be his wife' (Exo. 22:16) – this indicates that she requires a token of betrothal from him."*
- J. Well, then, if he seduced her with marriage in mind, why is a token of betrothal required [since the act of sex does it]?
- K. Said to him Abbaye, "It is necessary since she requires a proper token of betrothal accepted with her father's knowledge and consent."

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- D. He who says to a woman, “Be betrothed to me for this date, be betrothed to me with this,”
- E. if [either] one of them is of the value of a penny, she is betrothed, and if not, she is not betrothed.
- F. [If he said to her,] “By this, and by this, and by this” –
- G. if all of them together are worth a penny, she is betrothed, and if not, she is not betrothed.
- H. [If] she was eating them one by one, she is not betrothed,
- I. unless one of them is worth a penny.

I.1 A. *Who is the Tannaite authority behind the repeated formula, “Be betrothed to me for this date, be betrothed to me with this”?*

- B. Said Rabbah, “It is R. Simeon, who has said, [If five people laid claim on him and said to him, ‘Give us the bailment which we have in your hand’ – ‘I swear that you have nothing in my hand’ – he is liable on only one count. ‘I swear that you have nothing in my hand, nor you, nor you’ – he is liable on each and every count. R. Eliezer says, ‘This is so only if he states the oath at the end.’ R. Simeon says,] ‘[This is so] only if he will state an oath for each and every [claim].’”

II.1 A. “By this, and by this, and by this” – if all of them together are worth a penny, she is betrothed, and if not, she is not betrothed. [If] she was eating them one by one, she is not betrothed, unless one of them is worth a penny:

- B. *To which clause does this statement pertain? Shall we say it is to the first? Then why specify that **she was eating them**? Even if she put them down, the rule is the same, since he says, “Be betrothed to me for this date”? So it must refer to the concluding clause, and that is so, even if there was a penny’s worth in the first date only? But then it is a debt [and a betrothal cannot be accomplished through remission of a debt]! [Freedman: If he says, be betrothed to me with this one and this one, and she eats them one by one, his statement is considered as a whole; as soon as she eats one, she cannot be betrothed by it, since his statement was as yet incomplete, and it becomes a debt.]*

- C. Said R. Yohanan, “Here is the table, here is the meat, here is the knife, and we have no mouth with which to eat” [since we can’t understand the passage before us].
- D. *Both Rab and Samuel say, “In point of fact, it makes reference to the opening clause, and the point is to state, it is not necessary to say..., that is, it is not necessary to say that if the dates were laying there that if there was a penny’s worth, she is betrothed, and if not, not; but even if she was eating them, since, I might argue, her enjoyment is immediate, she has made the decision to give herself to the betrothal for what is worth even less than a penny. So we are informed that that is not the case.”*
- E. *R. Ammi said, “In point of fact, reference is made to the latter clause, and what is the sense of the language, **unless one of them is worth a penny?** Unless the value of the last of them is a penny.”*
 - F. *Said Raba, “The statement of R. Ammi yields three conclusions. It yields the conclusion, he who betroths a woman with remission of a loan – she is not betrothed. And the conclusion may be drawn, he who betroths a woman with remission of a debt and with a penny – her intention in the transaction concerns the penny. [46B] And there is the further conclusion: Cash in general is returnable [Freedman: if one gives money for a betrothal which is invalidated, the money is not a gift but a deposit and is returnable; otherwise, even if the first only is worth a penny, the betrothal is valid, for when he completes his statement, the first dates are eaten, and they are not a debt, since they don’t have to be returned, nor a gift, not having been given as such; it would therefore be as though he had stated, ‘Be betrothed to me with this first date, but let the betrothal not take effect until I have given you some more,’ in which case she becomes betrothed when she receives the others, even if the first has been consumed].”*

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

- B. He who betroths his sister –
- C. Rab said, “The money is returned [since the brother has not got the legal right to betroth his sister].”
- D. Samuel said, “The money is considered a gift.”
 - E. Rab said, “The money is returned”: Man knows that betrothal does not take effect with his sister, so he decided to give the money as a bailment.

- F. *So why not have him tell her that it's a bailment?*
- G. *He considered that she might not accept it.*
- H. Samuel said, "The money is considered a gift": Man knows that betrothal does not take effect with his sister, so he decided to give the money as a gift.
 - I. *So why not have him tell her that it's a gift?*
 - J. *He considered that she might find it demeaning.*
- K. **Objected Rabina, "One who separates his dough-offering [from] flour [which has not yet been made into dough] – [the separated portion] is not dough-offering. And [if it comes] into a priest's possession [without the owner having given it to him, that is a case of] theft [M. Hal. 2:5A-C]. But why is it the rule that [if it comes] into a priest's possession [without the owner having given it to him, that is a case of] theft? Why not say, a man knows that people do not separate dough-offering from flour that has not yet been made into dough, so he gave it as a gift?"**
- L. *That case is exceptional, since a real mess can result. For sometimes the priest may have less than five fourths of flour that would yield dough liable to dough-offering, so he will knead that together with this, assuming the dough is fit to be eaten, ending up eating dough that is liable to dough-offering but that has not yet yielded what is owing from it!*
- M. *But haven't you said, a man knows that people do not separate dough-offering from flour that has not yet been made into dough, so he gave it as a gift?*
- N. *Well, he knows but he doesn't know. He knows that people do not separate dough-offering from flour that has not yet been made into dough, so he gave it as a gift. But he doesn't know – because he thinks, how come? Because it's trouble to the priest, and this priest doesn't mind the trouble.*
- O. *Well, then, let the stuff be classified as priestly rations, with the proviso that it is not eaten until dough-offering has been separated on its account from some other source [that is, different dough]? For haven't we learned in the Mishnah: [A perforated pot – behold, this is like the earth. If one separated heave-offering from produce grown in the earth for produce grown in a perforated pot, or from produce grown in a perforated pot for produce grown in the earth, his act of separating heave-offering is deemed a valid separation of heave-offering. If he separated heave-offering from produce grown in a pot which is not perforated for produce grown in one which is perforated, it is deemed to be heave-offering, but*

he should again separate heave-offering from the produce grown in the perforated pot. If he separated heave-offering from produce grown in a pot which is perforated for produce grown in one which is not perforated, it is deemed to be heave-offering, but it should not be eaten by a priest until he shall have separated for it for the newly designated heave-offering heave-offering and tithes from other produce [M. Dem. 5:10]?

- P. *[If the priest is told that the produce separated as heave-offering from a perforated pot in behalf of what derives from an unperforated one is not heave-offering and is liable, he will] obey such a distinction between the two, deriving as they do from distinct pots; but if he is told that the dough-offering separated from the dough is not dough-offering, though separation is from the same pot, he will not pay attention [and will refuse to separate dough-offering in that connection].*
- Q. *[Or,] if you prefer, I shall say, in any event the priest will obey, but the householder, for her part, will think that her dough has been made fit, and will end up eating the remainder of the dough even though it is liable to the offering but the offering has not yet been taken.*
- R. *But haven't you said, a man knows that people do not separate dough-offering from flour that has not yet been made into dough?*
- S. *People know but don't know. People know that they do not separate dough-offering from flour that has not yet been made into dough, but they don't know, because [the priest] thinks, how come? Because it's trouble to the priest, and this priest doesn't mind the trouble.*
- T. *While, why not classify the dough as priestly rations [dough-offering], but at the same time make sure the Israelite go and designate priestly rations once more. Haven't we learned in the Mishnah: **If he separated heave-offering from produce grown in a pot which is not perforated for produce grown in one which is perforated, it is deemed to be heave-offering, but he should again separate heave-offering [from the produce grown in the perforated pot]?***
- U. *But we have already established the fact: [If the priest is told that the produce separated as heave-offering from a perforated pot in behalf of what derives from an unperforated one is not heave-offering and is liable, he will] obey such a distinction between the two, deriving as they do from distinct pots; but if he is told that the dough-offering separated from the dough is not dough-*

offering, though separation is from the same pot, he will not pay attention [and will refuse to separate dough-offering in that connection]?

- V. *Well, won't he obey? Haven't we learned in the Mishnah: One who separates a chate melon as heave-offering [for other chate melons] and it is found to be bitter, [or who separates] a watermelon [as heave-offering for other watermelons] and it is found to be rotten – [that which he has separated is valid] heave-offering. But he must separate heave-offering again [M. Ter. 3:1A-D]?*
- W. *That case is exceptional, since, on the basis of the law of the Torah, it is in fact perfectly valid heave-offering. That is in accord with what R. Ilai said, for said R. Ilai, "How on the basis of Scripture do we know that **but if one has separated heave-offering from what is less choice for what is more choice, that which he has separated is valid heave-offering?** As it is said, 'You shall bear no sin by reason of it when you have raised from it the best of it' (Num. 18:32). Now if the portion of the crop designated as heave-offering is not sanctified, then what issue of bearing sin on its account is in play? So we see that **if one has separated heave-offering from what is less choice for what is more choice, that which he has separated is valid heave-offering.**"*

II.3 A. [Supply: "By this, and by this, and by this" – if all of them together are worth a penny, she is betrothed, and if not, she is not betrothed. [If] she was eating them one by one, she is not betrothed, unless one of them is worth a penny:] said Raba, [47A] "That rule applies only if he made the statement to her, **By this, and by this, and by this**, but if he said to her, 'By these,' then even if she is then eating them one by one, she is nonetheless betrothed, *for what she eats belongs to her.*"

B. *It has been taught on Tannaite authority in accord with the position of Raba:*

C. "Be betrothed to me with an acorn, pomegranate, and nut," or if he said to her, "Be betrothed to me with these," if the lot of them together are worth a penny, she is betrothed, and if not, she is not betrothed. [If he said,] "By this and by this and by this," if the lot of them together are worth a penny, she is betrothed, and if not, she is not betrothed. If he said, "With this," and she took it and ate it, "with this," and she took it and ate it, "and with this too, and with this too" – she is not betrothed unless in a single item was the value of a penny.

II.4 A. *As to the reference to, an acorn, pomegranate, and nut, how are we to imagine the situation here? Should we say that he said to her, either with an acorn or with a pomegranate or with a nut? Then, if the lot of them together are worth a penny, she is betrothed – but he had said “or”! So isn’t it a case in which he said to her, “with these”? But that’s precisely what is meant by, “By this and by this and by this.” So isn’t it a case in which he said to her, “with these”? But since the second clause goes over the ground, if he said to her, “Be betrothed to me with these,” it follows that the former clause does not deal with a case in which he said, “with these.”*

B. *What we have is a secondary explanation, namely, “Be betrothed to me with an acorn, pomegranate, and nut” – how so? For example, if he said to her, “Be betrothed to me with these.” And to proceed, since the concluding clause states, If he said, “With this,” and she took it and ate it, “with this,” and she took it and ate it, “and with this too, and with this too” – she is not betrothed unless in a single item was the value of a penny, and not otherwise, and the first clause makes no distinction between whether she eats it or puts it down. This proves that, whenever he says to her “with these,” if she is eating, she is eating what belongs to her herself.*

C. *That proves the point.*

II.5 A. [With reference to the phrase in the Mishnah paragraph, **unless one of them is worth a penny:**] *That poses no problem to the position of him who said that that language refers to the second clause, and what is the meaning of the language, unless one of them is worth a penny? It means, Unless the last of them is worth a penny. Here, too, then, the sense is, Unless the last of them is worth a penny. But from the perspective of Rab and Samuel, both of whom maintain that it pertains to the opening clause of the Mishnah, being required to state the rule governing eating, then what we have here is comprehensive statements taken into account without detailed enumerations! [Freedman: How do they explain “unless one of them is worthy a penny,” for the clause, “with this and this and this” is a comprehensive statement, insofar as it is taught that if they are all together worth that much and so on; there is no clause in the passage cited just now that is equivalent to the first clause in the*

Mishnah; now according to Ammi, there is no problem, since in the Mishnah too, “if she eats” refers to the second clause, that is, to his comprehensive statement; but according to Rab and Samuel, it must refer to a detailed enumeration, for example, “by this by this” but there is no such clause in the cited Tannaite statement of No. 2.]

- B. *Lo, who is the authority before us? It is Rabbi, who has said, “There is no difference between the formulation, ‘the size of an olive, the size of an olive’ and ‘the size of an olive and the size of an olive,’ both representing detailed enumerations.”* [Reference is made here to the following discussion, at B. Zeb. 30B-31A: *Said Ulla, and some say, R. Oshaia, “Is it possible that our Babylonian colleagues know whether the formulation of our Mishnah paragraph is ‘as much as an olive’s bulk...as much as an olive’s bulk...,’ or ‘about as much as an olive’s bulk...and about as much as an olive’s bulk.’ At stake in the answer to the question is this: Have we learned in the Mishnah, ‘as much as an olive’s bulk...as much as an olive’s bulk...,’ but if the man said, ‘about as much as an olive’s bulk...and about as much as an olive’s bulk,’ all would concur that here we have a confusion of distinct aspects of intentionality [in which case the offering is not deemed refuse]. Or perhaps we have learned to formulate our Mishnah as, ‘about as much as an olive’s bulk...and about as much as an olive’s bulk,’ with the result that from R. Judah’s perspective, this would then constitute an articulated enumeration [in which case each forms a distinct statement and there is no confusion of aspects of intentionality, with the result that we are guided by the first of the two statements alone]. And all the more so would that be his position if the man had said, ‘as much as an olive’s bulk...as much as an olive’s bulk...’” Come and take note of what Levi asked Rabbi, “If the officiating priest expressed the intention of eating an olive’s bulk on the next day outside of the proper place, what is the rule?” He said to him, “That is the question. It certainly involves a confusion of distinct aspects of intentionality [in Judah’s opinion too].” Said before him R. Simeon b. Ribbi, “Is that not covered in our Mishnah paragraph, when it makes the following statement: **If a priest slaughtered an animal-offering and received, conveyed, and tossed the blood intending] – to eat an olive’s bulk outside [the proper place], an olive’s bulk on the next day [at an improper time], an olive’s bulk on the next day, an olive’s bulk outside, half an olive’s bulk outside, half an olive’s bulk on the next day, half an olive’s bulk on the next day and half an olive’s bulk outside. So lo, the other case** [where the officiating priest expresses both intentions with regard to*

the same piece of meat (Freedman)] *would then constitute a confusion of diverse aspects of intentionality [so why say that was such a good question]!"* He said to him, "He has asked me a question of considerable wisdom, even though you maintain that it is contained within our Mishnah paragraph. Since I repeated both cases to you, you find no problem there, but to him I have repeated only one of the cases, and he heard that rabbis had read both questions. He then produced this theory: Was my formulation of the matter exact [that the controversy applies to one case only (Freedman)], so their second case then involves a confusion of intentionality, or perhaps their version is exact, while I have simply omitted one case when I repeated the matter to him, in consequence of which he may have supposed that just as I omitted this case, so they omitted the other [Freedman: two declarations in respect to the same piece of meat, so he was right to raise the question]." Now which of the two cases did he teach him? If we say that he taught him "...as much as an olive *and* as much as an olive," surely that is not an omission [Freedman: for the case of "as much as an olive...as much as an olive" follows a fortiori. That is, if Judah holds that we have a detailed enumeration and no mingling of intentions even when the priest uses *and*, how much more so when his statements are disjoined. Hence he would have understood that this, too, is included, but only this and no other, so that a twofold declaration in respect of the same piece would certainly be a mingling of intentions, and there would be no room for his question.] So he must have repeated to him the language, "As much as an olive...as much as an olive..." [Freedman: only on this assumption is there room for his question; this proves that the reading in the Mishnah must be, "as much as an olive...as much as an olive..."] Then let him ask about the case "as much as an olive...and as much as an olive..."! [Freedman: According to the explanation above, he was in doubt about that too.] This was his reasoning: "I will ask the rule from him about a single case, from which I may infer the rule governing both cases. For if I ask about the language, 'as much as an olive *and* as much as an olive,' it is well if he answers me that that is an encompassing statement, so all the so is it the case of 'as much as an olive beyond the proper time, outside of the proper place.' But if he answers me that it is in fact an articulated enumeration of the matter, I still have to raise the question about the language, 'as much as an olive beyond the proper time, outside of the proper place.'" If so, then here, too, it is all right if he answered that the language, "as much as an olive beyond the proper time, outside of the proper place," is in fact an articulated enumeration of the

matter, all the more so is that the case if the language is, “as much as an olive and as much as an olive.” But if he answered him that it is in fact an articulated enumeration of the matter, he would still have to present the question on the language, “as much as an olive and as much as an olive.” If so, Rabbi would have been irritated! If the language “as much as an olive and as much as an olive” is classified as an encompassing rule, is there any reasonable question to be raised about the language, “as much as an olive beyond the proper time, outside of the proper place”?]

II.6 A. Said Rab, “He who betroths a woman with a loan [remitting a loan she has already received from him] – she is not betrothed, for a loan is handed over to be spent” [this money that he gives becomes her own and he is not giving her anything at all].

B. *May we say that there is a Tannaite dispute on the same lines, namely: He who betroths a woman with a loan [remitting a loan she has already received from him] – she is not betrothed. And there are those who say, “She is betrothed.” Now may we not say that this is what is at issue: The one authority takes the position, a loan is handed over to be spent, and the other party takes the view, a loan is handed over not to be spent”?*

C. *But do you really think that is what is at stake? Let me note the concluding part of the same formulation: And they agree in regard to purchase [through remission of a debt] that he acquires it [Freedman: if A sells land to B, B can acquire it in virtue of money he lent him previously, if A possesses the actual money loaned]. Now if you maintain that a loan is handed over to be spent, then by virtue of what has the man acquired title to the land when he remitted the debt? [So both parties must concur on the opposite proposition.]*

D. *Said R. Nahman, “Huna, our colleague, assigns this to another matter altogether, namely, here with what situation do we deal? A case in which he said to her, ‘Be betrothed to me with a maneh,’ and it turns out to be a maneh lacking a denar. One authority maintains that the matter is embarrassing for her to claim what is missing, the other holds that she is not embarrassed to ask about it [and expects to get it, so the betrothal is valid].”*

E. *Well, then, what about what R. Eleazar said, “[If the man said,] ‘Be betrothed to me for a maneh,’ but he gave her a denar, lo, this*

woman is betrothed, and he has to make up the full amount that he has promised”? *shall we say that this statement of his follows a dispute on Tannaite authorities?*

F. Say: “If the maneh lacks only a denar, she may be hesitant about claiming it, but when the maneh lacks ninety-nine denars, she is certainly not going to be embarrassed about claiming what is missing” [Freedman: hence all agree that she is betrothed].

G. *An objection was raised:* **He who says to a woman, “Be betrothed to me in exchange for the bailment of mine that is in your possession,” and she went and found it stolen or lost, if of it remained a penny’s worth, she is betrothed, and if not, she is not betrothed. And in the case of a loan, even though there is not even a penny’s worth, she is betrothed.** R. Simeon b. Eleazar says in the name of R. Meir, “As to a loan, [47B] lo, it is classified as a bailment” [T. Qid. 3:1A-F]. *So the dispute concerns only that the one authority maintains that with respect to a loan, even though not a penny’s worth is left, is valid for a token of betrothal, while the other maintains that only if a penny’s worth is left is it valid, but not otherwise. Then all parties concur that if one betroths a woman with a debt that she still has in hand, she is betrothed!*

H. *Said Raba, “But is it all that logical? Lo, it appears to be flawed. For as to the bailment, what is the situation before us? If she accepted responsibility to make it up if it was lost, then it is nothing other than a loan; if she did not accept responsibility to make it up if it was lost, then, instead of stating at the end, And in the case of a loan, even though there is not even a penny’s worth, she is betrothed, it could as well have formulated the whole in a single cogent sentence, as follows:* Under what circumstances? In a case in which she did not accept responsibility to make it up if it was lost. But in a case in which she did accept responsibility to make it up if it was lost, even though there was not a penny’s worth left of the original item, she is betrothed. *Rather, this is how to straighten it out:* And in the case of a debt, even though there was left of it a penny in value, she is not betrothed. R. Simeon b. Eleazar says in the name of R. Meir, ‘As to a loan, lo, it is classified as a bailment.’”

I. *What is at stake in this dispute?*

J. *Said Rabbah, "I came across the rabbis of the household of the master in session and stating as follows: What is subject to debate is whether a loan [Freedman:] vests its owner [the creditor] in respect of return, and also in regard to accidents that cannot be avoided. One master holds that a loan [Freedman:] vests its owner [the creditor] in respect of return, and also in regard to accidents that cannot be avoided. The other master maintains that a loan [Freedman:] vests its owner [the creditor] in respect of return, and also in regard to accidents that cannot be avoided. [Freedman: All agree that a loan is given for expenditure, therefore had she spent anything at all thereof, the betrothal is not valid; but here she had spent nothing of it. Simeon b. Eleazar holds that in such a case it vests in the creditor and he can immediately demand its return if he wants; it is now that he gives it to the woman, so she is betrothed; likewise should an unpreventable accident befall the money, the debtor is not responsible, since it is accounted as being in the creditor's possession; the first Tannaite authority's view is the reverse.] And I said to them, 'With respect to unavoidable accidents, all parties concur that the money remains vested in the debtor. How come? It is in no less enviable a situation than something that has been lent out; if for an article that has been lent, which is returnable as is, one is liable in respect to unavoidable accidents, how much more so for a debt! But here what is at issue is only whether a loan vests in its owner in respect of return.'"*

K. *And then, with regard to what R. Huna said, "He who borrows an axe from his friend, if he has chopped wood with it, he makes acquisition of it. If he does not chop wood with it, he does not acquire it" – shall we say that he has made a ruling in a subject on which there is a dispute among Tannaite authorities [agreeing with Meir] [Freedman: but according to the first Tannaite authority, since an untouched loan does not stand in the creditor's possession and he cannot demand its return, the same applies here even if he did not cleave wood with it]?*

L. *Not at all, the point at issue concerns only a loan of money, which is not returnable as is; but as to the loan of an article, which is returnable as is, all concur: If he has chopped wood with it, he makes acquisition of it. If he does not chop wood with it, he does not acquire it."*

M. *May we say that the following statement by Rab is subject to Tannaite dispute, namely: [If a man said,] “Be betrothed to me with this bond of debt,” or if he had a debt in the possession of third parties and transferred it to her – R. Meir says, “She is betrothed.” And sages say, “She is not betrothed.” Now what kind of a “bond of indebtedness” is under discussion here? Should we say that it was a bond of indebtedness against third parties? Then it is the same as a loan in the possession of others. So it must be a bond of indebtedness against her debt, and what is then at issue is whether or not one may betroth a woman by remission of a debt!*

N. *In point of fact, it indeed is a bond of debt collectable from third parties, and here what is at issue is a loan that is attested by a bond and a loan that is attested only by a verbal agreement [that is the loan in the hands of others].*

O. *And what is at issue in respect to a loan that is attested by a bond?*

P. *It concerns the dispute between rabbi and rabbis, as has been taught on Tannaite authority:*

Q. *“Letters are acquired through delivery [of the document],” the words of Rabbi.*

R. *And sages say, “Whether the seller has written a bill of sale but has not delivered the bond, or has delivered the bond but has not written the bill of sale, the buyer does not acquire title; he acquires title only when the seller has both written the bill of sale and also delivered the bond.”*

S. *The one master concurs with Rabbi, the other does not.*

T. *And if you prefer, I shall say, neither master accepts Rabbi’s view, but they differ in respect to what R. Pappa said, for said R. Pappa, “One who sells a bond to someone else has to give him the following document in writing in addition: ‘Acquire it and everything that is indentured within its terms.’” The one master concurs with R. Pappa, the other not.*

U. *Or, if you prefer, I shall say, all parties concur with R. Pappa. But here they differ as to Samuel’s statement, for said Samuel, [48A] “He who sells a bond of indebtedness to a third*

party and then renounces the debt – the debt is deemed renounced [and does not have to be paid to the purchaser of the bond by the original debtor]. And even the heir to the bond has the right to renounce the debt.” *The one authority concurs with Samuel, the other not.*

V. *Or, if you prefer, I shall say, all parties concur with Samuel, and here what is at issue concerns a woman. The one master holds, the woman relies on him, with the theory that he will not abandon her and renounce the debt in favor of a third party, and the other party maintains that the woman will not rely on him either.*

II.7 A. With respect to an oath that is attested only by a verbal agreement, *what is at issue?*

B. *They differ in respect to what R. Huna said Rab said, for said R. Huna said Rab, “He who in the presence of the third party mentioned, ‘You have a maneh of mine in your possession, give it to Mr. So-and-so’ – if this was in the presence of all three parties, the third party has acquired title to the money.” The one authority maintains that when Rab made that statement, it concerned a bailment, but not a loan, and the other party sees no distinction between a loan and a bailment.*

C. *May we say that this follows the lines of the following Tannaite dispute:*

D. “Be betrothed to me with a bond” –

E. R. Meir says, “She is not betrothed.”

F. R. Eleazar says, “She is betrothed.”

G. And sages say, “We estimate the value of the paper. If it is worth a penny, she is betrothed, and if not, she is not betrothed.”

H. *Now as to this bond, what is its character? Should we say it is a bond of a debt against a third party, then R. Meir contradicts himself. So it must be a bond for a debt that she herself owes, and what is at issue here is*

whether or not one may betroth a woman through remitting a debt.

I. Said R. Nahman bar Isaac, "Here with what case do we deal? A case in which he betrothed her with a bond on which there are no witnesses as signatories, and R. Meir is quite consistent, for he holds the position that the witnesses who sign the document are the ones who effect the dissolution of the marriage in the case of a writ of divorce, and R. Eleazar concurs with his own view that witnesses to the delivery of the writ are the ones who serve to dissolve the marriage; rabbis for their part are in doubt on the point of R. Meir or on the point of R. Eleazar, and therefore they evaluate the paper, so if it is worth a penny, she is betrothed, and if not, not."

J. If you prefer, I shall say, it would be a case in which the document was written not for the sake of this particular woman, and what is at issue is what R. Simeon b. Laqish said, for asked R. Simeon b. Laqish, "As to a deed of betrothal that was not written for the purpose of betrothing this particular woman, what is the law? Do we treat as comparable the formation of a marriage and its dissolution, so that, just as in the case of its dissolution, we require that the writ of divorce be written for the particular purpose of divorcing this woman, so in the case of the formation of the marriage, we require the writ of betrothal to be written for the particular purpose of betrothing this woman? Or do we treat as comparable the several modes for effecting a betrothal: Just as the betrothal by a monetary token need not be accomplished by a token prepared for her sake in particular, so betrothal by a deed does not have to be through a deed prepared for this particular woman?" After he raised the question, he went and solved it: "We do indeed treat as comparable the formation of a marriage and its dissolution. For said Scripture, 'and when she has gone forth...she may be

another man's wife' (Deu. 24: 1).” *Now the one authority concurs with R. Simeon b. Laqish, and the other doesn't.*

K. *And if you wish, I shall say that all parties concur with R. Simeon b. Laqish, and here with what situation do we deal? It is a case in which he wrote the document for her name, but not with her full knowledge, and what is at issue is the dispute of Raba and Rabina, R. Pappa and R. Sherabayya, for it has been stated:*

L. *If someone wrote a deed of betrothal in her name but without her knowledge and consent –*

M. *Rabbah and Rabina say, “She is betrothed.”*

N. *R. Pappa and R. Sherabayya say, “She is not betrothed.”*

II.8 A. *May we say that [Rab's statement] follows the lines of the following Tannaite dispute:*

B. “[If a woman said,] ‘Make me bracelets, earrings, and rings, and I will agree to become betrothed to you’ – as soon as he made them, she is betrothed,” the words of R. Meir.

C. *And sages say, “She is betrothed only after the cash reaches her domain.”*

D. *Now what is meant here by “cash”? If we say that it refers to that particular money, that is, the bracelets, then would it follow that from the first Tannaite's viewpoint [that is, R. Meir's viewpoint] she did not have actually to come into possession of that value? Then what would be the instrument that would effect the betrothal? So what can be the meaning of “cash”? It means, something else of value [not necessarily the bracelets, earrings, and rings]. Then it would follow that they differ concerning betrothing by remission for a debt. For, in the assumption that all authorities concur that the fee that is owing to the work grows continuously*

from the beginning to the end of the work process, *it is a debt, and what is at issue is this: The one authority holds, if one betroths a woman with a debt, she is betrothed, and the other, she isn't.*

E. *Not at all, all parties concur that he who betroths with a debt – she is not betrothed. Rather, what is at issue here is whether or not the fee that is owing to the work grows continuously from the beginning to the end of the work process. The one authority maintains that [48B] the fee that is owing to the work becomes liable only at the end, while the other maintains that the fee that is owing to the work grows continuously from the beginning to the end of the work process.*

F. *And if you prefer, I shall say, all parties concur that the fee that is owing to the work grows continuously from the beginning to the end of the work process; and, further, that if one betroths a woman with a debt, she is not betrothed. But here, what is at issue is whether or not the worker acquires title to the improvement in the value of an object that he has imparted through his work. R. Meir takes the view that the worker acquires title to the improvement in the value of an object that he has imparted through his work [Kirzner: so that when he makes her the bracelets and so on out of her material, the improvement becomes his and could therefore constitute a valid consideration], and sages maintain that the worker does not acquire title to the improvement in the value of an object that he has imparted through his work [since the improvement was never his, he only had an outstanding debt for the hire upon the other party, who was in this*

case his prospective wife, and as the forfeiture of a debt is not sufficient consideration, some actual value must be added to make the consideration value].

G. *And if you prefer, I shall say, all parties concur that he worker does not acquire title to the improvement in the value of an object that he has imparted through his work; further, that the fee that is owing to the work grows continuously from the beginning to the end of the work process; further, that he who betroths with a debt – she is not betrothed. Here what is the case under discussion?* It is one in which the worker added a bit out of his own material to the raw material supplied by the woman for the bracelets. R. Meir takes the view that, where we have in the instrument of betrothal both the forgiveness of a debt and the giving of a penny, the woman has in mind the penny [so she is betrothed by this valid consideration], and rabbis maintain that, in such a case, the woman has in mind the debt [and that is not a valid instrument of betrothal].

H. *That is what is at stake in the following conflict of Tannaite statements, as has been taught on Tannaite authority:*

I. [If a man says to a woman, “Lo, you are betrothed to me] in consideration of the wage for the work that I have done for you [having already returned the object to her, that is, the forgiveness of a debt],” she is not betrothed. If he said, “In consideration of the fee for the work that I am going to do for you,” she will be betrothed.

J. R. Nathan says, “If he said, ‘In consideration of the fee for the work that I am going to do for you,’ she will not be betrothed – all the more so if he said, ‘Lo, you are betrothed to me] in consideration of the wage for the work that I have done for you’ [having already returned the object to her].”

K. R. Judah the Patriarch says, “Rightly did sages rule: ‘Whether he said, “In consideration of the wage for the work I have already done for you” or “in consideration of the wage for work I will do for you,” she would not be betrothed. But if the worker added a bit out of his own material to the raw material supplied by the woman for the bracelets, she would be betrothed.””

L. The difference of opinion between the initial Tannaite authority and R. Nathan is whether or not liability for wages is incurred from the very beginning of the work, point by point, and the difference of opinion between R. Nathan and R. Judah is on the question of the attitude of the woman when the betrothal is effected by both the accumulated wage that she owes and also the giving of a penny.

2:2

- A. “Be betrothed to me for this cup of wine,” and it turns out to be honey –
- B. “...of honey” – and it turns out to be of wine,
- C. “...with this silver denar” – and it turns out to be gold,
- D. “...with this gold one” – and it turns out to be silver –

- E. **“...on condition that I am rich” – and he turns out to be poor,**
- F. **“...on condition that I am poor” – and he turns out to be rich –**
- G. **she is not betrothed.**
- H. **R. Simeon says, “If he deceived her to [her] advantage, she is betrothed.”**

- I.1**
- A. *Our rabbis have taught on Tannaite authority:*
 - B. **“Be betrothed to me with this cup” –**
 - C. *One Tannaite formulation: “With it and its contents” [is his meaning, and if they are worth a penny in all, the betrothal is valid].*
 - D. *And it has further been taught on Tannaite authority: With it, but not what is in it.*
 - E. *And it has further been taught on Tannaite authority: with what is in it but not with it itself [T. Qid. 2:3C-F].*
 - F. *And there is no conflict among these formulations of the rule. The one speaks of water, the second, wine, the third, brine.*

- II.1**
- A. **R. Simeon says, “If he deceived her to [her] advantage, she is betrothed”:**
 - B. *But doesn’t R. Simeon accept the following: Wine, and it turned out to be vinegar; vinegar, and it turned out to be wine – both parties have the power to retract [M. B.B. 5:6K-L]? Therefore, there are people who are perfectly happy with wine, others with vinegar; so here, too, some are happy with silver and not with gold at all.*
 - C. *Said R. Shimi bar Ashi, “I bumped into Abbayye, who was in session and explaining this matter to his son: Here with what case do we deal? It is one in which a man said to his agent, ‘Go, lend me a silver denar, and with it betroth Miss So-and-so in my behalf,’ and the agent went and lent him a gold denar. One authority maintains that the man was meticulous about the instructions, and the other, that all he was doing was giving him good advice on how to proceed [‘showing him the place’].”*
 - D. *If it is true that the Mishnah speaks of an agent, then the language should be not, Be betrothed to me, but rather, Be betrothed to him! And so, too, not If he deceived her to [her] advantage, but rather, If he deceived him to [his] advantage!*
 - E. *But to begin with it was of gold [Freedman: the agent knew full well that he was giving a gold denar].*
 - F. *Rather, said Raba, “I and the lion of the group explain it – and who might that be? It is R. Hiyya bar Abin: Here with what case do we deal? One in*

which she said to her agent, ‘Go and receive for my my token of betrothal from Mr. So-and-so, who said to me, “Be betrothed to me with a denar of silver,” and he went and the other gave him a denar of gold. One authority maintains that the woman was meticulous about the instructions, and the other, that all she was doing was giving him good advice on how to proceed [‘showing him the place’].”

- G. *And what is the meaning of the language, and it turns out to be?*
H. *It was wrapped up in a cloth [and only when the women got it did she know what it was].*

II.2 A. *Said Abbaye, “R. Simeon, Rabban Simeon b. Gamaliel, and R. Eleazar all take the view that, in a case such as this, in giving these instructions, all he was doing was giving him good advice on how to proceed [‘showing him the place’].”*

B. *R. Simeon: As we have just now said.*

C. *R. Simeon, Rabban Simeon b. Gamaliel: As we have learned in the Mishnah: [49A] An unfolded document [has] the signatures within [at the bottom of a single page of writing]. And one which is folded has the signatures behind [each fold]. An unfolded document, on which its witnesses signed at the back, or a folded document, on which its witnesses signed on the inside – both of them are invalid. R. Hananiah b. Gamaliel says, “One which is folded, on the inside of which its witnesses signed their names, is valid, because one can unfold it.” Rabban Simeon b. Gamaliel says, “Everything is in accord with local custom” [M. B.B. 10:1]. Now in reflecting on this matter [we said], well, doesn’t the first authority concur, Everything is in accord with local custom? And said R. Ashi, “This refers to a place in which a plain one was customary, and a folded one was made, or a place in which a folded one was customary, and a plain one was made. All parties concur that the one who gave instructions was meticulous about the matter. Where is the point of dispute? Where both forms are acceptable, and the husband said to the scribe, ‘Make a plain one,’ but the scribe went and made a folded one. One authority maintains that the husband was meticulous about the instructions, and the other, that all he was doing was giving him good advice on how to proceed [‘showing him the place’].”*

D. *R. Eleazar: As we have learned in the Mishnah:*

E. **The woman who said, “Receive my writ of divorce for me in such-and-such a place,” and he [the messenger] received it for her in some other place –**

F. **it is invalid.**

G. **R. Eliezer declares it valid [M. [Git. 6:3K-M](#)].**

H. *Therefore* all he was doing was giving him good advice on how to proceed [‘showing him the place’].”

II.3 A. Said Ulla, “The Mishnah’s controversy concerns only a monetary advantage, but as to a genealogical advantage, all parties concur that she is not betrothed. *How come? ‘I really don’t want a shoe that is bigger than my foot.’”*

B. *So, too, it has been taught on Tannaite authority:* **R. Simeon concedes that if he deceived her to her advantage in a matter of genealogy, she is not betrothed [T. [Qid. 2:5I](#)].**

C. *Said R. Ashi, “A close reading of our Mishnah paragraph yields the same conclusion, for the Tannaite formulation is as follows:*

D. **“...On condition that I am a priest,’ and he turns out to be a Levite,**

E. **“...on condition that I am a Levite,’ and he turns out to be a priest,**

F. **“...a Netin,’ and he turns out to be a mamzer,**

G. **“...a mamzer,’ and he turns out to be a Netin [M. [2:3A-D](#)].**

H. *“And in these matters, R. Simeon does not take issue.”*

I. *Objected Mar bar R. Ashi, “Well, note the further Tannaite formulation:*

J. **“...On condition that I have a daughter or a slave girl who is an adult [alt.: a hairdresser],’ and he has none,**

K. **“...on condition that I have none,’ and he has one –**

L. *“and these represent monetary advantages, and yet here, too, R. Simeon does not take issue! Rather, he differs in the first clause, and likewise in the second, and here, too, he differs in the first clause, and here too!”*

M. *But how are the matters comparable? In that case, both items represent a monetary advantage, so he differs in the first clause, and the same in the second. But here, where it is a matter of a genealogical advantages, if he did differ, it should have been made explicit in the Tannaite formulation.*

N. *And if you prefer, I shall say, here, too, genealogical advantage is what is at issue. Do you imagine that an adult is meant literally? It means, of superior standing, for the betrothed woman can say, "It is not acceptable to me that she should take my words from me and go and tell them around the neighborhood."*

- II.4** A. *Our rabbis have taught on Tannaite authority:*
B. "On condition that I am able to read the Torah in the synagogue" – once he has read three verses in the synagogue, lo, this woman is betrothed.
C. R. Judah says, "Only if he both reads and interprets."

II.5 A. *Is that the case even if it is only on the basis of his own opinion? And hasn't it been taught on Tannaite authority: R. Judah says, "He who interprets a verse of Scripture in accord with its literal meaning – lo, such a one is a fraud. And he who adds to it – lo, such a one is a blasphemer and a libeler" [T. Meg. 3:41B]?*

B. *Rather, what is the meaning interprets of here? It is, in accord with our interpretation.*

II.6 A. *That is the case if he specifically used the language, I am able to read the Torah in the synagogue, but if he said to her, "I am a master of Scripture," then he has to be able meticulously to read the Torah, Prophets, and Writings.*

- II.7** A. "On condition that I can repeat [Mishnah]" –
B. Hezekiah said, "This means, laws."
C. R. Yohanan said, "This means, the Torah."
D. *An objection was raised: What is the definition of "Repeating [= Mishnah]"? R. Meir says, "Laws." R. Judah says, "Exegesis."*
E. **[49B]** *What is the meaning of "Torah" here? It means, exegesis of the Torah.*

II.8 A. *That is the case if he specifically used the language, on condition that I am familiar with what we have learned on Tannaite authority. But if he said, “On condition that I am a repeater of Tannaite formulations,” then she is betrothed only if he can repeat the Tannaite formulations of laws, Sifra, Sifré, Tosefta.*

- II.9** A. If he said, “On condition that I am a disciple,” they do not say, “A disciple like Simeon b. Azzai or Simeon b. Zoma,” but in the case of anyone whom they ask a question concerning any passage in his studies which he can answer, even in tractate Kallah, [that would meet the criterion].
- B. If he said, “On condition that I am a sage,” they do not say, “like the sages of Yavneh, like R. Aqiba and his colleagues,” but in the case of anyone whom they ask a question of wisdom in any context and he says the answer [that would meet the criterion].
- C. If he said, “On condition that I am strong,” they do not say, “Like Abner b. Ner or Joab b. Zeruiah,” but so long as he is held in awe by his friends because of his strength [that would meet the criterion].
- D. If he said, “On condition that I am rich,” they do not say, “Like R. Eleazar b. Harsom or R. Eleazar b. Azariah,” but so long as he is honored by his townsfolk because of his wealth, [that would meet the criterion].
- E. If he said, “On condition that I am righteous,” even if he is completely wicked, she is betrothed, for he may have repented in his heart.
- F. If he said, “On condition that I am wicked,” even if he is completely righteous, she is betrothed, for he may have considered in his heart the worship of idols.

- II.10** A. Ten qabs of wisdom came down into the world, nine were taken by the Land of Israel, and one by the rest of the entire world.
- B. Ten qabs of beauty came down into the world, nine were taken by Jerusalem, and one by the rest of the entire world.
- C. Ten qabs of wealth came down into the world, nine were taken by the earliest Romans, and one by the rest of the entire world.
- D. Ten qabs of poverty came down into the world, nine were taken by Babylonia, and one by the rest of the entire world.
- E. Ten qabs of arrogance came down into the world, nine were taken by Elam, and one by the rest of the entire world.

F. *But didn't arrogance come down to Babylonia? Surely it's written:* "Then I lifted up my eyes and saw and behold, there came forth two women, and the wind was in their wings; now they had wings like the wings of a stork; and they lifted up the ephah between the earth and the heaven. Then I said to the angel that talked with me, whither do these bear the ephah? And he said to me, to build her a house in the land of Shinar" (Zec. 5:9-10), on which verse R. Yohanan said, "This refers to the deceit and arrogance that came down to Babylonia."

G. *True enough, it came down here, but it then moved along to there [Elam]. And a close reading of the following will make that point, for it is written,* "To build her a house" (Zec. 5:10). *That's decisive.*

H. *Is that so? But didn't a master say, "A mark of arrogance is poverty," and poverty is found in Babylonia?*

I. *What is the meaning here of poverty? It is, poverty of Torah learning:* "We have a little sister, and she has no breasts" (Son. 8: 8), on which R. Yohanan said, "This refers to Elam, which had sufficient inherited merit to learn but didn't have sufficient inherited merit to teach."

- J. Ten qabs of strength came down into the world, nine were taken by the Persians, and one by the rest of the entire world.
- K. Ten qabs of vermin came down into the world, nine were taken by Media, and one by the rest of the entire world.
- L. Ten qabs of witchcraft came down into the world, nine were taken by Egypt, and one by the rest of the entire world.
- M. Ten qabs of sores came down into the world, nine were taken by pigs, and one by the rest of the entire world.
- N. Ten qabs of fornication came down into the world, nine were taken by the Arabs, and one by the rest of the entire world.
- O. Ten qabs of impudence came down into the world, nine were taken by Mesene, and one by the rest of the entire world.
- P. Ten qabs of gossip came down into the world, nine were taken by women, and one by the rest of the entire world.
- Q. Ten qabs of drunkenness came down into the world, nine were taken by Ethiopians, and one by the rest of the entire world.

- R. Ten qabs of sleep came down into the world, nine were taken by slaves, and one by the rest of the entire world.

2:3

- A. "...On condition that I am a priest," and he turns out to be a Levite,
B. "...on condition that I am a Levite," and he turns out to be a priest,
C. "...a Netin," and he turns out to be a mamzer,
D. "...a mamzer," and he turns out to be a Netin,
E. "...a town dweller," and he turns out to be a villager,
F. "...a villager," and he turns out to be a town dweller,
G. "...on condition that my house is near the bath," and it turns out to be far away,
H. "...far," and it turns out to be near:
I. "...On condition that I have a daughter or a slave girl who is a hairdresser" and he has none,
J. "...on condition that I have none," and he has one;
K. "...on condition that I have no children," and he has;
L. "...on condition that he has," and he has none –
M. in the case of all of them, even though she says, "In my heart I wanted to become betrothed to him despite that fact," she is not betrothed.
N. And so is the rule if she deceived him.

- I.1** A. *There was someone who sold off his property intending to emigrate to the Land of Israel, but when he made the sale, he said nothing whatsoever. Said Raba, "This is a mental stipulation, and a mental stipulation is null."*

B. *So how does Raba know that fact? Should we say that it derives from that which we have learned in the Mishnah: [50A] "If his obligation is a burnt-offering...he shall offer it a male without blemish" (Lev. 1: 3) – this teaches that they can force someone to bring an offering [that he has vowed to give]. Might one suppose that this is even against his will? Scripture states, "of his own free will" (Lev. 1: 3). How so? They force him until he says, "Yes, I want it." [Even if the consent is under duress, it is still consent] [M. Ar. 5:6A-D]? Now why should this be so? Lo, in his heart he does not agree with this? So is it not because we invoke as the principle, a mental stipulation is null?*

C. *But maybe that case is exceptional, for we are witnesses that it does accord with his will to gain atonement through the offering.*

D. *But look at what follows in the same passage: **And so do you rule in the case of writs of divorce for women: They compel him until he says, “I will it” [M. Ar. 5:6E-F]!** Now why should this be so? Lo, in his heart he does not agree with this? So is it not because we invoke as the principle, a mental stipulation is null?*

E. *But maybe that case is exceptional, for it is a religious duty to obey the instructions of sages.*

- F. *Rather, said R. Joseph, it derives from the following: **He who betroths a woman and said, “I was thinking that she is a priest, and lo, she is a Levite,” “...a Levite, and lo, she is a priest,” “A poor girl, and lo, she is a rich girl,” “A rich girl, and lo, she is a poor girl,” lo, she is betrothed, for she has not deceived him [M. 3:5A-E].** Now why should this be so? Lo, he has said, **I was thinking...**! So is it not because we invoke as the principle, a mental stipulation is null?*
- G. *Said to him Abbaye, “But maybe that case is exceptional, since a strict ruling is imposed.”*
- H. *Rather, said Abbaye, “It derives from the following: **In the case of all of them, even though she says, ‘In my heart I wanted to become betrothed to him despite that fact,’ she is not betrothed.** Now why should this be so? Lo, she has said, **In my heart?**”*
- I. *But maybe that’s a special case, for, since he made a stipulation, she has not got the power to set aside what he has stipulated.*
- J. *Rather said R. Hiyya bar Abin, “There was a case at the household of R. Hisda, and R. Hisda went to the household of R. Huna, who solved the problem on the basis of the following: [If] he said to his agent, ‘Bring [such and such a thing] from the window,’ or, ‘From the chest,’ and he brought it to him, even though the householder said, ‘I meant only from here,’ and he brought it from there, the householder has committed the act of sacrilege [M. Me. 6:1K-M]. Now why should this be the case? Lo, he has said, **I meant!** So is it not because we invoke as the principle, a mental stipulation is null?”*
- K. *That case is exceptional, because what he wanted was to exempt himself from having to bring an offering.*
- L. *Well, to achieve the same goal, let him just say he did it on purpose.*

- M. *A person does not deliberately represent himself as wicked.*
- N. *Well, then, let him say, "I remembered [only after the servant went]"? For it has been taught on Tannaite authority, If the householder remembered and the agent, didn't, then the agent is responsible for the sacrilege.*

I.2 A. *There was someone who sold off his property intending to emigrate to the Land of Israel, emigrated, but then couldn't settle down. Said Raba, "Whoever emigrates, it is with the intention of settling down, and this man hasn't done it [so the sale is null, since it is a prevailing stipulation]."*

B. *There are those who say, ...it is with the intention of emigrating, and lo, this man has emigrated [so the sale is valid].*

I.3 A. *There was someone who sold off his property intending to emigrate to the Land of Israel, but in the end didn't emigrate. Said R. Ashi, "He could have gone if he'd wanted to."*

B. *There are those who say, ...if he'd wanted to, couldn't he have gone?*

C. *So what's the big deal?*

D. *The versions differ in a case in which there was some sort of obstacle that prevented the trip altogether [Freedman: according to the first version, Ashi said he could have gone; according to the second, nothing could have prevented him, but here something did, so the sale is null].*

2:4

- A. **He who says to his messenger, "Go and betroth Miss So-and-so for me, in such-and-such a place,"**
- B. **and he went and betrothed her for him in some other place,**
- C. **she is not betrothed.**
- D. **[If he said,] "...lo, she is in such-and-such a place,"**
- E. **and he betrothed her in some other place,**
- F. **lo, she is betrothed.**

- I.1** A. *We have learned in the Mishnah precisely the same rule with reference to writs of divorce:*
- B. **He who says, "Give this writ of divorce to my wife in such-and-such a place," and he [the messenger] delivered it to her in some other place –**
 - C. **it is invalid.**

- D. [If he said], “Lo, she is in such-and-such a place,” and he gave it to her in some other place,
- E. it is valid [M. Git. 6:3G-J].
- F. *Both appearances of the matter are required. For if we had been informed of the rule solely with reference to betrothals, where he has the intent to draw her to himself, he may have thought, “In this place they like me, so they won’t say anything against me, but there I am disliked, and they’ll bring all kinds of charges against me.” In the matter of delivery of a writ of divorce, by contrast, where the intent is to put her off, one may say, “It doesn’t matter to him where it is delivered.” And if we had been informed of the matter solely with reference to delivery of a writ of divorce, one might have supposed that it is in this place in particular that he is willing to be humiliated, but not there; while with regard to betrothal, I might suppose he couldn’t care less. So both versions had to be set forth.*

2:5

- A. He who betroths a woman on condition that she is not encumbered by vows,
- B. and she turns out to be encumbered by vows –
- C. she is not betrothed.
- D. [If] he married her without specifying and she turned out to be encumbered by vows, she goes forth without collecting her marriage contract.
- E. ...On condition that there are no blemishes on her, and she turns out to have blemishes, she is not betrothed.
- F. [If] he married her without specifying and she turned out to have blemishes, she goes forth without collecting her marriage contract.
- G. All blemishes which invalidate priests [from serving in the Temple] invalidate women.

I.1

- A. *We have learned this rule in the Mishnah with respect to marriage contracts!*
- B. *Here the passage is required to deal with matters that pertain to betrothals, and the Tannaite authority has repeated the materials pertinent to marriage settlements on account of the details pertinent to the betrothal; there the rule was required to cover matters of marriage contracts, and the details concerning betrothals were included on account of the required ones having to do with marriage contracts.*

2:6

- A. He who betroths two women with something worth a penny,
- B. or one woman with something worth less than a penny,
- C. even though he sent along [additional] presents afterward,
- D. [50B] she is not betrothed,
- E. since he sent the presents later on only because of the original act of betrothal [which was null].
- F. And so in the case of a minor who betrothed a woman.

I.1 A. [He who betroths two women with something worth a penny, or one woman with something worth less than a penny.... And so in the case of a minor who betrothed a woman:] *It was necessary to state all three cases. For had we been informed only of the rule concerning a penny's worth for two women, I might have thought that, since the money has gone forth from him, he may err thinking that the betrothal was valid; but with regard to use of less than a penny's worth, I might suppose that he obviously knows that the betrothal with less than a penny's worth is null, so when he sends gifts, it is as part of the token of betrothal. And if these two were covered, it is because one may not be clear on the rule governing a penny's worth or less, but when a minor betroths, everyone knows that the betrothal is null, so, when he sends gifts, I might suppose that these are sent as tokens of betrothal. So we are informed to the contrary.*

- I.2** A. *It has been stated:*
- B. R. Huna said, "We take account of the provision of gifts" [Freedman: if a marriage is arranged and the husband to be sends gifts before witnesses, we take account of the possibility that these may be meant as tokens of a betrothal, so she is subject to the doubt as to her status; if someone else should betroth her, both have to divorce her].
 - C. And so said Rabbah, "We take account of the provision of gifts."
 - D. *Said Rabbah, "We raised an objection in respect to our own teaching on the basis of the following: Even though he sent along [additional] presents afterward, she is not betrothed."*
 - E. *Said to him Abbaye, "But in that case, there is a specific reason spelled out, namely: Since he sent the presents later on only because of the original act of betrothal [which was null]."*

F. *There are those who say, said Rabbah, “On what basis do I maintain [that we take account of the provision of gifts]? Because there is a specific reason spelled out, namely: **Since he sent the presents later on only because of the original act of betrothal [which was null].** So here, because he may err, we would exclude such a possibility, but under other circumstances [where there was no prior act of betrothal], the gifts may serve as a token of betrothal.”*

G. And Abbayye?

H. *The formulation is meant to say, there is no issue..., as follows: There is no issue in general that gifts are not taken into account as tokens of betrothal, since in such a case to begin with the man has not entered into the state of betrothal, but here, where he has indeed entered into the state of betrothal, where I might say that the gifts are meant as token of betrothals, we are informed that that is not the case.*

I.3 A. *So what’s the upshot?*

B. *Said R. Pappa, “In a place in which they betroth and then send gifts, we pay attention to the gifts [if they are sent first of all, thinking they may be intended as tokens of betrothal]; in a place where they send gifts and then betroth, we do not take account of the provision of gifts.”*

C. *In a place in which they betroth and then send gifts, we pay attention to the gifts – well, that’s obvious!*

D. *No, it is necessary to cover that point, for a situation in which most people betroth and send gifts, but some people send gifts and then betroth. So I might imagine, “Let’s pay attention to the minority.” So we are informed that that is not the case.*

I.4 A. *R. Aha bar R. Huna asked this question of Raba: “If a deed covering the marriage settlement was assumed in the marketplace to be valid [though people don’t know whether the couple was betrothed, but later on she accepted tokens of betrothal from a third party], what is the law?”*

B. *He said to him, “Well, merely because a deed covering the marriage settlement was assumed in the marketplace to be valid, do we also assume that she is a married woman?”*

C. *So what’s the upshot?*

D. Said R. Ashi, *"In a place in which they betroth and then write a document of marriage settlement, we take account of that possibility [that she is already betrothed]; but in a place in which first they write out the marriage contract and then betroth, we don't take account of the document."*

E. *In a place in which they betroth and then write a document of marriage settlement, we take account of that possibility [that she is already betrothed] – obviously!*

F. *No, it was necessary to make that point, to cover a case where scribes are hard to find. I might have supposed that he was just lucky enough to find a scribe [and so drew up the document before the betrothal]. So we are informed that that is not the case.*

2:7

- A. He who betroths a woman and her daughter,
- B. or a woman and her sister, simultaneously –
- C. they are not betrothed.
- D. There was a case involving five women, including two sisters,
- E. and one gathered figs, and they were theirs, but it was Seventh Year produce.
- F. And [someone] said, "Lo, all of you are betrothed to me in virtue of this basket of fruit," and one of them accepted the proposal in behalf of all of them –
- G. And sages ruled, "The sisters [in the group of five] are not betrothed."

I.1

- A. *What is the scriptural source of this rule?*
- B. Said R. Ammi bar Hama, "Said Scripture, 'And you shall not take a woman to her sister to be a rival to her' (Lev. 18:18) – the Torah has said that when they become co-wives, you may not marry even any one of them."
- C. *Said to him Raba, "If so, then how about this verse: 'Even the souls that do them shall be cut off from among their people' (Lev. 18:29) – but if the betrothal with her is not valid, then how come he's liable to extirpation?"*
- D. *Rather, said Raba, "The verse of Scripture refers to consecutive marriages, and our Mishnah paragraph accords with the statement of Rabbah, who said, 'What cannot be done consecutively also cannot be done simultaneously.'"*

- I.2** A. *Reverting to the body of the foregoing:*said Rabbah, “What cannot be done consecutively also cannot be done simultaneously”:
- B. *Objected Abbayye, [51A] “He who gave too much tithe – while the produce is properly tithed, the tithe is ruined [since part of what is included within the tithe is in fact not tithe at all] [T. Dem. 8:13A-B]. But why should this be the case? Why not say, What cannot be done consecutively also cannot be done simultaneously?”*
- C. *He said to him, “That case is exceptional, because, as to tithes, it is possible in the case of half-grain to do it, for if one said, ‘Let half of each grain be sanctified,’ it is indeed sanctified; but as to tithes of cattle, it is impossible to do it by halves, and it is also impossible to do it consecutively; and yet Rabbah has said, ‘If two animals came out of the corral simultaneously as tenth, and he called them tenth, the tenth and the eleventh are treated as a group together [the tenth is actually tithe, the eleventh is a peace-offering].” If he had declared them so in sequence, the second would be invalid; why is the simultaneous declaration valid? (Freedman)].*
- D. *The tithing of cattle is exceptional, since it is valid even when done in error, for we have learned in the Mishnah: [If] he called the ninth, tenth, and the tenth, ninth, and the eleventh, tenth, all three are sanctified [M. Bekh. 9:8D].*
- E. *Lo, what about the matter of the thanksgiving-offering, which cannot be designated in error nor consecutively [that is, the thanksgiving-offering was accompanied by forty loaves that were sanctified; if the animal was sacrificed to sanctify certain loaves, which weren’t the intended ones, they are not sanctified; if after forty loaves are sanctified, another forty are declared holy, the declaration is null (Freedman)], and yet it has been stated: A thank-offering that one slaughtered in connection with eighty loaves of bread –*
- F. *Hezekiah said, “Forty of the loaves among the eighty have been sanctified.”*
- G. *R. Yohanan said, “Forty of the loaves among the eighty have not been sanctified.”*
- H. *Hasn’t it been stated in that connection: Said Zira, “All concur that if the officiating priest said, ‘Let forty out of the*

eighty be sanctified,' they are sanctified. 'The forty shall not be sanctified unless all eighty are sanctified,' they are not sanctified. Where they differ is only when the matter has not been made explicit. One authority takes the view that the unstated intention of the donor in presenting eighty loaves was to make sure that at least forty would be found suitable, and the other authority maintains that the intention was merely to provide a very large offering [so all eighty have to be valid]”?

- I.3** A. *How come Raba has to explain the Mishnah in line with the position of Rabbah? Why not let him explain it by appeal to the fact that here is a case in which the betrothal cannot be followed by an act of sexual relations [since we don't know which woman he has betrothed, so he cannot have sexual relations with either one, lest she be the sister of the betrothed, and Raba holds that such a betrothal is null]?*
- B. *He proposes an explanation within the framework of the opinion of R. Ammi bar Hama.*

- I.4** A. *It has been stated:*
- B. *An act of betrothal that cannot lead to sexual intercourse –*
- C. *Abbaye said, “It is a valid act of betrothal.”*
- D. *Raba said, “It is not a valid act of betrothal.”*

I.5 A. *Said Raba, “Bar Ahina explained to me, ““When a man takes a woman and has sexual relations with her” (Deu. 24: 1) – a betrothal that can be followed by sexual relations is valid, but a betrothal that cannot be followed by sexual relations is not valid.””*

B. *We have learned in the Mishnah: **He who betroths a woman and her daughter, or a woman and her sister, simultaneously – they are not betrothed.** Then if he betrothed one in a set of a woman and her daughter, or in a set of a woman and her sister, not specifying which one, she is betrothed; but why should that be the case, if it is the fact that a betrothal that cannot be followed by sexual relations is not valid? So isn't this a refutation of the position of Raba?*

C. *Raba can say to you, “But according to your reading of matters, how about the concluding story: **There was a case involving five women, including two sisters, and one gathered figs, and they were theirs, but it was Seventh Year produce. And [someone] said, “Lo,***

all of you are betrothed to me in virtue of this basket of fruit,” and one of them accepted the proposal in behalf of all of them – And sages ruled, “The sisters [in the group of five] are not betrothed”? *Thus only the sisters are not betrothed, but the women who are not related are betrothed? And how are we to imagine the case at hand? Should we say that he said, ‘all of you [be betrothed to me]’? Then it is equivalent to a case in which one said, ‘You and the ass acquire,’ and that does not effect transfer of title.* [Freedman: If one bestows gifts upon a living person and an unborn child simultaneously, the first does not acquire the gift because the second can’t; here, too, since the sisters cannot acquire any part as a token of betrothal, the other women can’t either]. **[51B] So isn’t it a case in which he said to them, ‘One of you,’ and the Tannaite rule states, The sisters [in the group of five] are not betrothed.”**

D. *Well, then, for Raba the first part of the passage presents a problem, for Abbaye, the second.*

E. *Abbaye can solve the problem within his position, and Raba can solve the problem within his, namely:*

F. *Abbaye can solve the problem within his position:* **He who betroths a woman and her daughter, or a woman and her sister, simultaneously – they are not betrothed.** Then if he betrothed one in a set of a woman and her daughter, or in a set of a woman and her sister, not specifying which one, she is betrothed. But if he said, “The one of you who is eligible for sexual relations with me – let her be betrothed to me,” she is not betrothed. And thus **there was a case involving five women, including two sisters, and one gathered figs, and they were theirs, but it was Seventh Year produce. And [someone] said, ‘Lo, the one of you who is eligible for sexual relations with me, let her be betrothed to me,’ and sages ruled, ‘The sisters [in the group of five] are not betrothed.’”**

G. *And Raba can solve the problem within his:* He who betroths a woman and her daughter, or a woman and her sister is treated as though he betrothed **a woman and her daughter, or a woman and her sister, simultaneously, and they are not betrothed.** There was *also* a case involving five women, including two sisters, and one gathered figs, and they were theirs, but it was Seventh Year

produce. And [someone] said, “Lo, all of you and one of the two sisters, are betrothed to me in virtue of this basket of fruit,” and one of them accepted the proposal in behalf of all of them – And sages ruled, “The sisters [in the group of five] are not betrothed.”

H. *Come and take note: He who betroths his daughters without specification – the ones past girlhood are not taken into account [M. Qid. 3:8J]. Lo, the minors are taken into account. But why should this be the case, if it is the fact that an act of betrothal that cannot lead to sexual intercourse is null? Doesn't that refute Raba's position?*

I. *Raba may say to you, “Here with what case do we deal? It is a situation in which there is only one who is past girlhood and one minor.”*

J. *But the language that is used is the ones past girlhood!*

K. *What is the meaning of the ones past girlhood? It is, the ones past girlhood in general.*

L. *If so, then what's the point of the statement?*

M. *Here with what case do we deal? It is a situation in which the daughter past girlhood has appointed her father as her agent [to accept tokens of betrothal]. What might you have supposed? When he accepts the tokens of betrothal, it is with her full knowledge and consent that he does so? So we are informed that someone will not give up something that gives a benefit [that is, the tokens of betrothal of the minor daughter, which he gets to keep].*

N. *But don't we deal here with a case in which she said to him, “Let my tokens of betrothal belong to you”?*

O. *Nonetheless, a man is not going to abandon a religious duty that falls upon himself and carry out a religious duty that doesn't fall upon himself.*

P. *Come and take note: He who has two groups of daughters by two wives [in succession], and who said, “I have betrothed my oldest daughter, but I do not know whether it is the oldest of the older group or the oldest of the younger group, or the youngest of the older group, who is also older than the oldest of the younger group” – “all of them are prohibited [to marry without a writ of divorce], except for the youngest of the younger group,” the words*

of R. Meir [M. 3:9A-C]. [Freedman: This refutes Raba, since intercourse cannot follow such a betrothal.]

Q. *Here with what situation do we deal?* It is one in which to begin with they were entirely known but later on were confused. *You may know through a close reading of the passage that this is so, for it is stated in the Tannaite formulation, I do not know, but it is not stated in the Tannaite formulation, it is not known.*

R. *That is decisive.*

S. *So why then bother to say it at all?*

T. *To exclude the position of R. Yosé, who has said, "A person will not bring himself into a situation of doubt." So we are informed that a person will bring himself into a situation of doubt.*

U. *Come and take note: He who betrothed one of two sisters and does not know which of them he betrothed gives a writ of divorce to this one and a writ of divorce to that one [M. Yeb. 2:6A] [refuting Raba once more].*

V. *Here with what situation do we deal?* It is one in which to begin with they were entirely known but later on were confused. *You may know through a close reading of the passage that this is so, for it is stated in the Tannaite formulation, does not know, but it is not stated in the Tannaite formulation, it is not known.*

W. *So why then bother to say it at all?*

X. *What comes later on was what necessitated the whole: [If] he died, and he had one brother, he [the brother] effects a rite of removing the shoe with both of them. [If] he [who died childless] had two [brothers], one of them effects a rite of removing the shoe and one of them enters into levirate marriage. [If] they went ahead and married [the two women], they [the court] do not remove [the women] from their possession [M. Yeb. 2:6B-D]. It follows that the sole permitted order is the rite of removing the shoe then the consummation of the levirate marriage, but not the consummation of the levirate marriage then the rite*

of removing the shoe, because in the latter case, he may violate the prohibition of marrying the sister of someone bound to him by the levirate relationship.

Y. Come and take note: Two [unrelated men] who betrothed two sisters – this one does not know which of them he betrothed, and that one does not know which of them he betrothed – this one gives two writs of divorce, and that one gives two writs of divorce [M. [Yeb. 2:7A-C](#)].

*Z. Here with what situation do we deal? It is one in which to begin with they were entirely known but later on were confused. You may know through a close reading of the passage that this is so, for it is stated in the Tannaite formulation, **does not know**, but it is not stated in the Tannaite formulation, **it is not known**.*

AA. That's decisive.

BB. So why then bother to say it at all?

CC. What comes later on was what necessitated the whole: [If] they died, [if] this one has a brother and that one has a brother, this one effects the rite of removing the shoe with both of them, and that one effects the rite of removing the shoe with both of them. [If] this one had one [brother] and that one had two, [\[52A\]](#) the one [the sole brother of one of the deceased] effects a rite of removing the shoe with both of them. And [as to] the two [brothers of the other deceased] – one effects a rite of rite of removing the shoe with one of them, and [then] one enters into levirate marriage with one of them. If they went ahead and married [the two widows out of betrothal], they do not remove them from their possession. [If] this one had two and that one had two [brothers], a brother of this one effects a rite of removing the shoe with

one of them, and a brother of that one effects a rite of removing the shoe with one of them, a brother of this one enters into levirate marriage with the woman with whom the other party's brother had effected a rite of removing the shoe, and a brother of that one enters into levirate marriage with the woman with whom the other party's brother has effected a rite of removing the shoe. [If] the two went ahead and performed a rite of removing the shoe, then the [other] two should not enter into levirate marriage. But one of them performs the rite of removing the shoe and one of them enters into levirate marriage. If they went ahead and married them, they do not remove them from their possession [M. Yeb. 2:7D-P]. *It follows that the sole permitted order is the rite of removing the shoe then the consummation of the levirate marriage, but not the consummation of the levirate marriage then the rite of removing the shoe, because in the latter case, he may violate the prohibition of marrying the sister of someone bound to him by the levirate relationship.*

DD. *Come and take note of what Tabyumi repeated as a Tannaite formulation:* This one has five sons and that one has five daughters, and he said, "One of your daughters is betrothed to one of my sons" – all of the daughters require five writs of divorce. If one of them died, all of the daughters have to get four writs of divorce and one rite of removing the shoe from one of the brothers. *Now if you say here, too, it is a situation in which to begin with they were entirely known but later on were confused, so, the language is* One of your daughters is

betrothed to one of my sons. *Now isn't that a refutation of Raba?*

EE. *It certainly is a refutation of Raba.*

FF. *And the decided law accords with Abbayye in the matter of betrothals that cannot be followed by sexual relations and five other matters.*

- II.1** A. **There was a case involving five women, including two sisters, and one gathered figs, and they were theirs, but it was Seventh Year produce. And [someone] said, "Lo, all of you are betrothed to me in virtue of this basket of fruit," and one of them accepted the proposal in behalf of all of them – And sages ruled, "The sisters [in the group of five] are not betrothed":**
- B. *Said Rab, "Our Mishnah paragraph yields four conclusions," but he had in hand only three of them.*
- C. *Our Mishnah paragraph yields the conclusion that he who betroths with produce of the Seventh Year – the betrothal is valid.*
- D. *Our Mishnah paragraph yields the conclusion that he who betrothed a woman with stolen property – she is not betrothed.*
- E. *And even if the stolen property belonged to her – how so? Since the formulation goes on, **and they were theirs, but it was Seventh Year produce.** So the operative consideration is that it was produce of the Seventh Year, which is ownerless; lo, if it were of the other years of the seven-year cycle, that would not be the case.*
- F. *Our Mishnah paragraph yields the conclusion that a woman may serve as an agent for another woman, and even in a situation in which she thereby becomes her co-wife.*
- G. *And what's the next?*
- H. *It concerns a betrothal that cannot be followed by sexual relations.*
- I. *So why not count it?*
- J. *It is because he was subject to doubt whether the law followed the position [later on taken by] Abbayye or by Raba.*
- II.2** A. *When R. Zira came up, he repeated this tradition before R. Yohanan, who said to him, "Well, now did Rab make any such statement?"*

B. *But didn't he himself say the same? And didn't R. Yohanan say, "If one stole something and the owner didn't despair of getting it back, neither party can use it for a token of betrothal, the one because it's not his, the other because it's not in his hands"?*

C. *This is the sense of what he said to him: "Did Rab really make a statement in accord with my position?"*

D. *An objection was raised: **If someone betrothed a woman with stolen property, or with what was gained by violence or by theft, or if he grabbed a sela from her hand and betrothed her with it, she is betrothed [T. Qid. 4:5A-C].***

E. *There it refers to what has been robbed from her.*

F. *But since the latter clause goes on to say, **or if he grabbed a sela from her hand and betrothed her with it**, it most follow that the former speaks of what has been stolen from someone in general but not from her.*

G. *The formulation of the passage is such as to explain matters, namely, **If someone betrothed a woman with stolen property, or with what was gained by violence or by theft** – how so? For instance, **if he grabbed a sela from her hand and betrothed her with it, she is betrothed.***

H. **[52B]** *Well, then, our Mishnah paragraph deals with what has been stolen from her [since it says, **they were theirs**], and said Rab, "She is not betrothed"!*

I. *No problem, in the one case, it was a situation in which there was negotiation about marriage [so when she accepts the token, it ceases to be something stolen from her], in the other case, it was a situation in which there was no negotiation about marriage.*

II.3 A. *A certain woman was washing her feet in a bowl of water. Someone came along, grabbed a zuz from his neighbor, threw it to her and said, "Lo, you are betrothed to me."*

B. *That man came before Raba, who said to him, "No one accepts R. Simeon's statement: Robbery in general involves the owner's despair of getting the property*

back [so that if we don't know whether the owner despairs of getting the article back, we assume he does; that ruling is null, the betrothal is invalid].”

II.4 A. *A certain sharecropper betrothed a woman with a handful of onions.*

B. *That man came before Raba, who said to him, “Who renounced ownership [of which the landlord owns half] in your favor?”*

C. *That is the case with a handful, but if it were a bunch, the sharecropper can say to the landowner, “Just as I took a bunch, you take one, one is no different from any other.”*

II.5 A. *A certain contractor for brewing the dates of others betrothed a woman with a measure of beer [that he had brewed with someone else's dates, of which he gets a share]. The owner of the beer came and found him. He said to him, “Why didn't you give her this beer, which is stronger?”*

B. *He came before Raba, who said to him [in the context explained at C], “The consideration of ‘**you should have gone and taken better ones**’ is valid only with regard to the case of heave-offering, [because the owner of the field is happy to carry out his religious duty in such a manner]. So he may have meant what he said. But in this case, it is merely a matter of courtesy [and does not bear the sense of consent for what the agent has done].”*

C. *For it has been taught on Tannaite authority: **How does one validly separate heave-offering from produce without the knowledge and consent of the owner? If one went down into his fellow's field and gleaned produce and separated heave-offering from it without permission, if the owner of the field is apprehensive of robbery, that which the other has separated is not valid heave-***

offering; but if he is not apprehensive of robbery, that which he has separated is valid heave-offering. How does one know whether or not the owner is apprehensive of robbery? When the householder came and found him and said to him, “Go to the fine produce and glean there,” if there was there fine produce, the householder meant what he said and thus he is not apprehensive of robbery; but if not [if there was no fine produce] – lo, this one is apprehensive of robbery [and his comment was a sarcastic one]. If the householder should glean and add to what the other has already gleaned, either way, he is not apprehensive of robbery [T. Ter. 1:5A-I].

D. [Continuing B:] *“But here he told him to take the stronger beer out of shame [not wanting to object], so she is not betrothed.”*

2:8

- A. He [who was a priest] who betroths a woman with his share [of the priestly gifts], whether they were Most Holy Things or Lesser Holy Things –
- B. she is not betrothed.
- C. [If one did so] with food in the status of second tithe,
- D. “whether inadvertently or deliberately, he has not effected betrothal,” the words of R. Meir.
- E. R. Judah says, “If he did so inadvertently, he has not effected betrothal. If he did so deliberately, he has effected betrothal.”
- F. And in the case of that which has been dedicated:
- G. “If he did so deliberately, he has effected betrothal, and if he did so inadvertently, he has not effected betrothal,” the words of R. Meir.
- H. R. Judah says, “If he did so inadvertently, he has effected betrothal. If he did so deliberately, he has not effected betrothal.”

I.1 A. *May we say that our Mishnah paragraph does not accord with the position of R. Yosé the Galilean? For it has been taught on Tannaite authority: “If a*

soul sin and commit an act of sacrilege against the Lord and lie to his neighbor' (Lev. 5:21) – this extends the law to Lesser Holy Things, which are classified as the property of the neighbor,” the words of R. Yosé the Galilean.

- B. *Well, you may even maintain that that does accord with the position of R. Yosé the Galilean. When R. Yosé the Galilean made his ruling, it concerned animals that had been consecrated but were still alive, but in the cases of Holy Things that had been slaughtered, even R. Yosé the Galilean concurs that when those who have a right to eat the flesh acquire that right, it is from the table of the Most High that they have acquired that right. You may know that that is the case from a close reading of the passage before us: **He [who was a priest] who betroths a woman with his share [of the priestly gifts], whether they were Most Holy Things or Lesser Holy Things – she is not betrothed.***

I.2

- A. *Our rabbis have taught on Tannaite authority:*
- B. After R. Meir's death, R. Judah said to his disciples, "Don't let the disciples of R. Meir in here, because they are contentious and don't come to study the Torah but to throw up against me a barrage of [trivial] laws."
- C. Nonetheless Sumkhos forced his way in. He said to them, "This is what R. Meir repeated as a Mishnah teacher: **He [who was a priest] who betroths a woman with his share [of the priestly gifts], whether they were Most Holy Things or Lesser Holy Things – she is not betrothed.**"
- D. R. Judah became angry with them and said to them, "Didn't I tell you, 'Don't let the disciples of R. Meir in here, because they are contentious and don't come to study the Torah but to throw up against me a barrage of [trivial] laws'? So how in the world would a woman end up in the Temple courtyard anyhow? [That is the only place where she could receive sacrifices of Most Holy Things!]"
- E. Said R. Yosé, "Should people say, 'Meir lies in his grave, Judah is outraged, and Yosé kept his silence'? Then what will come of the teachings of the Torah? Can't a man routinely receive tokens of betrothal for his daughter in the Temple courtyard? And can't a woman routinely appoint a messenger to accept tokens of betrothal for her in the Temple courtyard? And, anyhow, what if she pushes herself in one way or the other?"

I.3

- A. *It has been taught on Tannaite authority:*
- B. R. Judah says, "She is betrothed."
- C. R. Yosé says, "She is not betrothed."

D. Said R. Yohanan, “Both authorities interpret the same verse of Scripture, namely: ‘This shall be yours of the Most Holy Things, reserved from the fire’ (Num. 18: 9). R. Judah takes the view, ‘For you’ – for all your needs. And R. Yosé maintains, ‘It is comparable to what is offered on the fire; just as what is offered on the fire is solely for eating, so this, too, is solely for the priest’s eating.’”

I.4 A. Said R. Yohanan, **[53A]** “They took a vote and decided: **He [who was a priest] who betroths a woman with his share [of the priestly gifts], whether they were Most Holy Things or Lesser Holy Things – she is not betrothed.**”

B. And Rab said, “The dispute continues even now.”

C. *Abbaye said, “R. Yohanan’s position stands to reason, for the same has been taught on Tannaite authority.”*

D. **How do we know that the priests do not divide meal-offerings as counterparts to sacrificial meat [with the result that one party of priests gets meal-offerings and the other party gets meat]?**

E. **Scripture says, “And every cereal-offering...shall be for all the sons of Aaron.” [The division cannot result in this group’s getting only meal-offerings while that group gets only meat.]**

F. **Might one then maintain that while the priests should not take portions of meal-offerings prepared in an oven in place of meat of sacrifices, since in the case of poverty they do not have to make them up [Cashdan: the meal-offering does not take the place of an animal-offering in ordinary cases of poverty but only in extreme poverty, while the meal-offering replaces the bird-offering in ordinary poverty], they may divide up other meal-offerings as offsets against offerings of fowl [Sifra: animal-offerings]?**

G. **Scripture says, “All that is prepared on a pan or a griddle shall belong to the priest who offers it. And every cereal-offering, mixed with oil or dry, shall be for all the sons of Aaron.”**

H. **Might one suppose that they may not divide up meal-offerings against animal-offerings, but they may divide the meat of bird-offerings against meal-offerings?**

I. Scripture says, “All that is prepared on a pan or a griddle shall belong to the priest who offers it. And every cereal-offering, mixed with oil or dry, shall be for all the sons of Aaron.”

J. Might one suppose that while they may not divide the meat of bird-offerings against meal-offerings, they may divide up meal-offerings of one sort as offsets against meal-offerings of another sort?

K. Scripture says, “And every cereal-offering, mixed with oil or dry, shall be for all the sons of Aaron.”

L. Might one suppose that while they may not divide up shares of meal-offerings prepared in a pan as against meal-offerings prepared in a griddle, or meal-offerings prepared in a griddle as against meal-offerings prepared in a pan, they may divide up meal-offerings prepared in a griddle as against other meal-offerings prepared in a griddle, or meal-offerings prepared in a pan as against other meal-offerings prepared in a pan?

M. Scripture says, “And every cereal-offering, mixed with oil or dry, shall be for all the sons of Aaron.”

N. Might one suppose that while they may not divide up Most Holy Things as offsets against other Most Holy Things, they may divide up Lesser Holy Things in that way [so that one party gets one species of offering, the other a different species]?

O. Scripture says, “all alike” (Lev. 7:10), and then, “If he offers it for thanksgiving, he shall offer together with the sacrifice of thanksgiving unleavened cakes with oil mixed in, unleavened wafers spread with oil, and cakes of choice flour with oil mixed in, well soaked” (Lev. 7:12).

P. Just as they may not divide up Most Holy Things as offsets against other Most Holy Things, they also may not divide up Lesser Holy Things in that way [so that one party gets one species of offering, the other a different species] [Sifra LXXXIII:I.3].

Q. “All alike”:

R. [Since the Hebrew has, “a man like his brother,”] we conclude that a man takes a share even though he is blemished.

S. But a minor does not take a share even though he is unblemished [Sifra LXXXIII:I.4].

T. *But otherwise unattributed passages of Sifra follow whom? None other than R. Judah, and he is the one who maintains that these things may not be divided up at all [but have to be eaten].*

U. *Well, that settles it.*

V. *Said Raba, “But has it not been taught on Tannaite authority in accord with the position of Rab too? Hasn’t it been taught on Tannaite authority as follows: The modest held back but the gluttons grabbed [meaning, they traded what they got, and that means the priest’s portion is his private property, used as he wants, so there was no majority decision (Freedman)]?”*

W. *What is the meaning of “grabbed”? It means, grabbed from other people, in line with the second part of the same passage: There was a case of someone who grabbed his share and the share of his fellow, and they called him, “robber,” to the day he died.*

I.5 A. Said Rabbah bar R. Shila, “What is the pertinent verse of Scripture? ‘Rescue me, O my Lord, out of the hand of the wicked, out of the hand of the unrighteous and violent’ (Psa. 71: 4).”

B. Rabbah said: “‘Learn to do well, seek judgment, set right the man of violence’ (Isa. 1:17).”

- II.1** A. **[If one did so] with food in the status of second tithe, “whether inadvertently or deliberately, he has not effected betrothal,” the words of R. Meir. R. Judah says, “If he did so inadvertently, he has not effected betrothal. If he did so deliberately, he has effected betrothal”:**
- B. *What is the scriptural basis for this ruling?*
- C. Said R. Aha b. Raba in the name of a tradition, “‘And all the tithe of the land, whether of the seed of the land or the fruit of the tree, is the Lord’s; it is holy unto the Lord’ (Lev. 17:30) – ‘unto the Lord,’ and not for the purpose of consecrating a woman with it.”
- D. Well, then, what about the heave-offering of tithe, concerning which it is written, “thus you shall offer a heave-offering unto the Lord of all your tithes” (Num. 18:28) – *and yet we have learned in the Mishnah: He who consecrated a woman with food in the status of heave-offering, tithe, or gifts [to be given to the priest], purification water, purification ash – lo, this woman is betrothed [M. 2:10A-B]?*

- E. *It is because in that context it is not written, "...to the Lord."*
- F. And what about dough-offering, in connection with which it is written, "Of the first of your dough you shall give to the Lord" (Num. 15:21), *and yet we have learned in the Mishnah: He who consecrated a woman with food in the status of heave-offering, tithe, or gifts [to be given to the priest], purification water, purification ash – lo, this woman is betrothed [M. 2:10A-B]?*
- G. *It is because in that context it is not written, "...holy."*
- H. And what about produce of the Seventh Year, in which connection it is written, "For it is a jubilee, it shall be holy unto you" (Lev. 25:12), *and yet we have learned in the Mishnah: He who betrothed a woman with produce of the Seventh Year – lo, this woman is betrothed?*
- I. It is because in that context "to the Lord" is written.
- J. Well, what about heave-offering, in connection with which it is written, "Israel is holy to the Lord, the first fruits [heave-offering] of his produce" (Jer. 2: 3), and yet we have learned in the Mishnah, **He who consecrated a woman with food in the status of heave-offering, tithe, or gifts [to be given to the priest], purification water, purification ash – lo, this woman is betrothed [M. 2:10A-B]?**
- K. *That verse of Scripture is written with reference to Israel.*
 - L. **[53B]** *But doesn't it then follow on its own [since Israel is comparable to heave-offering and therefore "holy to the Lord," the same applies to heave-offering itself]?*
 - M. Explained Rabin the elder before Rab, "Said Scripture, 'it is' – it must remain as is [that is, used as given to the Levite or priest, eaten by him, not for some other purpose extrinsic to its character as food]."

III.1 A. **And in the case of that which has been dedicated: "If he did so deliberately, he has effected betrothal, and if he did so inadvertently, he has not effected betrothal," the words of R. Meir. R. Judah says, "If he did so inadvertently, he has effected betrothal. If he did so deliberately, he has not effected betrothal":**

- B. *Said R. Jacob, "I heard from R. Yohanan two considerations in connection with the inadvertent use of tithe, in the framework of the view of R. Judah, and the inadvertent use of what has been consecrated, in the framework of the view of R. Meir, explaining why, in each case, respectively, a woman is not betrothed therewith. First, because the woman doesn't approve [Freedman: if*

she knew what it was, she would not have accepted it as a token of betrothal, so it is a betrothal done in error]; *second*, because neither party approves. *But I don't know which of the two belongs to which of the named authorities.*"

- C. *Said R. Jeremiah, "Well, let's see. As to tithes, she would be the one, since she doesn't feel like taking the trouble of a long trip to Jerusalem, but he would be pleased that the woman should become his without his going to any trouble [for example, bringing the produce to Jerusalem, or changing it for money for the same purpose]. As regards what has been consecrated, neither party is willing to have what has been consecrated redeemed through his or her action."*
- D. *But R. Jacob said, "The contrary is the more likely. Can't one say the following: As to tithe, she's the one who doesn't like the idea, since it involves a long trip, but he, too, would not want it, since the trip can be dangerous. As to what has been consecrated, there is no doubt that she wouldn't want what has been consecrated to be secularized on her account, but wouldn't he be perfectly happy to have the woman become his without effort on his part?"*

III.2 A. [As to money that belongs to the sanctuary, from Meir's perspective,] *Raba asked R. Hisda, "Granted that the woman is not betrothed. Does the money [that is consecrated] revert to the status of what is unconsecrated?"*

- B. He said to him, "If the woman is not betrothed, then how is the money [that is consecrated] to revert to the status of what is unconsecrated?"

III.3 A. R. Hiyya bar Abin asked R. Hisda, "As to a purchase made with the money, *what is the law?*" [As to money that belongs to the sanctuary, from Meir's perspective, what if one unwittingly buys something with that money? (Freedman)]

- B. He said to him, "As to a purchase made with the money, *he does not acquire title to the object.*"
- C. *An objection was raised: [He who deposits coins with a money changer – if they were bound up, he [the money changer] should not make use of them. Therefore if he paid [them] out, he has committed an act of sacrilege. If they are loose, he may make use of them. Therefore if he paid them out, he has not committed an act of sacrilege. [If the owner of the coins] deposited [them] with a householder, one way or the other, he [the householder] should not make use of them. Therefore if he paid them out, he has committed an act of sacrilege.] "A storekeeper is deemed equivalent to a householder," the words of R. Meir. R. Judah says, "He is*

equivalent to a money changer” [M. Me. 6:5]. *Now the dispute pertains only to this point, that one master maintains, He is equivalent to a money changer, while the other holds, A storekeeper is deemed equivalent to a householder. But in the view of all parties, if he spent the money, he commits an act of sacrilege [Freedman: because his action is valid, the money becoming unconsecrated].*

- D. *R. Meir addresses the situation within the perspective of R. Judah, saying, “In my view, even if he spends the money, an act of sacrilege is not committed [and title would not pass], but even on your view, you should concur with me that a shopkeeper is as a householder!” And the other said to him, “No, he is in the status of a money changer.”*

III.4 A. [Responding to Yohanan’s explanation at III.1 said Rab, **[54A]** “We have examined R. Meir’s view from every side, and we have not found that if what has been consecrated is inadvertently used, it is not rendered secular, while if it is deliberately used, it is [despite Yohanan’s explanation of the matter]. But our Mishnah paragraph addresses the case of priestly tunics that had not worn out, since they are going to be used for secular benefit at some point, for the Torah was not handed over to angels.” [Freedman: Since the tunics are still fit for service, unwittingly using them is no trespass, because they were sanctified in the first place on this tacit understanding; for the priests cannot be expected to disrobe immediately after finishing the service and not wear them a moment later; so they do not pass out of the ownership of the sanctuary through unwitting use, and therefore Meir holds that, for that reason, if used for betrothal, the garments would not serve as a valid token of betrothal.]

B. *Come and take note:* “Priestly tunics that had worn out – the laws of sacrilege apply to them,” the words of R. Meir.

C. *Is this not the rule even if they had not worn out?*

D. *No, the meaning is, in particular if they had worn out [but not otherwise].*

E. *Come and take note:* The laws of sacrilege apply to the new ones, but not the old ones. R. Meir says, “The laws of sacrilege apply also to the old ones.” For R. Meir would say, **“To the surplus of the chamber [after the annual tax was taken out of it] [the laws of sacrilege apply]” [M. Sheq. 2:5A].** *But why should this be the case?*

*Why not invoke the argument here, “since they are going to be used for secular benefit at some point, for the Torah was not handed over to angels”? For, as a matter of fact, the walls of the city and the towers were paid for out of the surplus of the chamber [and these were not used only for sacred purposes], as we have learned in the Mishnah: **The [cost of building] a causeway for the red cow, the causeway for the scapegoat which is sent forth, the thread between its horns, the [cost of the upkeep of the] water channel, the wall of the city and its turrets, and all needs of the city [of Jerusalem] derive from the residue [of funds of the sheqel] chamber [coins not taken up with the heave-offering thereof] [M. Sheq. 4:2B].***

F. *Don’t read “R. Meir” but say, “R. Judah.”*

G. *Come and take note of what has been taught on Tannaite authority: Said R. Ishmael b. R. Isaac, “‘To the walls of Jerusalem that fell away the laws of sacrilege apply,’ the words of R. Meir.”*

H. *Don’t read “R. Meir” but say, “R. Judah.”*

I. *So if it’s R. Judah, then in his view is Jerusalem held to be sanctified at all? But we have learned in the Mishnah: [If he said, “May it be to me] like the lamb [of the daily whole-offering],” “...like the [Temple] sheds,” “...like the wood,” “...like the fire,” “...like the altar,” “...like the sanctuary,” “...like Jerusalem” – [if] he vowed by the name of one of any of the utensils used for the altar, even though he has not used the word qorban – lo, this one has vowed [in as binding a way as if he had vowed] by qorban. R. Judah says, “He who says, ‘Jerusalem,’ has said nothing” [M. Ned. 1:3C-G]. And should you say, that is because he didn’t say “like Jerusalem,” has it not been taught on Tannaite authority: **R. Judah says, “He who says, ‘like Jerusalem,’ has said nothing, unless he vows by what is offered in Jerusalem”?***

J. **[54B]** *What we have here are two Tannaite versions of the position of R. Judah.*

- III.5 A.** Said Ulla in the name of Bar Peda, “R. Meir would say, ‘What has been consecrated that is deliberately used has been made secular, if inadvertently used has not been made secular. But it is only with regard to an offering that they have said, if it is used inadvertently, it is secularized.’”

- B. *But since it is not secularized, on what count is he obligated to bring an offering?* [Freedman: seeing that his act is null.]
- C. So, when Rabin came, he articulated in the name of Bar Peda, “R. Meir would say, ‘What has been consecrated that is deliberately used has been made secular, if inadvertently used has not been made secular. But it is only with regard to actually eating the food that they have said, if it is used inadvertently, it is secularized.’”

III.6 A. Said R. Nahman said R. Ada bar Ahbah, “The decided law accords with R. Meir in the matter of tithe, *since a Tannaite authority has given without attribution the rule in line with his views*, and the decided law accords with R. Judah in regard to what has been consecrated, *since a Tannaite authority has given without attribution the rule in line with his views.*”

B. *What is the pertinent passage in accord with R. Meir in the matter of tithe?*

C. *It is as we have learned in the Mishnah: [As regards] a vineyard in its fourth year of growth – the House of Shammai say, “[The law of] the added fifth does not apply, and [the law of] removal does not apply.” And the House of Hillel say, “[The laws of the added fifth and of removal] do apply.” The House of Shammai say, “[The laws requiring leaving] single grapes [for the poor] apply, and [the law requiring leaving] defective grape clusters [for the poor] apply. And the poor [who gather such grapes] redeem them themselves [by transferring the consecrated status of the grapes to coin].” And the House of Hillel say, “[The owner of the vineyard must himself bring] all [of the grapes grown in the fourth year] to the winepress [the laws of single and defective grapes do not apply]” [M. **M.S. 5:3**].*

D. *What is the scriptural basis for the rule of the House of Hillel?*

E. *They form a verbal analogy on the basis of the use of the word “holy” here and with reference to second tithe [fourth year produce, Lev. 19:24; second tithe, Lev. 27:30]. Just as in the case of second tithe, the law of the added fifth applies and the law of removal applies, so in respect to produce of the fourth year, the law of the added fifth applies and the law of removal applies.*

F. And the House of Shammai?

G. *They do not form a verbal analogy on the basis of the use of the word "holy" here and with reference to second tithe [fourth year produce, Lev. 19:24; second tithe, Lev. 27:30].*

H. *And when the House of Hillel say, "It is in the classification of second tithe," in accord with whose reasoning do they take that position? It couldn't be in accord with R. Judah, for why is it the rule that "[The owner of the vineyard must himself bring] all [of the grapes grown in the fourth year] to the winepress [the laws of single and defective grapes do not apply]"?* Has he not said, "Tithe is classified as the property of the common folk [not the Most High]"? *So isn't it in accord with the thinking of R. Meir [who is not cited by name, therefore the decided law accords with his view]?*

I. And the decided law accords with R. Judah in regard to what has been consecrated, *since a Tannaite authority has given without attribution the rule in line with his views: What is the relevant passage?*

J. *It is as we have learned in the Mishnah: [If he sent by means of [an agent who was] a deaf-mute, an imbecile, or a minor to purchase goods with money which, unbeknownst to the sender, was consecrated, if they carried out their errand, the householder has committed the act of sacrilege. If they did not carry out their errand, the storekeeper has committed the act of sacrilege.] If he sent something by means of a person of sound senses, and realized before he reached the storekeeper [that the coins are consecrated and therefore regretted having sent those coins], the storekeeper will have committed the act of sacrilege when he pays out the coins [M. Me. 6:2A-H].* [Freedman: The treasurer is not responsible, for since he realized that it was consecrated money, its expenditure is not unwitting so far as he is concerned; this proves that it becomes unconsecrated by unwitting, not deliberate use; for if deliberate use likewise secularizes it, the treasurer should be liable, since its secularization was pursuant to his action, which at the outset was unwitting.]

K. *But haven't we learned in the Mishnah an unattributed rule in accord with R. Judah's position in the matter of second tithe? For we have learned in the Mishnah: One who redeems his own [produce in the status of] second tithe adds a fifth [of its selling price], whether [the produce] was [originally his own] or whether it was given to him as a gift [M. M. 4:3C-D].* Now who can stand behind this unattributed rule? Should we say that it is R. Meir? But then can one give it as a gift? Doesn't he take the view that second tithe belongs to the Most High? So it must stand for R. Judah's view.

L. *Not at all, in fact it represents the position of R. Meir. But here with what situation do we deal? It is a case in which the donor gave the produce to him while it was mixed up with produce that was liable to tithing but not yet tithed, and he takes the view that priestly gifts that have not yet been designated are classified as not yet designated [and therefore null].*

M. *Come and take note: One who redeems his own produce from a planting's fourth year [so as to deconsecrate it] adds a fifth [to its selling price], whether [the produce] was his [originally] or was given to him as a gift [M. M.S. 5:5C].* Now who can stand behind this unattributed rule? Should we say that it is R. Meir? But then can one give it as a gift? Surely he establishes the verbal analogy on the basis of "holy" in regard to second tithe [so it is holy and cannot be given as a gift]! Hence it must be R. Judah.

N. *Not at all, in fact it represents the position of R. Meir. But here with what situation do we deal? It is a case in which the donor gave the produce to him while it was merely budding [the flower has dropped off, the fruit discerned], and he does not concur with R. Yosé, who has said, "Fruit in the budding stage is forbidden [under the rule prohibiting fruit in the first three years of*

its growth], because it is classified even at that point as fruit.”

O. *Come and take note: [If a purchaser] took possession from him [a farmer] [of produce in the status of second] tithe [which is worth] a sela, and did not have time to redeem it [pay for it] before [the price] went up to two [selas], he pays him [the farmer] one sela, and earns a profit [on the produce he receives] of one sela, and [one sela's worth of produce he acquires is] his [in the status of second tithe] [M. M.S. 4:6A-D]. Now who can stand behind this unattributed rule? Should we say that it is R. Meir? But why then does he earn a profit [on the produce he receives] of one sela? Scripture says, “And he shall give the money and it shall be assured to him” (Lev. 27:19) [so the tithe is acquired by money, not by an act of drawing]. So it must stand for the position of R. Judah.*

P. *Not at all, in fact it represents the position of R. Meir. But here we have one unattributed teaching, while there we have two [this unattributed rule in the Mishnah in accord with the position of Meir occurs both at M. S. 5:3 and at M. Ed. 4:5, while the passage that concurs with Judah is only at M. M.S. 4:6 (Freedman)].*

Q. *So if an unattributed ruling has been set forth with full deliberation, then what difference in the world does it make to me whether it occurs once or twice?*

R. *Said R. Nahman bar Isaac, “The decided law accords with R. Meir, because we have learned in the Mishnah in accord with his position in the tractate of selected passages [namely, tractate Eduyyot].”*

III.7 A. [55A] *We have learned in the Mishnah elsewhere: Cattle found between Jerusalem and Migdal Eder – and in an equivalent range on all sides of the city – [if] male, they are deemed to be burnt-offerings; [if] female, they are deemed to be peace-offerings. R. Judah says, “That which is*

suitable for Passover-offerings are Passover-offerings [if they are found] thirty days before that festival” [M. Sheq. 7:4]. So can the males be used only for burnt-offerings and not peace-offerings? [They certainly can be used for either purpose. So how can they be sacrificed only as burnt-offerings, if they may have been originally consecrated for peace-offerings?]

- B. *Said R. Oshayya, “Here we deal with one who comes to accept responsibility for the value of the beasts, and this is the sense of the statement: We take account of the possibility that they may have been consecrated as whole-offerings, and it represents the position of R. Meir, who has said, ‘And in the case of that which has been dedicated, if he did so deliberately, it is secularized.’”* [Freedman: The animal itself cannot be sacrificed, but if someone wanted to accept responsibility and redeem the beast and clear up the doubt, he has to reckon with the possibility of its being a burnt-offering.]
- C. *But can that which has been consecrated as to its body [not only as to its value] ever be secularized? And haven’t we learned in the Mishnah: **One does not commit sacrilege after another has committed sacrilege [in the same thing] in the case of consecrated things, except for a beast or a utensil or service. How so? If he rode on a beast and his fellow came along and rode on it and yet another came and rode on it – drank from the golden cup [M. 5:11] and his fellow came along and drank from it, and yet a third party came along and drank from it – pulled wool out of a sin-offering [M. 5:10], and his fellow came along and pulled wool from the sin-offering, and yet a third came along and pulled wool from the same sin-offering – all of them have committed an act of sacrilege [M. Me. 5:3A-F]?***
- D. *That represents the position of R. Judah, while the rule on finding the animal represents the position of R. Meir.*
- E. *Well, then, from what R. Judah says, we may infer the position of R. Meir as well. Doesn’t R. Judah take the view that what has been consecrated may unwittingly be secularized, and yet what is consecrated as to its body cannot be secularized? Then accord to R. Meir as well, even though what has been consecrated may be secularized by deliberate sacrilege, nonetheless, what is consecrated as to its body cannot be secularized* [Freedman: for unwitting misuse in Judah’s opinion is equivalent to deliberate misuse in Meir’s].
- F. *There he has not got the intention of removing it into the status of secularization, here he does* [Freedman: in Meir’s view deliberate conversion

is stronger than unwitting misuse from Judah's perspective and therefore it would secularize even what is consecrated as to its body].

- G. *Well, I may concede that you have inferred validly that from R. Meir's position that is the case for Most Holy Things, but where in the world have you heard that he takes that same position with reference to Lesser Holy Things?* [Freedman: But the rule on the straying animal refers to such, since it may be a peace-offering, which is of lesser sanctity.]
- H. *Said to him one of the rabbis, and it was R. Jacob by name, "It is an argument a fortiori based on Most Holy Things, namely, if Most Holy Things can be secularized, surely all the more so can Lesser Holy Things be secularized!"*
- I. *So, too, it has been stated:*
- J. *Said R. Hama bar Aqiba said R. Yosé bar Hanina, "R. Meir would say, 'What has been consecrated may be secularized if this is done deliberately, but may not be secularized if it is done inadvertently – all the same are Most Holy Things and Lesser Holy Things, namely, if Most Holy Things can be secularized, surely all the more so can Lesser Holy Things be secularized!'"*
- K. **[55B]** *R. Yohanan was surprised by this: "So do they say to someone, 'Go sin, so that you will profit?'"* [Freedman: For even if deliberate conversion is effective in respect of intrinsic sanctity, it is nevertheless forbidden.]
- L. *Rather, said R. Yohanan, "We wait until the animal is blemished [and loses its sanctity and has to be redeemed, at which point it becomes secular], then two animals are brought, and a stipulation made [that if the beast was peace-offerings, then one of the beast is the same, the other burnt-offerings, and vice versa]."*

III.8 A. The master has said: **[If] male, they are deemed to be burnt-offerings:**

- B. *So maybe its a thanksgiving-offering, too, that has to be presented [among the animals that are sanctified, the beast having been designated for that purpose]?*
- C. *So he brings a thanksgiving-offering too.*
- D. *But then aren't loaves required?*
- E. *Loaves, too, are presented.*
- F. *And maybe it's a guilt-offering?*
- G. *A guilt-offering has to be an animal that is two years old, but the animal that was found was only a year old.*

H. *But maybe the beast had been designated as a guilt-offering for one healed of the skin ailment or for a Nazirite?*

I. *That's pretty unlikely.*

J. *So maybe it was a beast designated to serve as a Passover-offering?*

K. *As to a beast designated as a Passover-offering, in its season, people take very good care of such a beast, and if it is not in its season, then it is a beast that will have been designated as peace-offerings.*

L. *So maybe it was a firstling or tithe of the corral?*

M. *For what practical purpose would such a possibility be considered?*

N. *The animal could be eaten when it is blemished.*

O. *Well, here, too, the animal can be eaten when it is blemished.*

III.9

A. The master has said: **[If] female, they are deemed to be peace-offerings:**

B. *So maybe it's a thanksgiving-offering, too, that has to be presented [among the animals that are sanctified, the beast having been designated for that purpose]?*

C. *So he brings a thanksgiving-offering too.*

D. *But then aren't loaves required?*

E. *Loaves, too, are presented.*

F. *And maybe it's a sin-offering?*

G. *A beast can be designated as a sin-offering when it is a year old, but this one that was found was two years old.*

H. *So maybe it's a superannuated sin-offering?*

I. *That's pretty unlikely.*

J. *And what if the beast that was found was a year old?*

K. *It has been taught on Tannaite authority:*

L. Hanania b. Hakhinai says, "A she-goat a year old is offered as a sin-offering."

M. *As a sin-offering – do you really think so?*

N. Rather, said Abbaye, "It is treated as is a sin-offering in that it is put into the corral and allowed to starve to death."

III.10 A. *Our rabbis have taught on Tannaite authority:*

- B. **With coins in the status of second tithe [having been traded for produce in the status in second tithe, then brought to Jerusalem for the purchase of food], they do not purchase a beast. [56A] If one has done so, if this was inadvertently done, the money reverts to its original status [to the owner, who made a mistake, since he'd rather take the money to Jerusalem than drive the beast up there]; if this was done deliberately, the beast must be brought up to Jerusalem and eaten up there.**
- C. **R. Judah says, "Under what circumstances? If one deliberately bought it to begin with for the sake of using the beast for peace-offerings. But if he bought it for the purpose of turning the money in the status of second tithe into unconsecrated coins, whether he did so inadvertently or deliberately, the money must be returned to its original status, to the owner" [T. M.S. 1:15A-C].**
- D. *Now, lo, we have learned in the Mishnah: R. Judah says, "If he did so inadvertently, he has not effected betrothal. If he did so deliberately, he has effected betrothal."* [Freedman: This shows that we do not take account of the possibility that the woman may spend the money outside of Jerusalem; otherwise what he did would be null; so why do we take account of that possibility in the case of a sale?]
- E. **R. Eleazar said, "A woman knows that produce that has been designated second tithe through being exchanged with her as a token of betrothal has not been rendered secular in such an exchange, so she for her part will take the produce with her up to Jerusalem and eat it there."**
- F. *Objected R. Jeremiah, "Lo, there is the matter of unclean cattle, slaves, and real estate, in which case a person knows that for these, one does not secularizes coins in the status of second tithe, and yet we have learned in the Mishnah: They do not purchase (1) male slaves, or (2) female slaves, or (3) real estate (4) or an unclean animal, with second tithe funds – even in Jerusalem. And if he purchased [one of the above], let him consume in its stead [its same value in other produce] [M. M.S. 1:7C-E]. So here, in the Mishnah, reference must be made to a woman who is an associate and who knows [that second tithe money is not secularized if she accepts it as a token of betrothal, so she is sure to spend it in Jerusalem; but outsiders to the association won't know the law and won't keep it]."*

- III.11** A. The master has said, **And if he purchased [one of the above], let him consume in its stead [its same value in other produce].**
- B. *But why should this be the case?* Let the money go back to its original place [the owner, nullifying the transaction], *as it does there?*
- C. Said Samuel, **[56B]** “That is the case of the seller has fled.”
- D. *So the operative consideration is that he has fled. Lo, if he hasn’t, then we impose a penalty on the seller! But why not impose the penalty on the buyer?*
- E. *It’s not the mouse that steals, it’s the hole that steals* [Freedman: the seller makes possible this misuse of the money].
- F. *Yeah, yeah, so without the mouse, what harm is going to be done by the hole?*
- G. *It stands to reason that wherever there is a prohibition, there we impose the penalty [and the money subject to improper spending is with the seller, so he is penalized by the cancellation of the sale].*

2:9

- A. **He who betrothed a woman with (1) orlah fruit, (2) with fruit which was subject to the prohibition against Mixed Seeds in a vineyard, (3) with an ox which was to be stoned, (4) with a heifer the neck of which was to be broken, (5) with birds set aside for the offering of a person afflicted with the skin ailment [Lev. 13-14], (6) with the hair of a Nazir, (7) with the firstborn of an ass, (8) with meat mixed with milk, (9) with unconsecrated animals [meat] which had been slaughtered in the courtyard [of the Temple] –**
- B. **she is not betrothed.**
- C. **[If] he sold them off and betrothed a woman with the money received in exchange for them, she is betrothed.**

I.1

- A. **Orlah fruit:**
- B. *What is the source in Scripture for this rule?*
- C. *As it is written, [“When you come into the land and plant all kinds of trees for food, then you shall count their fruit as forbidden; three years it shall be forbidden to you, it must not be eaten. And in the fourth year all their fruit shall be holy, an offering of praise to the Lord. But in the fifth year you may eat of their fruit, that they may yield more richly for you: I am the Lord your God” (Lev. 19:23-25):] “It must not be eaten”:*

- D. I know only that the fruit may not be eaten. How do I know that it may not be used for dying and that one may derive no benefit from it?
- E. Scripture says, “then you shall count their fruit as forbidden,”
- F. covering all circumstances [Sifra CCH:II.3].

II.1 A. With fruit which was subject to the prohibition against Mixed Seeds in a vineyard:

- B. *What is the source in Scripture for this rule?*
- C. Said Hezekiah, “Said Scripture, ‘You shall not sow your vineyard with diverse seeds, lest the fruit of your seed which you have sown and the fruit of your vineyard be sanctified’ (Deu. 22: 9) – the letters in the world sanctified yield the meaning, be burned in fire.”
- D. R. Ashi said, “[But couldn’t we interpret the word as given, that is,] Lest it be sanctified? [If we did, it would yield this result:] Just as what is sanctified affects what is paid over for it so that the money is sanctified but itself becomes secular, so should mixed seeds in the vineyard affect what is paid over for it so that the money is sanctified but itself becomes secular. *So the matter is it better to explain the matter in accord with Hezekiah.*”

III.1 A. With an ox which was to be stoned:

- B. *What is the source in Scripture for this rule?*
- C. *Our rabbis have taught on Tannaite authority:*
- D. Since Scripture is explicit, “The ox will certainly be stoned” (Exo. 21:28), do I not know that the carcass is carrion, and it is forbidden to eat carrion? So why in the world does Scripture find it necessary to state explicitly, “And its meat shall not be eaten” (Exo. 21:28)?
- E. Scripture thereby informs you that if after the court decree has been issued, the beast was properly slaughtered [rather than stoned], it is forbidden to eat it.
- F. I know only that the prohibition extends to eating it; how do I know that it is prohibited also to derive benefit from the carcass [for example, by selling it as dog food]?
- G. Scripture states, “But the owner of the ox shall be clean” (Exo. 21:28).
 - H. *How does that prove the point?*
 - I. Simeon b. Zoma says, “It is like someone saying to another, ‘So-and-so has gone forth clear of all his property and can get no benefit from anything.’”

- III.2** A. *And how do we know that “And its meat shall not be eaten” (Exo. 21:28) refers to a case in which, after the court decree has been issued, the beast was properly slaughtered [rather than stoned], indicating that it is forbidden to eat the meat? Maybe if the beast was slaughtered after the court decree was issued, it is permitted to eat the meat, and this verse, “And its meat shall not be eaten” (Exo. 21:28), refers to a case in which after the beast was stoned, yielding the rule that once it has been stoned, it is forbidden for benefit of any kind?*
- B. *That would be in accord with R. Abbahu, for said R. Abbahu said R. Eleazar, “Any passage in which the language occurs, ‘it shall not be eaten,’ ‘you shall not eat,’ ‘you [pl.] shall not eat,’ the prohibition pertains to eating the meat and deriving any other benefit from it, unless Scripture explicitly specifies an exception, as in the case of what dies on its own, which carrion may be given to an outsider or sold to a gentile.”*
- C. *Well, maybe this statement of his where the prohibition of eating and deriving any other sort of benefit is set forth in a single verse of Scripture, for example, when it says, “You shall not eat.” But here, where the prohibition of eating is derived from the language that refers to stoning, if you should imagine that the prohibition against eating the meat involves also a prohibition against deriving benefit as well, then Scripture should have written simply, “It will not be a source of benefit,” or also, “You shall not eat.” What need to I have also for “its meat”? It is to indicate that even though even if it was made the way meat is, properly slaughtered, it still is forbidden.*
- D. *Objected Mar Zutra, “Might I not say, this ruling pertains to a case in which the slaughterer checked the flint and then slaughtered the animal, in which case the beast was handled as though it were stoned, but if it had been slaughtered by a knife, the prohibition should not apply?”*
- E. *Is the use of a knife in a proper act of slaughtered specified by Scripture? Have we not learned in the Mishnah: **He who slaughters with [the smooth edge of] a hand sickle, with a***

flint, or with a reed – his act of slaughtering is valid [M. Hul. 1:2A]?

III.3 A. *Now that the prohibition of the beast for both food and any other use has been shown to derive from “its meat shall not be eaten,” then what more do I learn when Scripture says, “The owner of the ox shall be clean”?*

B. *It serves to prohibit use of the hide. For it might have entered your mind to suppose that it is the meat of the beast in particular, enjoyment of which is prohibited, but its hide should be permitted as to benefit. So we are informed to the contrary by the language, “The owner of the ox shall be clean.”*

C. *But what about those Tannaite formulations, which draw upon the verse, “The owner of the ox shall be clean,” for other exegetical purposes, as we shall see presently? How do they know that it is prohibited to utilize the hide?*

D. *They derive it from the appearance of the accusative particle, et, in the verse, “et the meat,” bearing the augmentative sense, together with what is joined to the meat, meaning, the hide.*

E. *But the Tannaite authority [who utilizes the verse to prohibit the hide] [57A] does not maintain that the appearance of the accusative particle serves the purpose of exegetical augmentation, as has been taught on Tannaite authority:*

F. *Simeon the Imsonite – some say, Nehemiah the Imsonite – would derive a lesson from the use of every accusative particle that is in the Torah. When he reached the verse that places the accusative particle before the word “Lord,” namely, “the Lord your God you shall fear” (Deu. 10:20), he refrained from doing so [since he did not wish to suggest there was more than one God]. He disciples said to him, “My lord, what then will be the fate of all the other accusative particles*

from which you have drawn lessons [if you pick and choose among them]?”

G. He said to them, “Just as I have received a reward for the lessons that I have derived, so I shall receive a reward for refraining from deriving a lesson.”

H. [And that was the situation that prevailed] until R. Aqiba came along and taught concerning the verse that places the accusative particle before the word “Lord,” namely, “the Lord your God you shall fear” (Deu. 10:20), “The accusative particle serves to encompass within the commandment the disciples of sages themselves.”

IV.1 A. With a heifer the neck of which was to be broken:

B. *What is the source in Scripture for this rule?*

C. *Said a member of the household of R. Yannai, “The word ‘forgiveness’ is stated in that connection [at Deu. 21:8] as with sacrifices [forming a verbal analogy, and sacrificial meat cannot be used for this purpose].”*

V.1 A. With birds set aside for the offering of a person afflicted with the skin ailment (Lev. 13-14):

B. *What is the source in Scripture for this rule?*

C. *As it is taught on Tannaite authority by the household of R. Ishmael: “With respect to rites carried on within the Temple, reference is made to a sacrifice that renders a person fit to enter the Temple or community and also a sacrifice that effects atonement, and with respect to rites carried on outside of the Temple, reference is made to a sacrifice that renders a person fit to enter the Temple or community and also a sacrifice that effects atonement. Just as with respect to rites carried on within the Temple, a sacrifice that renders a person fit to enter the Temple or community is treated in the same way as a sacrifice that effects atonement, so with respect to rites carried on outside of the Temple, a sacrifice that renders a person fit to enter the Temple or community is treated in the same way as a sacrifice that effects atonement.”*

V.2 A. It has been stated:

B. As to the bird-offering of a person healed of the skin ailment, from what point are the birds forbidden for any sort of benefit?

C. R. Yohanan said, “From the moment at which they are slaughtered.”

D. R. Simeon b. Laqish said, “From the moment at which they are taken [and designated for that purpose].”

E. R. Yohanan said, “From the moment at which they are slaughtered”: *It is the act of slaughter that forbids other use of the bird.*

F. R. Simeon b. Laqish said, “From the moment at which they are taken [and designated for that purpose]”: *He derives the rule from the analogy of the heifer the neck of which is broken*: Just as the heifer the neck of which is to be broken is forbidden while it is yet alive, so the birds of the person healed from the skin ailment are forbidden while they are yet alive.

Reversion to IV:1 in the Setting of the Birds of the Person Healed of the Skin Ailment

- V.3** A. With reference to the heifer the neck of which is to be broken itself, from what point is the beast forbidden as to any sort of secular benefit?
- B. Said R. Yannai, “I have heard a time limit in that matter, but I forgot it.”
- C. *His colleagues undertook to rule*, “It is from the moment that it is brought down to the rough valley that it is unfit for further use.”
- D. *Then just as the heifer the neck of which is to be broken is not forbidden from the moment that it is designated, also the birds of the person healed of the skin ailment also are not forbidden from the moment at which they are designated!*
- E. *But how are the matters really parallel? In that case, there is yet another turning point [namely, the point at which it is thrown down into the rugged gulley], but here, is there any other turning point in the process* [Freedman: if not from when it is selected, what other point of demarcation during its lifetime is possible]?
- F. *Objected R. Yohanan to R. Simeon b. Laqish*, “**You may eat any clean bird. [The following you may not eat: The eagle, vulture, black vulture, kite, falcon, buzzard of any variety, every variety of raven, ostrich, nighthawk, sea-gull, hawk of any variety, little owl, great owl, white owl, pelican, bustard, cormorant, stork, any variety of heron, hoopoe, and bat. All winged swarming things are unclean for you; they may not be eaten. You may eat only clean winged creatures]**’ (Deu. 14:11-20): Since Scripture states, ‘Then the priest shall command to take for him who is to be

cleaned two living clean birds' (Lev. 14: 4), is it possible to suppose that just as a beast that has been slaughtered is not acceptable for the purpose, so the mother bird that has been released is also not acceptable? Scripture says, 'You may eat any clean bird.' Or might one say that, just as the mother bird that has been released is acceptable, so a beast that has been slaughtered is acceptable for the stated purpose? Scripture says, 'The following you may not eat' [Sifré Deu. CIII:I.1]. *Now, if it should enter your mind that it is forbidden while it is yet alive, then should there be any reasonable question about its status once it has been slaughtered?"*

- G. *Well, what might you otherwise have supposed? That it would be analogous to Holy Things, which are forbidden when they are alive but when slaughtered, they are validated for use as food? So we are informed that that is not the case.*
- H. *An objection was raised: [Two birds: Their requirement is that they should be equal to one another (1) in appearance, (2) in size, and (3) in price. And their purchase must be at the same moment. Even though they are not equivalent to one another, they are acceptable. If one purchased one today and one tomorrow, they are acceptable. If one slew one of them, and it turned out to have been domesticated, one purchases a mate for the second. The first is permitted for eating.] If one slaughtered it, and it turned out to be terefah, he purchases a mate for the second. The first is permitted for use [M. Neg. 14:5A-I]. Now, if it should enter your mind that it is forbidden while it is yet alive, then why is the second one permitted as to use? [Freedman: Perhaps it was not terefah when taken, in which case, being fit for its ultimate purpose, it became forbidden; how then was that prohibition lifted?]*
- I. *He said to him, "Here with what situation do we deal? It is a case in which it was found to be terefah while yet in the mother's womb, in which case at no point did the status of sanctification apply to it at all."*
- J. *An objection was raised: If the bird was slaughtered without the hyssop, cedar wood, and scarlet thread – R. Jacob says, "Since it has been set aside for the commandment that it is supposed to serve, it is forbidden anyhow." R. Simeon says, "Since it has been slaughtered not in accord with the religious duty that it is supposed to serve, it is permitted" [T. Neg. 8:8A-C]. Now they differ only in that the one authority takes the view that an act of slaughter that is improper is nonetheless classified as an act of slaughter, and the other authority holds that an act of slaughter that is*

improper is not classified as an act of slaughter. *But all parties in any event take the view that it is not prohibited while it is yet alive.*

- K. *In point of fact, it is a conflict among Tannaite formulations, for a Tannaite authority of the household of R. Ishmael [stated], “With respect to rites carried on within the Temple, reference is made to a sacrifice that renders a person fit to enter the Temple or community and also a sacrifice that effects atonement, and with respect to rites carried on outside of the Temple, reference is made to a sacrifice that renders a person fit to enter the Temple or community and also a sacrifice that effects atonement. Just as with respect to rites carried on within the Temple, a sacrifice that renders a person fit to enter the Temple or community is treated in the same way as a sacrifice that effects atonement, so with respect to rites carried on outside of the Temple, a sacrifice that renders a person fit to enter the Temple or community is treated in the same way as a sacrifice that effects atonement.”*

V.4 A. *Reverting to the body of the foregoing: “You may eat any clean bird” – this includes the bird that is set free. “The following you may not eat...” – that includes the bird that has been slaughtered.*

B. *But maybe I should reverse matters?*

C. Said R. Yohanan in the name of R. Simeon b. Yohai, “We don’t find any living creatures that are permanently forbidden” [so the language “which you shall not eat” cannot encompass a bird that is set free].

D. *Objected R. Samuel bar R. Isaac, “So we don’t, don’t we? Well, what about [57B] a beast designated for idolatry or one that has actually been worshipped? These are living creatures but are permanently forbidden!”*

E. *Well, as to their being prohibited, it is for use for the Most High, but in regards a common person, they most certainly are permitted for routine benefit.*

F. *Objected R. Jeremiah, “Well, what about the case of the beast that has committed an act of bestiality or one that has been subjected to an act of bestiality in the presence of witnesses, in which case these are living creatures and forbidden!”*

G. Rather, said R. Yohanan in the name of R. Simeon b. Yohai, “We don’t find that, in general, living creatures are permanently forbidden”

[so the language “which you shall not eat” cannot encompass a bird that is set free].

- V.5** A. *A Tannaite authority of the household of R. Ishmael [stated], “‘And he shall let go the living bird into the open field’ (Lev. 14: 7) – it is comparable to the field. Just as the field is permitted, so this, too, is permitted.”*
- B. *Well, does this word “field” come for the purpose of teaching this lesson? It is required in line with that which has been taught on Tannaite authority:*
- C. **“And he will send forth the living” (Lev. 14: 7) –**
- D. **that he should not stand in Jaffa and send it forth to the sea, nor stand in the house and send it forth to the wilderness, nor stand outside the city and send it forth toward the city [Sifra Parashat Mesora Parashah 2. CL:2.4].**
- E. *And the other party?*
- F. *If that were the sole purpose of the matter, Scripture as well could have written, “field,” but why write, “the field”? It is to yield both points.*
- G. Raba said, “Scripture did not write, ‘send it away’ to create a stumbling block” [that is, to free the bird but also to make it a stumbling block for anyone who may find it and eat it, not knowing its character (Freedman)].

- VI.1** A. **With the hair of a Nazir:**
- B. *What is the source in Scripture for this rule?*
- C. *As it is said in Scripture, “He shall be holy, he shall let the locks of the hair of his head grow long” (Num. 6: 5) – what he grows will be holy.*
- D. *If so, then just as what is holy affects what is paid for it and so goes forth to unconsecrated status, so might the hair of a Nazirite affect what is paid for it and go forth to unconsecrated status?*
- E. *Do we read “holiness”? What we read is “in a holy state,” [Freedman: hence, not so strong as holiness itself, which teaches that his sanctity is non-transferable].*

- VII.1** A. **With the firstborn of an ass:**
- B. *Shall we say that our Mishnah paragraph is not in accord with R. Simeon? For it has been taught on Tannaite authority: “It is forbidden to derive benefit from the firstborn of an ass,” the words of R. Judah. R. Simeon declares it permitted.*

- C. Said R. Nahman said Rabbah bar Abbuha, “It refers to the time after the neck is broken [having been unredeemed, Exo. 13:13] and accords with the opinion of all parties.”

VIII.1 A. With meat mixed with milk:

- B. *What is the source in Scripture for this rule?*
C. *As it is taught by a Tannaite authority of the household of R. Ishmael:*
D. “You shall not seethe a kid in the mother’s milk” is stated three times (Exo. 23:19, 34:26, Deu. 14:21) – one to indicate that it is forbidden to eat such food, one to indicate that it is forbidden to derive benefit from it, and one to indicate that it is forbidden to cook meat in milk.

VIII.2 A. *Our Mishnah paragraph does not accord with the following Tannaite authority, for it has been taught on Tannaite authority: R. Simeon b. Judah says in the name of R. Simeon, “Meat cooked in milk may not be eaten, but one may derive benefit from it [for example, by selling it to gentiles to eat], as it is said, ‘For you are a holy people to the Lord your God’ (Deu. 14:21), [which is followed by the prohibition of cooking a kid in its mother’s milk, bearing the sense that you may not eat it but you may give it to others to eat]. And further, ‘And you shall be holy to me’ (Exo. 22:30) [in regard to terefah-meat]. Just as in that latter case, the food may not be eaten but one may derive benefit from it, so here, too, the food may not be eaten but one may derive benefit from it.”*

IX.1 A. With unconsecrated animals [meat] which had been slaughtered in the courtyard [of the Temple]:

- B. *What is the source in Scripture for this rule?*
C. Said R. Yohanan in the name of R. Meir, “Said the Torah, ‘Slaughter what is mine in my area, and slaughter what is yours in your area. Just as what is mine slaughtered in your area is forbidden, so is what is yours slaughtered in my area forbidden.”
D. “If so, then just as what is yours slaughtered in my area is punished by extirpation, so what is slaughtered of mine in your area should be punished by extirpation?”
E. “Scripture states, ‘And he has not brought it to the door of the tent of meeting to offer it as a sacrifice to the Lord...then he shall be cut off’ (Lev. 17: 4) – for doing so with an offering the penalty of extirpation is invoked, but not for unconsecrated beasts slaughtered in the Temple court.”

- F. *Then one may raise the following challenge:* What is the distinctive trait of a case in which what is mine is slaughtered in your area, therefore, is that the penalty of extirpation applies!
- G. *Rather, said Abbayye, “The proposition derives from the following:* ‘And he shall kill it at the door of the tabernacle of the congregation’ (Lev. 3: 2), ‘And he shall kill it at the door of the tabernacle of the congregation’ (Lev. 3: 8), ‘And he shall kill it at the door of the tabernacle of the congregation’ (Lev. 3:11) – *three redundant verses!*
- H. “What’s the point of Scripture here? Because it is said, ‘If the place that the Lord your God shall choose to put his name there shall be far from you...then you shall kill of your herd...’ (Deu. 12:21) – you may kill far from the place, but not in the place, thus excluding the killing of unconsecrated beasts in the Temple courtyard. I know only that that concerns unblemished beasts, which are suitable to be offered. How do I know that the law encompasses blemished beasts? I include blemished animals, which are of a species that is appropriate for an animal, how do I know to cover wild beasts under the rule? I include wild beasts, which require slaughter as does a domesticated animal. How do I know that the law encompasses fowl? Therefore Scripture states three times, ‘And he shall kill it at the door of the tabernacle of the congregation’ (Lev. 3: 2), ‘And he shall kill it at the door of the tabernacle of the congregation’ (Lev. 3: 8), ‘And he shall kill it at the door of the tabernacle of the congregation’ (Lev. 3:11).
- I. “And, further, I might think, one may not kill unconsecrated beasts in the Temple court, but if one does so, it is permitted to eat it. Therefore it is stated, ‘If the place that the Lord your God shall choose to put his name there shall be far from you...then you shall kill of your herd...and eat...’ (Deu. 12:21) – you may eat what you kill far from the holy place, but not what you kill in the holy place, excluding unconsecrated beasts killed in the Temple court. I know that that is the case of unblemished animals. [58A] I know only that that concerns unblemished beasts, which are suitable to be offered. How do I know that the law encompasses blemished beasts? I include blemished animals, which are of a species that is appropriate for an animal; how do I know to cover wild beasts under the rule? I include wild beasts, which require slaughter as does a domesticated animal. How do I know that the law encompasses fowl? Therefore Scripture states three times, ‘And he shall kill it at the door of the tabernacle of the congregation’ (Lev. 3: 2), ‘And he shall kill it at the door of

the tabernacle of the congregation' (Lev. 3: 8), 'And he shall kill it at the door of the tabernacle of the congregation' (Lev. 3:11).

- J. "Might one say, well, one should not kill unconsecrated beasts in the Temple, but if he did, he may give it to the dogs to eat? Scripture says, 'you shall not eat any flesh that is torn of beasts in the field, you shall cast it to the dogs' (Exo. 22:30) – that is what you may cast to the dogs, but not unconsecrated food killed in the Temple court."

IX.2 A. *Mar Judah came across R. Joseph and R. Samuel b. Rabbah bar bar Hannah, who were standing at the gate of the household of Rabbah. He said to them, "It has been taught on Tannaite authority: He who betroths a woman with the firstling of an ass, meat cooked in milk, or unconsecrated beasts killed in the Temple court – R. Simeon says, 'She is betrothed.' And sages say, 'She is not betrothed.' Therefore in R. Simeon's opinion, unconsecrated beasts that are killed in the Temple courtyard are not prohibited by the law of the Torah. [Freedman: In Simeon's view, if the slaughter does not qualify the animal for food, because it is otherwise forbidden, it is not slaughter at all, and no interdict which would normally result from the killing takes effect; therefore one may benefit therefrom and it is valid for betrothal.] But by way of contradiction: R. Simeon says, 'Unconsecrated animals that are slaughtered in the Temple courtyard – the meat is sent off to be burned. And so a wild beast that was slaughtered in the Temple courtyard is treated the same way.'"*

- B. *They fell silent. They came before Rabbah. He said to them, "That contentious fellow has gotten you riled up. Here with what sort of a case do we deal? It is a case in which the beast was slaughtered and found to be terefah, and R. Simeon is quite consistent with views expressed elsewhere, for it has been taught on Tannaite authority: He who slaughters a terefah-beast, and so he who slaughters a beast and it turns out to be terefah, and in both cases these are unconsecrated beasts in the Temple courtyard – R. Simeon permits use of the meat for benefit, but sages forbid it."*

X.1 A. **[If] he sold them off and betrothed a woman with the money received in exchange for them, she is betrothed:**

- B. *What is the source in Scripture for this rule?*
C. *Since the All-Merciful has revealed with reference to idolatry, "And you shall not bring an abomination into your house, lest you be a cursed thing like it" (Deu. 6:26) – whatever you bring into being out of it, lo, it is in that same*

status, so it follows that all other objects that are forbidden in the Torah would be permitted [if sold, with the proceeds used ad lib.].

D. *Why not then draw the conclusion from that item itself [idolatry]?*

E. It is because idolatry and produce of the Seventh Year derive from two verses that go over the same matter, and in any case in which two verses go over the same matter, no further analogy is drawn for other cases.

F. *Idolatry: As we just said.*

G. *Produce of the Seventh Year?* “It is a jubilee, it shall be holy to you” (Lev. 25:12) – just as what is holy affects money paid for it, so produce in the Seventh Year affects money that is paid for it.

H. If so, then, just as what is holy affects what is paid for it but then goes forth to unconsecrated status, so produce in the Seventh Year affects what is paid for it but then goes forth to unconsecrated status?

I. To the contrary, Scripture states, “it shall be,” meaning, it shall remain as is.

J. How so? If with the produce of the Seventh Year one buys meat, both this and that must be removed from the house in the Seventh Year; if he buys fish with the meat, the meat is removed from the status of the Seventh Year and the fish enters and takes its place; if he trades the fish for wine, the fish leaves that status and the wine enters; if he barter oil for wine, the wine leaves and the oil comes in. So how is it?

[In the case of one who had sold produce of the Sabbatical year, used the money received to purchase some other produce, and then, exchanged this produce, in turn, for still other produce], the very last [produce] [obtained in this manner] is subjected to [the laws of] the Sabbatical year, and the produce itself [of the Sabbatical year remains] forbidden [M. Shebi. 8:7D-H].

X.2 A. *Well, now, that poses no problem to him who has said, no further analogy is drawn for other cases. But from the perspective of him who has said, a further analogy is drawn for other cases, what is to be said?*

B. *There are explicit exclusionary formulas stated in context. Here it is written, “Lest you be a cursed thing like it” and elsewhere, “it is Jubilee,” only it, nothing else.*

2:10

- A. **He who consecrated a woman with food in the status of heave-offering, tithe, or gifts [to be given to the priest], purification water, purification ash –**
- B. **lo, this woman is betrothed,**
- C. **and even if she is an Israelite.**

- I.1
 - A. Said Ulla, “ The good will accruing for the gift of priestly donations to the priesthood is regarded as having no monetary value.”
 - B. *An objection was raised by R. Abba to Ulla: “**He who consecrated a woman with food in the status of heave-offering, tithe, or gifts [to be given to the priest], purification water, purification ash – lo, this woman is betrothed, and even if she is an Israelite.**”*
 - C. Here we deal with an Israelite who inherited from the household of the father of his mother, who was a priest, untithed produce that was liable to tithing. The framer of the rule takes the position, priestly gifts that have not yet been designated are as though they already were designated.” [Freedman: Even a priest had to separate priestly gifts, but retained them for himself; the ones contained in this produce belong to the heir, who may sell them, since he cannot eat them himself; but they rank as money; ordinary gifts which must be given away do not rank as money.]
- I.2
 - A. *R. Hiyya bar Abin addressed this question to R. Huna: “Is the good will accruing for the gift of priestly donations to the priesthood regarded as having monetary value or is it regarded as not having monetary value?”*
 - B. *He said to him, “You have learned the answer in the following Mishnah statement: **He who consecrated a woman with food in the status of heave-offering, tithe, or gifts [to be given to the priest], purification water, purification ash – lo, this woman is betrothed, and even if she is an Israelite.**”*
 - C. *He said to him, “But have we not established the fact that this speaks of an Israelite who inherited from the household of the father of his mother, who was a priest untithed produce that was liable to tithing?”*
 - D. **[58B]** *He said to him, “You’re a shrub-trimmer.” [What you know is only good for this kind of work.]*
 - E. *He was ashamed, thinking that he referred to his tradition.*

F. *He said to him, "This is what I meant to say: R. Assi of Husal agrees with you."*

I.3 A. *May we say that the issue at hand is subject to a conflict of Tannaite versions?*

B. **"He who steals the produce of his fellow that is subject to tithing but not yet tithed and eats it must pay him the value of produce that is in that same classification," the words of Rabbi. R. Yosé b. R. Judah says, "He pays him only for the value of the unconsecrated sector of that produce" [cf. T. M.S. 3:11A-B].** *Isn't this what is at issue? Rabbi takes the view that the good will accruing for the gift of priestly donations to the priesthood is regarded as having monetary value, while R. Yosé b. R. Judah maintains that the good will accruing for the gift of priestly donations to the priesthood is regarded as having no monetary value?*

C. *No, all parties concur that the good will accruing for the gift of priestly donations to the priesthood is regarded as having no monetary value. But here what we deal with is an Israelite who inherited from the household of the father of his mother, who was a priest, untithed produce that was liable to tithing. What is at issue is the status of priestly gifts that have not yet been designated: Are they or are they not as though they already were designated? The one authority regards the whole as unconsecrated, the other maintains that [since the gifts have to be separated eventually,] they are regarded as though already removed from the whole, [and therefore he must pay only for the unconsecrated portion of the whole].*

D. *And if you wish, I shall say, all parties concur that they are as though they had been raised up, and, moreover, that the good will accruing for the gift of priestly donations to the priesthood is regarded as having no monetary value. And here what is subject to dispute is what Samuel said, for said Samuel, "A single grain of wheat [designated for a priestly gift] has the effect of freeing the entire stack [of the obligation of tithes]."* *One authority accepts what Samuel has said, the other does not.*

E. *And if you wish, I shall say, all parties concur that what Samuel has said is not so, and here, this is the operative consideration behind*

the position of Rabbi: The rabbis have imposed an extrajudicial penalty on the thief so that he won't steal.

F. And if you wish, I shall say, all parties concur that what Samuel has said is so, and here, this is the operative consideration behind the position of R. Yosé b. R. Judah: The rabbis have imposed an extrajudicial penalty on the householder since he oughtn't to have tarried about properly tithing his untithed but liable produce.

- I.4** A. *We have learned in the Mishnah: He who consecrated a woman with food in the status of heave-offering, tithe, or gifts [to be given to the priest], purification water, purification ash – lo, this woman is betrothed, and even if she is an Israelite. And by way of contradiction: He who takes payment for judging – his judgments are null. [He who takes payment] for testifying – his testimony is null. [He who takes payment] to sprinkle [purification water on one made unclean by a corpse] and to mix [ash of a red cow with water for the purpose of making purification water – his water is cave water, and his ash is hearth ash [null and useless] [M. Bekh. 4:6A-F].*
- B. *Said Abbaye, “No problem, here we speak of payment for bringing the ashes and drawing the water [which may be accepted], there we deal with sprinkling and mixed [which may not be compensated]. And a close reading of the language will yield that same conclusion, for here the language is used, purification water, purification ash, while there, it is to sprinkle [purification water on one made unclean by a corpse] and to mix [ash of a red cow with water for the purpose of making purification water].”*
- C. *That proves the point.*