

XVI.

BAVLI YEBAMOT CHAPTER SIXTEEN

FOLIOS 119A-122B

16:1

- A. [119A] A woman whose husband and co-wife went overseas and they came and said to her, “Your husband has died,” should not remarry [without performing the rite of removing the shoe, or enter into levirate marriage],
- B. until she ascertains whether her co-wife is pregnant.
- C. [If] she had a mother-in-law, [however] she does not have to scruple concerning her [the mother-in-law’s possible pregnancy, which may bring forth a levir, on whom she then would have to wait].
- D. [And if] she [the mother-in-law] went away full [of child], she must scruple [concerning her].
- E. R. Joshua says, “She does not have to scruple [concerning her].”

- I.1 A. *What is the sense of the emphasis on **her co-wife** [thus, not her but, on the other hand, her co-wife]?*
- B. *So we are informed that we have to take into account the possibility of a birth on the part of her co-wife, but we do not have to take account of such a possibility with any other co-wife [for example, that an otherwise unknown co-wife may have given birth is not taken into account].*
- II.1 A. ...should not remarry [without performing the rite of removing the shoe, or enter into levirate marriage, until she ascertains whether her co-wife is pregnant]:

- B. *Now that is no problem understanding why she should not enter into levirate marriage, since her co-wife may be pregnant, so she would be in the position of infringing on the law against marrying a brother's wife, which is based on the law of the Torah. But why can't she marry an outsider to the family? Follow as the criterion the condition of most women, and most women conceive and bear children. So may we say that the ruling follows the position of R. Meir, who takes account of the condition of the minority?*
- C. *You may even maintain that he accords with rabbis [who reject Meir's view]. When we follow the status of the majority, it is a majority that is present and ready at hand, for example, in the case of nine stalls [each selling valid meat, one stall selling terefah-meat, and a piece of meat is found on the ground nearby and we do not know whether it has come from a valid or an invalid source; we assume it came from the larger component of the whole], or in the case of a sanhedrin [twelve against eleven win the day]. But in the case of a majority which are not actually present, rabbis will not follow the status of the majority.*
- D. *And lo, there is the case of a minor boy and a minor girl [under thirteen and twelve, respectively], where the entire repertoire of cases is not before us, and yet rabbis follow the traits of the majority of such in that classification, as it has been taught on Tannaite authority:*
- E. "A minor boy or a minor girl do not go through the rite of removing the shoe [in the case of the death of a childless brother or brother-in-law], nor do they enter into levirate marriage [in such a case]," the words of R. Meir.
- F. They said to him, "You have ruled quite properly that they do not undertake the rite of removing the shoe, for Scripture referred to 'man' [at Deu. 25:9, excluding a minor], and we draw an analogy between the woman and the man. But why not let them enter into levirate marriage [and ultimately produce the required child in the name of the deceased childless brother]?"
- G. He said to him, "The male may prove a eunuch, and the female may prove unable to conceive, so the two may turn out to verge upon an incestuous relationship [a consanguineous marriage]."
- H. *And rabbis?*
- I. *Follow the status of the majority of boys, and the majority of boys do not end up eunuchs; follow the majority of girls, and the majority of girls do not end up unable to conceive.*

- J. *Rather, it is better to explain our Mishnah paragraph represents the position of R. Meir.*
- K. Now then, how have you established the position of our Mishnah paragraph? In accord with R. Meir? Then note what follows: **[If] she had a mother-in-law, [however] she does not have to scruple concerning her [the mother-in-law's possible pregnancy, which may bring forth a levir, on whom she then would have to wait].** *But why not follow the majority of women, and the majority of women get pregnant and give birth, while only a minority of women abort; and all those who give birth – half give birth to males, and half to females, so add the minority of those who miscarry to the half that bear females, and the males would form a minority, which then should be taken into consideration?*
- L. *But perhaps since the woman is confirmed as permissible to outsiders to the family, the possibility of the birth of a levir was not taken into consideration by R. Meir.*
- M. *In the first clause [if the confirmation of the known status is the criterion], where she was assumed to be eligible to marry the levir, let her enter into levirate marriage [by the same reasoning]!*
- N. *Said R. Nahman said Rabbah bar Abbuha, "In the opening clause, where a violation of the prohibition would be penalized with extirpation, they take account of that possibility, but in the concluding clause, where the violation is only of a negative commandment, we do not take account of that possibility."*
- O. *Said Raba, "Note: The one prohibition derives from the Torah, and the other also derives from the Torah. So what difference does it make to me whether it is a prohibition punishable by extirpation or merely a negative prohibition?"*
- P. *Rather, said Raba, [119B] "In the opening clause, confirming the woman's status subjects her to levirate marriage, while appealing to the condition of the majority permits her to marry an outsider, and though confirming the prevailing status is not so important a favor as the condition of the majority, in this instance, we add to the consideration of confirmed status the consideration that a minority of women miscarry, so that the factors on either side are in balance, thus: **She should not remarry [without performing the rite of removing the shoe, or enter into levirate marriage], until she ascertains whether her co-wife is pregnant.** In the concluding clause, by contrast, the woman's confirmed status [she is assumed to have no brother-in-law] and the principle of following the majority [miscarriages, female births,*

are a majority, against the minority of births of viable males (Slotki)] *leads to the conclusion that she may marry an outsider, so the viable males form a minority of a minority, and even R. Meir will not take account of the condition of a minority of a minority.*”

- II.2** A. **...should not remarry [without performing the rite of removing the shoe, or enter into levirate marriage, until she ascertains whether her co-wife is pregnant]:** And is this forever?
- B. Said Zeiri, “On her own account, she waits three months, and on account of her co-wife, nine. [Slotki: If her co-wife is pregnant, the levirate bond could not be severed by the rite of removing the shoe but only by the birth of a viable offspring.] And then she may perform the rite of removing the shoe one way or the other [whether or not the co-wife produced a child].”
- C. R. Hanina said, “On her own account she waits three months, on her co-wife’s, forever” [until we know for sure whether or not the co-wife has given birth to a viable child, even after nine months have passed].”
- D. But let her perform the rite of removing the shoe one way or the other! [Slotki: Since either she is exempt altogether from the levirate obligations by the birth of the co-wife’s child, or if there is none, she is freed by the rite of removing the shoe.]
- E. *Abbaye bar Abin and R. Hanina bar Abin both said*, “It is possible that the offspring of the co-wife might be viable, and you would then make it necessary to proclaim concerning her with regard to the priesthood [that the rite of removal was unnecessary and therefore null, so she remains eligible to the priesthood].”
- F. *So make it necessary to issue such a proclamation!*
- G. *There may be someone who witnessed the rite of removing the shoe but did not hear about the proclamation and so would imagine that a woman who has performed the rite of removing the shoe may marry a priest [which is not the case].*
- H. *We have learned in the Mishnah: “A son was given unto me overseas,” and, she said, “My son died, and then my husband died,” she is believed. “My husband died and afterward my son died” – she is not believed. But they scruple on account of her testimony, so that she performs the rite of removing the shoe, but she does not enter into levirate marriage [M. 15:9]. But why not take account of the possibility that witnesses may come and say what*

she has said, and it will turn out that you would then make it necessary to proclaim concerning her with regard to the priesthood [that the rite of removal was unnecessary and therefore null, so she remains eligible to the priesthood]?

I. Said R. Pappa, “The law deals with a divorced woman [who could never have married a priest anyhow].”

J. R. Hiyya b. R. Huna said, “We deal with a case in which she said, ‘He and I were hidden in a cave’” [so nobody was around, and there is no expectation that any witnesses can come forward].

16:2

- A. Two sisters-in-law [wives of two brothers] –
- B. this one says, “My husband died” –
- C. and that one says, “My husband died” –
- D. [each being believed about her own husband but not about the marital condition of the other,] this one is prohibited on account of the husband of that one [to whom she is bound in a levirate connection], and that one is prohibited on account of the husband of this one.
- E. [If] this one has witnesses [who testify independently that the husband has died], and that one does not have witnesses –
- F. the one who has witnesses is prohibited.
- G. And the one who does not have witnesses is permitted.
- H. [If] this one [of A] has children and that one does not have children, the one who has children is permitted, and the one who does not have children is prohibited.
- I. [If] they entered into levirate marriage and the levirs died,
- J. they are prohibited from remarrying.
- K. R. Eleazar says, “Since they were permitted to marry the levirs [who then died], they are permitted to marry anyone [thereafter].”

- I.1** A. *A Tannaite statement:* If this one had witnesses and also children, and that one had no witnesses and no children. both of them are permitted to remarry [the one with children is exempt from the levirate bond, the other one, because witnesses have testified that her levir is dead, and she is believed in regard to her own husband (Slotki)].

- II.1** A. [If] they entered into levirate marriage and the levirs died, they are prohibited from remarrying. R. Eleazar says, “Since they were permitted to marry the levirs [who then died], they are permitted to marry anyone [thereafter]”:
- B. *Asked Raba, “What is the operative consideration behind the ruling of R. Eleazar? Is it because he takes the view that a co-wife may give testimony concerning the situation of her colleague, or perhaps because she is not going to disrupt her situation [her evidence here injures herself as well as the other woman; if the associate alone would suffer, the co-wife’s evidence is not accepted (Slotki)]?”*
- C. *So what difference does it make?*
- D. **[120A]** *It makes a difference as to allowing her co-wife to marry before she does. If you say that the consideration is, a co-wife may give testimony concerning the situation of her colleague, then even though she has not remarried, we remarry her co-wife. But if you take the view that it is because she is not going to disrupt her situation, then if she remarried, her co-wife could remarry, but if she did not remarry, her co-wife could not remarry. So what is the answer?”*
- E. *Come and take note: R. Eleazar says, “Since they were permitted to marry the levirs [who then died], they are permitted to marry anyone [thereafter].” Now if, to be sure, you maintain that the operative consideration is, she is not going to disrupt her situation, then that explains why, if she remarried, her co-wife could remarry, but if she did not remarry, her co-wife could not remarry. But if you maintain that it is because a co-wife may give testimony concerning the situation of her colleague, then even though she has not remarried, [the other should be allowed to do so]. So it follows that the reasoning behind R. Eleazar’s position is: Because she had remarried, she is not going to disrupt her situation.*
- F. *R. Eleazar responded to the other side in terms of their position, along these lines: From my viewpoint, a co-wife may give testimony concerning the situation of her colleague, so even though she has not married, we permit the co-wife to remarry; but even from your perspective, you should concede to me, in any event, that where she remarried [who had reported the death], the other should be allowed to marry, since the one who reported the death would not now disrupt her own situation.*
- G. And rabbis?

- H. *She could be acting in line with* “let me die with the Philistines” (Judg. 16:30).
- I. *Come and take note:* **A woman who went, she and her husband, overseas, and came and said, “My husband has died,” remarries and collects her marriage contract. But her co-wife is prohibited.**
- J. R. Eleazar says, “Since she is permitted, her co-wife is also permitted.” [Slotki: This proves that on the evidence of a co-wife another wife is always permitted to marry again, whether the rival who gave the evidence did or did not herself marry again.]
- K. *Say:* Since she was permitted and has married again.
- L. *[If the reason is that she would not disrupt her own situation, so she is believed in regard to the co-wife, and not because she is believed,] then take account of the possibility that she may have returned with a writ of divorce; the reason she made her statement is that she wanted to disrupt her co-wife’s life* [she would be divorced and so suffer no disability, but the co-wife is now unable to remarry (Slotki)].
- M. *If she had remarried an Israelite, that would be a consideration [and we’d have to take account of the possibility that she was divorced], but here we’re dealing with a woman married to a priest [who cannot marry a divorcée].*

16:3

- A. **They derive testimony [concerning the identity of a corpse] only from the appearance of the whole face with the nose,**
- B. **even though there are signs of the corpse’s identity on his body or garments.**
- C. **They derive testimony [that a man has died] only after he has actually died [and has been seen dead],**
- D. **and even if they [the witnesses] saw him mortally wounded, crucified, or being eaten by a wild beast.**
- E. **They give testimony [about the identity of a corpse] only during a period of three days [after death].**
- F. **R. Judah b. Baba says, “[Decay in corpses] is not alike for all men, all places, and all times.”**

I.1

- A. *Our rabbis have taught on Tannaite authority:*
- B. The forehead without the face, or the face without the forehead, do not provide adequate evidence, unless the two of them are available along with the nose.

C. Said Abbayye, and some say, R. Kahana, “What is the scriptural basis for that statement? ‘The show of their countenance bears witness against them’ (Isa. 3: 9).”

I.2 A. *Abba bar Marta, a.k.a. Abba bar Minyumi, was being dunned by members of the household of the Exilarch for money. He took some wax, smeared it on a piece of rag, and stuck it on his forehead. He passed right by them, and they didn't know him.*

II.1 A. **Even though there are signs of the corpse's identity on his body or garments:**

- B. *Does this then bear the implication that the validity of relying on identification marks does not derive from the law of the Torah? Then by way of a contradiction: [If a messenger bearing a writ of divorce loses the writ and then finds it] tied up in a purse, money bag or ring, or if he found it among his household utensils, even long afterward, the writ is valid.*
- C. *Said Abbayye, “This is no contradiction; the one represents the position of R. Eleazar b. Mahabai, the other, rabbis, as has been taught on Tannaite authority: **Testimony as to the identity of a corpse does not derive from a mole [on the face].** And Eleazar b. Mahabai says, ‘**Testimony as to the identity of a corpse does derive from a mole [on the face]**’ [T. **Yeb. 14:4J**]. Is this not what is subject to dispute: One authority takes the view that the validity of relying on identification marks does derive from the law of the Torah, and the other maintains that the validity of relying on identification marks does not derive from the law of the Torah?”*
- D. *Said Raba, “All parties concur that the validity of relying on identification marks does derive from the law of the Torah. Here what is at issue is whether it is routine for the same kind of mole to turn up on persons both at the same time [Slotki: under the same planetary influences for good or evil]. One authority maintains that it is routine for the same kind of mole to turn up on persons both at the same time, and the other, that it is not necessarily routine for the same kind of mole to turn up on persons both at the same time.”*
- E. *Others say, “What is at issue is whether or not a mole is likely to change in character after death. One authority maintains that a mole is likely to change in character after death, and the other, that a mole is not likely to change in character after death.”*

F. *There are those who say, “Said Raba, ‘All parties concur that the validity of identification through marks derives only from the authorities of rabbis, and here what is at issue is whether a mole [120B] represents a distinguishing identification mark. One master maintains that a mole represents a distinguishing identification mark, and the other, that a mole does not represent a distinguishing identification mark.’”*

G. *And as to the version of what Raba said, that at issue is whether or not the validity of relying on identification marks derives from the law of the Torah, lo, it has been stated as a Tannaite formulation: **even though there are signs of the corpse’s identity on his body or garments!** [Slotki: If identification marks have pentateuchal validity, these should have been regarded as reliable.]*

- H. *As to the body, the marks that the witnesses reported concerned only whether the corpse was tall or short; as to the clothing, one may hardly rely on that, since we have to take account of the possibility that the clothing was borrowed.*
- I. *If we have to take account of the possibility that the clothing was borrowed, in the case of an ass, the identification of marks which consist of the character of the saddle, how in the world are we ever going to restore the ass to its rightful owner?*
- J. *People don’t borrow a saddle, because it makes the ass’s back sore [so the saddle is a proper mark (Slotki)].*
- K. *[With reference to the statement,] [If a messenger bearing a writ of divorce loses the writ and then finds it] tied up in a purse, money bag or ring, or if he found it among his household utensils, even long afterward, the writ is valid, on what basis do we allow the return [since these objects can have been borrowed]?*
- L. *As to the ring, we take account of forgery, as to the bag and purse, people perform sorcery so do not lend such objects, and, if you prefer, the point of identification marks on clothing is whether they were white or red [which are not reliable for that purpose, being common colors (Slotki)].*

III.1 A. And even if they [the witnesses] saw him mortally wounded [lit.: with arteries cut], crucified:

- B. *This implies that one whose arteries are cut may live? But by way of contradiction: **A man does not convey uncleanness until his spirit goes***

forth, and even with his tendons cut, and even dying [M. Oh. 1:6A-B]. So, while he does not convey uncleanness, he still cannot survive!

- C. Said Abbaye, “This is no contradiction, the one represents the position of R. Simeon b. Eleazar, the other, rabbis, for it has been taught on Tannaite authority: **If one had his arteries cut, they give evidence that the man has died, but not if he was crucified.** R. Simeon b. Eleazar says, ‘Even in respect to one whose arteries were cut, they do not give such testimony, since it is possible to cauterize the cut so that the man may survive’ [T. Yeb. 14:4D-E].”
- D. *But can you really assign the passage to the authority of R. Simeon b. Eleazar? And lo, the same passage continues in its Tannaite formulation at the end: A certain man in Asya was let down by a rope into the sea, and they drew back up only his leg. Sages said, “If [the recovered part included] from the knee and above, [his wife] may remarry. [If] the recovered part included only from the knee and below, she may not remarry”!* [Slotki: Sages’ ruled in that way because a man may survive even in such circumstances; the drowning also cannot be regarded as a certainty, since the waters may have thrown the body up on another shore, where the man’s life may have been saved. Now if our passage represents the view of Simeon b. Eleazar, remarriage should be forbidden even in the case where the part above the knee was also torn away.]
- E. *The case of water is exceptional, since it irritates the wound* [Slotki: and makes survival in the first case impossible].
- F. *Did not Rabbah bar bar Hannah state, “I myself have seen a Tai-Arab take a sword and cut open the arteries of his animal, and even this did not make the camel cease to cry [until it actually died]”* [Slotki: which shows that even after the cutting of the arteries, an animal may still live].
- G. *Said Abbaye, “That was a lean camel”* [and the wound was shallow (Slotki)].
- H. *Raba said, “It was with a glowing hot knife, and all parties concur in this context [that a cauterized wound is not fatal].”*

IV.1 A. Or being eaten by a wild beast:

- B. Said R. Judah said Samuel, “This has been repeated as a Tannaite statement only where the attack was not on a vital organ, but if it was on a vital organ, testimony may be given.”

- IV.2** A. And said R. Judah said Samuel, “If one had cut on a person two organs [the esophagus and trachea] or the greater part thereof, and then he escaped, one may nonetheless give testimony that he has died” [the wife may remarry, since he cannot have survived].
- B. *Is that so?* And did not R. Judah say Samuel said, “If one had cut on a person two organs [the esophagus and trachea] or the greater part thereof, and the man made a gesture so as to indicate, ‘Write a writ of divorce for my wife,’ lo, these are to write it and hand it over to her” [so he is regarded as yet alive]!
- C. True, he’s alive, but he is going to die.
- D. *Then what about the following:* One should go into exile on his account [if he inadvertently killed this dying man]. *But then how come it has been taught on Tannaite authority:* If one had cut on a person two organs [the esophagus and trachea] or the greater part thereof, one should not go into exile on his account [if he inadvertently killed this dying man]?
- E. *Lo, it has been said in this connection, said R. Hoshaia, “We take account of the possibility that the wind might have aggravated the wound, or he himself [121A] may have brought his death nearer”* [so the one who wounded him is not the direct cause of death, but the wife of the victim is allowed to remarry because the husband suffered such mortal wounds (Slotki)].
- F. *So what difference does it make [whether it was wind or the victim’s own convulsions that brought him to death]?*
- G. *If someone cut the organs of another in a stone house [where there is no wind], and the victim made convulsive movements [and since there was no wind, the one who made the wound goes into exile, but in terms of the second, the convulsive movements can have brought the victim closer to death (Slotki)]; or, alternatively, where he cut the organs outside, but the victim did not convulse.*

- V.1** A. **R. Judah b. Baba says, “[Decay in corpses] is not alike for all men, all places, and all times”:**
- B. *The question was raised: Was it the intent of R. Judah b. Baba to impose a lenient ruling in his dissenting view, or a strict one?*
- C. *Come and take note: There was the case of a man who drowned at Karmi, and three days later he was hauled up at Be Hedyā, and R. Dimi of Nehardea permitted his wife to remarry. Again, a man drowned in the Tigris, and five days later he was hauled up at the Shebistana bridge, and on the evidence of the members of the man’s wedding party, Raba permitted the wife to remarry.*

Now, if you maintain that it was R. Judah b. Baba's intent to dissent so as to impose a lenient ruling, these authorities acted in accord with R. Judah b. Baba [and followed the minority, rather than the established law, which is that of the unattributed statement reflecting the position of the majority]. But if you maintain that it was his intention to take a more strict position, then in accordance with whose view did the cited authorities act [Dimi, Raba]?

- D. *The case of water is different [so far as affecting the features], because they cause the corpse to contract [and decay sets in later].*
- E. *But didn't you just say that the case of water is different, because it irritates the wound?*
- F. *Sure, where there's a wound, but here there's no wound, so waters cause contraction. Furthermore, that applies when witnesses see the body as it is hauled in, but if it is left for a while before they see it, it well may swell.*

16:4

- A. [If] he fell into a body of water, whether within sight of shore or not within sight of shore –
- B. his wife is prohibited [until the corpse turns up].
- C. Said R. Meir, M'SH B: "A certain person fell into a large cistern, and came up [alive] after three days."
- D. Said R. Yosé, M'SH B: "A blind man went down to immerse in a cave, and his guide went down after him, and they stayed [in the water] long enough to drown."
- E. "So [the sages] permitted their wives to marry."
- F. WSWB M'SH B: "A certain man in Asya was let down by a rope into the sea, and they drew back up only his leg."
- G. "Sages said, 'If [the recovered part included] from the knee and above, [his wife] may remarry. [If] the recovered part included only from the knee and below, she may not remarry.'"

I.1

- A. *Our rabbis have taught on Tannaite authority:*
- B. "If a man fell into water, whether it was within sight of shore or not, his wife is forbidden to remarry," the words of R. Meir.
- C. And sages say, "If it was within sight of shore, the wife is permitted to remarry, but if into water beyond sight of shore, his wife is forbidden to remarry" [the man might have been rescued at a point not visible from where the drowning occurred].

- I.2** A. *What is the definition of “within sight of shore”?*
 B. Said Abbaye, “It is an area in which a person standing on shore can see [shores] in all directions.”
- I.3** A. *There was the case of a man who drowned in the Samqi swamp, and R. Shila permitted his wife to remarry. Said Rab to Samuel, “Come on, let’s excommunicate him.”*
 B. *He said to him, “Let’s send word first of all.”*
 C. *They sent word: “As to a case in which a drowning took place out of sight of shore – is the wife permitted or forbidden to remarry?”*
 D. *He sent word to them, “His wife is forbidden.”*
 E. “And as to the Samqi swamp, is it water the whole of which is in sight of shore or not?”
 F. *He sent word to them, “It is water the whole of which is out of sight of shore.”*
 G. *“So why did you do what you did?”*
 H. *“So I made a mistake. I was thinking that, because the water was still and not free flowing, it was classified as water within sight of shore, but that is not the law. Because of the flow of waves, it is to be assumed that the waves can have carried the body off.”*
 I. Samuel cited in Rab’s regard, “No mischief shall befall the righteous” (Pro. 12:21), and Rab cited in Samuel’s regard, “But in the multitude of counselors there is safety” (Pro. 11:14).
- I.4** A. *It has been taught on Tannaite authority:*
 B. **Said Rabbi, “There was the case of two men fishing with traps in the Jordan. One of them went into an underwater cave of fish. The sun set, so the man did not see the way out. The fellow waited for him long enough for him to have died through drowning, and then reported the matter in his home. At dawn, the sun came out, and the man, having been trapped in a cave, saw the way out of the cave and came home and found a mourning party in his house” [T. Yeb. 14:6A-B].**
 C. Said Rabbi, “How great are the words of sages, who have said, [If] he fell into a body of water within sight of shore, his wife is permitted to remarry. But if it was not within sight of shore – his wife is prohibited [until the corpse turns up].”

I.5 A. *If that is so, then even in the case of water out of sight of shore, we should take account of the possibility that the man has survived in a subterranean cave.*

B. *In water out of sight of land it is not very common to find a subterranean cave.*

I.6 A. Said R. Ashi, “As to the statement of rabbis, **[If] he fell into a body of water not within sight of shore – his wife is prohibited to remarry** – that applies to an ordinary person, but as to a neophyte rabbi, that is not the case, for, if he were to emerge from the water, it would be widely known.”

B. *But that is not the case. There is no difference between an ordinary person and a neophyte rabbi. If the marriage has already taken place, it is all right, but, to begin with, it is forbidden.*

I.7 A. *It has been taught on Tannaite authority:*

B. Said Rabban Gamaliel, “Once I was traveling by ship, and I saw another ship that was breaking apart, and I was distressed for a disciple of sage that was on it, and who was it? It was R. Aqiba. But when I ascended onto dry land, he came and went into session and set forth arguments as to law before me. I said to him, ‘My son, who brought you up out of the water?’

C. “He said to me, ‘A plank of the ship came my way, and to every wave that came along, I gave way.’”

D. In this connection sages have said, “If wicked men come against someone, he should bow his head.”

E. [Gamaliel continues,] “At that moment I said, ‘How great are the words of sages, which they have said: **[If] he fell into a body of water within sight of shore – his wife is permitted to remarry. [If] he fell into a body of water not within sight of shore – his wife is prohibited to remarry.**’”

I.8 A. *It has been taught on Tannaite authority:*

B. Said R. Aqiba, ““Once I was traveling by ship, and I saw another ship that was sinking into the sea, and I was distressed for a disciple of sage that was on it, and who was it? It was R. Meir. But when I ascended at the town of Cappadocia, he came and

went into session and set forth arguments as to law before me. I said to him, 'My son, who brought you up out of the water?'

C. "He said to me, 'One wave handed me on to the next, until I was vomited out onto dry land.'

D. "At that moment I said, 'How great are the words of sages, which they have said: [If] he fell into a body of water within sight of shore – his wife is permitted to remarry. [If] he fell into a body of water not within sight of shore – his wife is prohibited to remarry" [T. **Yeb. 14:5C**].

- I.9** A. *Our rabbis have taught on Tannaite authority:*
- B. If a man fell into a den of lions, people may not [assume that he has died and] testify in his regard that he has died. But if he fell into a ditch filled with snakes or scorpions [people may assume that he has died] and give testimony concerning him that he has died. [Therefore the rule for snakes and scorpions should be the same] [T. **Yeb. 14:4A-B**].
- C. R. Judah b. Betera says, "Even if it was into a pit filled with snakes and scorpions, they do not give evidence concerning him that he has died. We take account of the possibility that [121B] he may be a wizard" [T. **Yeb. 14:4F**].
- D. *And the initial authority?*
- E. *Because of his falling with pressure on them, they are going to injure him no matter what.*

- I.10** A. *Our rabbis have taught on Tannaite authority:*
- B. If he fell into a heated furnace, they give testimony concerning him [that he has died]. If he fell into an oil vat or a wine vat, they give testimony concerning him.
- C. In the name of R. Aha, they said, "If it is one of oil, they give testimony concerning him, because it can cause fire. If it is one of wine, they do not give testimony concerning him, since it puts out fire" [T. **Yeb. 14:4H-I**].
- D. They said to him, "At first it puts out the fire, but it eventually makes the fire burn hotter."

- II.1** A. Said R. Meir, M'SH B: "A certain person fell into a large cistern, and came up [alive] after three days":
- B. *It has been taught on Tannaite authority:*
- C. They said to R. Meir, "Proof cannot be adduced from miracles."

- II.2** A. *What miracles? If I should say that he had neither eaten nor drunk, it is written in Scripture, “And fast for me, and do not eat or drink for three days” (Est. 4:16)!*
- B. *Rather, it is because he did not sleep [but survived].*
- C. For said R. Yohanan, “He who says, ‘By an oath, I shall not sleep for three days,’ is flogged and may go to sleep then and there.”
- D. *So what’s behind R. Meir’s ruling?*
- E. Said R. Kahana, “Arches on top of arches” [where he can have slept safely (Slotki)].
- F. *And rabbis?*
- G. *They were made of marble [and kept the air out].*
- H. And R. Meir?
- I. *It is not possible that he did not clutch on and doze a bit.*

- II.3** A. *Our rabbis have taught on Tannaite authority:*
- B. There was the case involving the daughter of Nehunia, who was responsible for the digging of cisterns, ditches, and caves. She fell into a big hole, and they came and told R. Hanina b. Dosa. During the first hour, he said to them, “She is o.k.” During the second hour, he said to him, “She is o.k.” During the third hour, he said to him, “She has gotten out of the pit.”
- C. They said to her, “Who got you up out of the pit?”
- D. She said to them, “A ram [Gen. 22] was assigned to me, and an old man was leading it.”
- E. They said to him, “Are you a prophet?”
- F. He said to them, “Of course I’m not prophet, nor the disciple of a prophet, but this is what I said to myself: ‘Should something to which that pious man devoted such painstaking care turn out to be a source of anguish to his child?’”
- G. Said R. Abba, “Nonetheless, his son died of thirst: ‘And it shall be very tempestuous round about him’ (Psa. 50: 3) – this teaches that the Holy One, blessed be He, is very meticulous about those who are around him, even in matters as light as a single hair [which word uses the same letters as tempestuous].”
- H. R. Hanina says, “Proof of the proposition is from here: ‘God is greatly to be feared in the assembly of the saints and to be held in reverence by all those who are about him’ (Psa. 89: 8).”

16:5

- A. Even if one heard the women saying, “So-and-so has died,” it is sufficient [for him to go and testify in court that So-and-so has died].
- B. R. Judah says, “Even if he heard children saying, ‘Lo, we’re on our way to lament and bury Mr. So-and-so,’ [that suffices],
- C. “whether one intended or did not intend [to give testimony].”
- D. R. Judah b. Baba says, “In the case of an Israelite, this is valid only if he intended to give testimony.
- E. “And in the case of a gentile, if he intended to give testimony, his testimony is not valid.”

- I.1** A. [R. Judah says, “Even if he heard children saying, ‘Lo, we’re on our way to lament and bury Mr. So-and-so,’ that suffices”:] *but maybe they didn’t go?*
- B. Said R. Judah said Samuel, “[What they said was,] ‘Lo, we’re coming back from the obsequies and burial of Mr. So-and-so.’”
- C. *So maybe they buried some ant or other, which the children called by a human name?*
- D. *It is a case in which they said, “And thus-and-so were the rabbis who were there, and thus-and-so were the eulogists who were there.”*

- II.1** A. **And in the case of a gentile, if he intended to give testimony, his testimony is not valid:**
- B. Said R. Judah said Samuel, “That is taught only in a case in which the gentile intended to permit the wife to remarry, but if he intended merely to give evidence [as to what had happened, without any further motive], his testimony is valid.”

- II.2** A. *So how do we know the difference?*
- B. Said R. Joseph, “If he came to court and said, ‘Mr. So-and-so has died, let his wife remarry,’ this would be a case in which he clearly intended to permit the wife to remarry. But if all he said was, ‘he died,’ this would be a case in which all he wanted was to testify.”

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

- B. Said R. Simeon b. Laqish, “That is taught only in a case in which the gentile intended to permit the wife to remarry, but if he intended

merely to give evidence [as to what had happened, without any further motive], his testimony is valid.”

C. Said to him R. Yohanan, “Was there not the precedent involving Oshayya the Distinguished, who opposed eighty-five elders, saying to them, ‘That is taught only in a case in which the gentile intended to permit the wife to remarry, but if he intended merely to give evidence [as to what had happened, without any further motive], his testimony is valid’? But sages did not concur [and would not accept the evidence under any circumstances.]”

D. *Then as to our Mishnah paragraph, which states: **And in the case of a gentile, if he intended to give testimony, his testimony is not valid**, how will a gentile’s testimony ever be accepted?*

E. It would be a case in which he spoke in all innocence [totally without guile].

F. *For example, there was the case of somebody who went around saying, “Who is here of the household of Hivai? Who is here of the household of Hivai? Hivai is dead,” and R. Joseph permitted his wife to remarry.*

II.4 A. *There was the case of someone who went around saying, “Woe for the courageous rider who was at Pumbedita, for he has died,” and R. Joseph, or some say, Raba, permitted his wife to remarry.*

II.5 A. *There was the case of someone who went around saying, “Who is here of the household of Hasa? Hasa has drowned.”*

B. *Said R. Nahman, “By God! The fish have eaten Hasa.”*

C. *On the strength of what R. Nahman said, Hasa’s wife went and remarried, and sages didn’t say a word to her.*

II.6 A. *Said R. Ashi, “That shows that, when rabbis said, **[If] he fell into a body of water not within sight of shore – his wife is prohibited to remarry – that is the case before the fact [of a remarriage]. But if it is after the fact [and she has remarried], we do not remove her from the marriage.**”*

B. *There are those who say, “R. Nahman permitted his wife to remarry, saying, ‘Hasa is a preeminent authority, and if he were around, it would be well known.’”*

C. But that is not the case. There is no distinction between a preeminent authority and someone who is not a preeminent authority: After the fact, the marriage is all right, but, to begin with, it is not.

II.7 *A. There was a gentile who said to an Israelite, “Cut some grass and feed it to my herd on the Sabbath, because if you don’t do it, I’ll kill you as I killed Mr. So-and-so, son of an Israelite, to whom I said, ‘Cook some food for me on the Sabbath,’ and, since he didn’t cook for me, I killed him.”*

B. The Jew’s wife heard and came before Abbaye. He kept her waiting [122A] for three festivals.

C. Said to her R. Adda bar Ahbah, “Go to R. Joseph, who has a really sharp knife!”

*D. She went to him. He solved the problem on the basis of the following Tannaite statement: **A gentile selling produce in the marketplace, who said, “This produce is forbidden since it derives from the first three years after planting, this produce is from a newly ploughed field, this produce is from a field that is in its fourth year”** – has said nothing; he intended only to improve the value of what he is selling [T. **Dem. 5:2J-L**]. [So, too, the other made an empty threat.]*

II.8 *A. Abba Yudan of Sidon said, “There was the case of an Israelite and a gentile who went together on a trip, and the gentile came back and said, ‘Woe for that Jew who was with me on the trip, who died on the way, and whom I buried,’ and they permitted his wife to remarry.”*

B. There was another case of a group of prisoners who were going to Antioch, and a gentile came and said, “Woe for the group of prisoners, who died, and I buried them,” and they permitted their wives to remarry.

*C. There was another case of sixty men who were going to the fortress at Betar, and a gentile came and said, “Alas for the sixty men who were en route to Betar, for they died and I buried them,” and they permitted their wives to remarry [T. **Yeb. 14:7H-J**].*

16:6

- A. They give testimony [about the identity of a corpse which they have seen] by the light of a candle or by the light of the moon.
- B. And they permit a woman to remarry on the evidence of an echo [which is heard to say that her husband has died].
- C. M'SH B: A certain person stood on top of a mountain and said, "Mr. So-and-so, the son of So-and-so, of such-and-such a place, has died."
- D. And they went but did not find anyone there.
- E. And they [nonetheless] permitted his wife to remarry.
- F. SWB M'SH B: In Salmon, a certain person said, "I am Mr. So-and-so, the son of Mr. So-and-so. A snake has bitten me, and lo, I am dying."
- G. And they went, and while they did not recognize him, they permitted his wife to remarry.

I.1 A. *Said Rabbah bar Samuel, "A Tannaite [statement]: the House of Shammai say, 'They do not permit a woman to remarry on the evidence of an echo [which is heard to say that her husband has died].' And the House of Hillel say, 'They do permit a woman to remarry on the evidence of an echo [which is heard to say that her husband has died].'"*

B. So what's the point? That just goes over the ground of our Mishnah paragraph [which is unattributed and hence would represent the view of the House of Hillel in such a dispute, so announcing the contrary view of the House of Shammai is mere academicism]!

C. What he tells us is that, if an unattributed statement should turn up to the effect that they do not permit a woman to remarry on the evidence of an echo [which is heard to say that her husband has died], it would represent merely the opinion of the House of Shammai.

- II.1** A. **And they went but did not find anyone there. And they [nonetheless] permitted his wife to remarry:**
- B. *So maybe it was a demon?*
 - C. Said R. Judah said Rab, "It was a case in which they actually perceived the form of a man."
 - D. *But they, too, appear in the form of a man.*
 - E. *They saw his shadow.*
 - F. *So they, too, have a shadow.*

- G. *They saw the shadow of his shadow.*
- H. *So don't these also cast a shadow of a shadow?*
- I. *Said R. Hanina, "Jonathan the demon told me, they have a shadow, but they don't have a shadow of a shadow."*
- J. *So maybe it was a co-wife that issued the cry?*
- K. *A Tannaite authority at the household of R. Ishmael: "At the time of danger, they write out and hand over a writ, even though they cannot identify the husband who gave the instructions to the witnesses."*

16:7A-K

- A. **Said R. Aqiba, "When I went down to Nehardea to intercalate the year, Nehemiah of Bet Deli came upon me. He said to me, 'I heard that only R. Judah b. Baba permits a wife in the Land of Israel to remarry on the evidence of a single witness [to her husband's death].'**
- B. **"I stated to him, 'That is indeed so.'**
- C. **"He said to me, 'Tell them in my name –**
- D. **"you know that the country is alive with ravaging bands –**
- E. **"I have a tradition from Rabban Gamaliel the Elder that:**
- F. **"They permit a wife to remarry on the testimony of a single witness [to her husband's death].'**
- G. **"And when I came and laid the matters out before Rabban Gamaliel, he was overjoyed at my report and said, "We now have found a pair for R. Judah b. Baba.'**
- H. **"And in the same discourse Rabban Gamaliel recalled that men were slain at Tel Arza, and Rabban Gamaliel the Elder permitted their wives to remarry on the evidence of a single witness."**
- I. **And they confirmed in the practice of permitting [the wife to] remarry (1) on the evidence of a single witness, (2) on the evidence of a slave, (3) on the evidence of a woman, (4) on the evidence of a slave girl.**
- J. **R. Eliezer and R. Joshua say, "They do not permit a woman to remarry on the evidence of a single witness."**
- K. **R. Aqiba says, "Not on the evidence of a woman [vs. 3], nor on the evidence of a slave [2], nor on the evidence of a slave girl [4], nor on the evidence of relatives."**

- I.1** A. *Does R. Aqiba then take the view that on the testimony of a woman, a wife is not permitted to marry again? Has it not been taught on Tannaite authority: R. Simeon b. Eleazar says in the name of R. Aqiba, “A woman is believed to present her own writ of divorce, on the strength of an argument a fortiori: If women, whom rabbis have said are not believed to give testimony that their husbands have died, are believed to present their own writs of divorce, this one, who is believed to testify that her husband has died, surely should be believed to bring her own writ of divorce”? So the woman of whom rabbis spoke is not believed, but any other woman is believed.*
- B. *There is no contradiction.* The one ruling was made before the law was established [that a woman is believed to testify a man has died, so his wife may remarry]; the other ruling was made after that law was established.

16:7L-R

- L. They said to him, M'SH B: “The Levites went to Soar, the date town, and one of them got sick on the road, and they left him in an inn.
- M. “And upon their return, they said to the inn hostess, ‘Where is our buddy?’”
- N. “She said to them, ‘He died, and I buried him.’
- O. “And they permitted his wife to remarry [on the strength of her evidence].”
- P. They said to him, “And should not a priest girl be equivalent to an inn hostess?”
- Q. He said to them, “When she [the priest girl] will be an inn hostess, she will be believed.
- R. “The inn hostess had produced for them his staff, his pouch, and the Torah scroll which he had had in hand.”
- I.1** A. [122B] [And should not a priest girl be equivalent to an inn hostess:] *So what’s wrong with the innkeeper [that makes her inferior to the priest girl]?*
- B. Said R. Kahana, “The incident took place with a gentile innkeeper, who was speaking in all innocence: ‘This is the staff, this is the bag, and this is the grave where I buried him.’”
- C. *So, too, did Abba b. R. Minyumi bar Hiyya repeat the Tannaite statement: “The incident took place with a gentile innkeeper, who was speaking in all innocence: ‘This is the staff, this is the bag, and this is the grave where I buried him.’”*

- D. But how could she be speaking in all innocence, when they asked him, **Where is our buddy?**
- E. *When she saw them, she began to cry, and when they asked her, "Where is our buddy?" she said to them, "He died, and I buried him."*

I.2

- A. *Our rabbis have taught on Tannaite authority:*
- B. There was a case of someone who came to give testimony in behalf of a woman before R. Tarfon. He said to him, "My son, how do you know testimony pertinent to this woman's situation?"
- C. He said, "He and I were walking along together, and a gang of thugs ran after us, so he took the branch of an olive, pulled it off, and with it forced the thugs back. I said to him, 'Lion, thanks!'"
- D. "'How did you know that my name is Lion? That's just what they call me in my home town: Yohanan b. R. Jonathan, lion of Kefar Shiyayya.'
- E. "After a while he got sick and died."
- F. On the strength of this testimony, R. Tarfon permitted the wife to remarry.

I.3

A. But doesn't R. Tarfon maintain that inquiry and examination in such cases are required? And has it not been taught on Tannaite authority:

B. There was a case of someone who came to give testimony in behalf of a woman before R. Tarfon. He said to him, "My son, how do you know testimony pertinent to this woman's situation?"

C. He said, "He and I were walking along together, and a gang of thugs ran after us, so he took the branch of a fig, pulled it off, and with it forced the thugs back. I said to him, 'Lion, thanks!'"

D. "'How did you know that my name is Lion? That's just what they call me in my home town: Yohanan b. Jonathan, lion of Kefar Shiyayya.'

E. "After a while he got sick and died."

F. He said to him, "Didn't you just tell me, 'Yohanan b. Jonathan of Kefar Shiyayya, the lion'?"

G. He said to him, "No, but this is what I said: 'Yohanan b. Jonathan, lion of Kefar Shiyayya.'"

H. So he examined him two or three times, and what the man said was consistent. Then, on the strength of this testimony, R. Tarfon permitted the wife to remarry [T. Yeb. 14:10C-O].

- I. *What we have is a conflict of Tannaite formulations, for it has been taught on Tannaite authority:*
- J. “They do not cross-examine witnesses to the status of women,” the words of R. Aqiba.
- K. R. Tarfon says, “They do do so.”
 - L. *And they differ as to that which R. Hanina said, for said R. Hanina, “By the law of the Torah, all the same are property cases and capital cases as to cross-examination, as it is said, ‘You will have one manner of law’ (Lev. 24:22). [Slotki: So just as capital cases must involve cross-examination of witnesses, so is the rule for the other, so far as the Torah is concerned.] So how come sages have said, ‘In capital cases it is not necessary to cross-examine the witnesses? So as not to lock the door in the face of people who need to borrow money.’” So what then is at issue? One authority takes the view that, since there is the matter of collecting the marriage contract, we regard cases of remarriage as equivalent to other property cases, and the other authority takes the view that, since in our action we thereby permit a married woman to marry a third party, such cases are equivalent in effect to capital cases.*

Concluding Homily

- I.4** A. Said R. Eleazar said R. Hanina, “Disciples of sages make peace abundant in the world, as it is said, ‘And all your children shall be taught by the Lord, and great will be the peace of your children.’
- B. “Do not read the letters that spell ‘your children’ as though that is their meaning, but rather, read them to say, ‘those who build you.’”