

V.

BAVLI BABA BATRA CHAPTER FIVE

FOLIOS 73A-91B

5:1A-D

- A. He who sells a ship has sold (1) the mast, (2) sail, and (3) anchor,
- B. and whatever steers it.
- C. But he has not sold (1) the slaves, (2) packing bags, or (3) lading.
- D. And if [the seller] had said to [the buyer] “It and everything which is in it,” lo, all of them are sold.

I.1 A. **The mast:** *this refers to the mast*, and so Scripture says, “They have taken cedars from Lebanon to make masts for you” (Eze. 27: 5).

II.1 A. **The sail** *bears that meaning in line with this verse*: “Of fine linen with richly woven work from Egypt was your sail, that it might to for you for an ensign” (Eze. 27: 7).

III.1 A. **The anchor:**

B. *Repeated R. Hiyya as a Tannaite statement*: “This refers to the anchors, in line with this verse: ‘Would you tarry for them until they were grown? Would you shut yourselves off for them and have no husbands’ (Rut. 1:13).”

IV.1 A. **and whatever steers it:**

B. *What is the source in Scripture for that statement?*

C. Said R. Abba, “This speaks of the oars: ‘Of the oaks of Bashan have they made your oars’ (Eze. 27: 6).

D. *“If you prefer, you may refer to the following verse: ‘and all that handle the oar shall come down from their ships’ (Eze. 27:29).”*

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

B. **He who sells a ship has sold the wooden implements and the water tank on it.**

C. **R. Nathan says, “He who sells a ship has sold its rowboat.”**

D. **Sumkhos says, “He who has sold a ship has sold its lighter” [T. B.B. 4:1A-C].**

IV.3 A. *Said Raba, “The rowboat and the lighter are pretty much the same thing. But R. Nathan, who was a Babylonian, uses the word familiar to him, as people use that word in Babylonia when referring to the rowboat that is used at the shallows, and Sumkhos, who was from the Land of Israel, used the word that is familiar to him, as people say in the verse, ‘And your residue shall be taken away in lighters’ (Amo. 4: 2).”*

Composite of Sea-Stories of Rabbah bar bar Hannah

IV.4 A. *Said Rabbah, “Sailors told me, ‘The wave that sinks a ship appears with a white froth of fire at the crest, and when stricken with clubs on which is incised, “I am that I am, Yah, the Lord of Hosts, Amen, Amen, Selah,” it will subside [and not sink the ship].’”*

IV.5 A. *Said Rabbah, “Sailors told me, ‘Between one wave and another there is a distance of three hundred parasangs, and the height of the wave is the same three hundred parasangs. Once, when we were on a voyage, a wave lifted us up so high that we could see the resting place of the smallest star, and there was a flash, as if one shot forty arrows of iron; and if it had lifted us up any higher, we would have been burned by the heat. And one wave called to the next, “Friend, have you left anything in the world that you did not wash away? I’ll go and wipe it out.” And the other said, “Go see the power of the master, by whose command I must not pass the sand of the shore by even so much as the breadth of a thread: ‘Fear you not me? says the Lord? Will you not tremble at my presence, who have placed the sand for the bound of the sea, an everlasting ordinance, which it cannot pass’ (Jer. 5:22).”’”*

IV.6 A. *Said Rabbah, “I personally saw Hormin, son of Lilith, running on the parapet of the wall of Mahoza, and a rider, galloping below on horseback, could not catch up with him. Once they put a saddle for him on two mules, which [73B] stood on two bridges of the Rognag, and he jumped from one to the other, backward and forward, holding two cups of wine in his hands, pouring from one*

to the other without spilling a drop on the ground. It was a stormy day: 'they that go down to the sea in ships mounted up to heaven, they went down to the deeps' (Psa. 107:27). Now when the state heard about this, they killed him."

IV.7 A. *Said Rabbah bar bar Hannah, "I personally saw a day-old antelope as big as Mount Tabor. How big is Mount Tabor? Four parasangs. Its neck was three parasangs long, and his head rested on a spot a parasang and a half. Its ball of shit blocked up the Jordan River."*

IV.8 A. *And said Rabbah bar bar Hannah, "I personally saw a frog as big as the Fort of Hagronia — how big is that? sixty houses! — and a snake came along and swallowed the frog; a raven came along and swallowed the snake; and perched on a tree. So you can just imagine how strong was the tree."*

B. *Said R. Pappa bar Samuel "If I weren't there on the spot, I would never have believed it!"*

IV.9 A. *And said Rabbah bar bar Hannah, "Once we were traveling on a ship, and we saw a fish [whale] in the nostrils of which a mud eater had entered. The water cast up the fish and threw it on the shore. Sixty towns were destroyed by it, sixty towns got their food from it, and sixty towns salted the remnants, and from one of its eyeballs three hundred kegs of oil were filled. Coming back twelve months later, we saw that they were cutting rafters from the skeleton and rebuilding the towns."*

IV.10 A. *And said Rabbah bar bar Hannah, "Once we were traveling on a ship, and we saw a fish the back of which was covered with sand out of which grass was growing. We thought it was dry land so we went up and baked and cooked on the back of the fish. When the back got hot, it rolled over, and if the ship hadn't been nearby, we would have drowned."*

IV.11 A. *And said Rabbah bar bar Hannah, "Once we were traveling on a ship, and the ship sailed between one fin of a fish and the other for three days and three nights; the fish was swimming upwards and we were floating downwards [with the wind]."*

B. *Now, should you suppose that the ship did not sail fast enough, when R. Dimi came, he said, "It covered sixty parasangs in the time that it takes to heat a kettle of water. And when a cavalryman shot an arrow, the ship outstripped the arrow."*

C. *R. Ashi said, "That was one of the small sea monsters, the ones that have only two fins."*

IV.12 A. *And said Rabbah bar bar Hannah, “Once we were traveling on a ship, and we saw a bird standing in the water only up to its ankles, with its head touching the sky. So we thought the water wasn’t very deep, and we thought of going down to cool ourselves, but an echo called out, ‘Don’t go down into the water here, for a carpenter’s axe dropped into this water seven years ago, and it hasn’t yet reached the bottom.’ And it was not only deep but also rapidly flowing.”*

B. *Said R. Ashi, “The bird was the wild cock, for it is written, ‘And the wild cock is with me [with God in heaven]’ (Psa. 50:11).”*

IV.13 A. *And said Rabbah bar bar Hannah, “Once we were traveling in the desert, and we saw geese whose feathers fell out because they were so fat, and streams of fat flowed under them. I said to them, ‘May we have a share of your meat in the world to come?’ One of them lifted a wing, the other a leg [showing me what my portion would be]. When I came before R. Eleazar, he said to me, ‘Israel will be called to account on account of these geese.’” [Slotki: The protracted suffering of the geese caused by their growing fatness is due to Israel’s sins, which delay the coming of the Messiah.]*

IV.14 A. *And said Rabbah bar bar Hannah, “Once we were traveling in the desert, and a Tai-Arab joined us, who could pick up sand and smell it and tell us which was the road to one place and which to another. We said to him, ‘How far are we from water?’ He said to us, ‘Give me sand.’ We gave him some, and he said to us, ‘Eight parasangs.’ When we gave him some sand later, he told us that we were three parasangs off. I had changed the sand, but I was not able to confuse him.*

B. *“He said to me, ‘Come on, and I’ll show you the dead of the wilderness (Num. 14:32ff). I went with him and saw them. They looked as though they were exhilarated. [74A] They slept on their backs and the knee of one of them was raised. The Arab merchant passed under the knee, riding on a camel with a spear on high and did not touch it. I cut off one corner of the purple-blue cloak of one of them, but we could not move away. He said to me, ‘If you’ve taken something from them, return it, for we have a tradition that if anybody takes something from them, he cannot move away.’ I went and returned it and then we could move away.*

C. *“When I came before rabbis, they said to me, ‘Every Abba is an ass, and every son of Bar Hana is an idiot. What did you do that for? Was it to find out whether the law accords with the House of Shammai or the House*

of Hillel? You could have counted the threads and the joints [to find out the answer to your question].’

- D. *“He said to me, ‘Come and I will show you Mount Sinai.’ I went and saw scorpions surrounding it, and they stood like white asses. I heard an echo saying, ‘Woe is me that I have taken an oath, and now that I have taken the oath, who will release me from it?’ When I came before rabbis, they said to me, ‘Every Abba is an ass, and every son of Bar Hana is an idiot.’ You should have said, ‘It is released for you.’ But I was thinking that perhaps it was an oath in connection with the flood [which favored humanity].”*
- E. *And rabbis?*
- F. *If so, what need is there for the language, “woe is me”?*
- G. *“He said to me, ‘Come and I will show you those who were associated with Korah who were swallowed up (Num. 16:32ff.). I saw two cracks that emitted smoke. I took a piece of clipped wool and soaked it in water, put it on the point of a spear, and pushed it in there. When I took it out, it was singed. He said to me, ‘Listen closely to what you will hear,’ and I heard them say, ‘Moses and his Torah are truth, and we are liars.’ He said to me, ‘Every thirty days Gehenna causes them to turn over as one rotates meat in a pot, and this is what they say: “Moses and his Torah are truth and we are liars.””*
- H. *“He said to me, ‘Come and I will show you where heaven and earth meet.’ I took my basket and put it in a window of heaven. When I finished saying my prayers, I looked for it but did not find it. I said to him, ‘Are there thieves here?’ He said to me, ‘It is the result of the wheel of heaven turning, wait here until tomorrow, and you will find it.’”*

Other Travellers’ Tales

- IV.15** A. R. Yohanan told this story: *“Once we were traveling along on a ship, and we saw a fish that raised its head from the sea. Its eyes were like two moons, and water streamed from its nostrils like the two rivers of Sura.”*
- IV.16** A. R. Saфра told this story: *“Once we were traveling along on a ship, and we saw a fish that raised its head from the sea. It had horns on which was engraved: ‘I am a lesser creature of the sea. I am three hundred parasangs long, and I am going into the mouth of Leviathan.’”*
- B. Said R. Ashi, *“That was a sea goat that searches for food, and has horns.”*

IV.17 A. R. Yohanan told this story: *“Once we were traveling along on a ship, and we saw a chest in which were set jewels and pearls, surrounded by a kind of fish called a Karisa-fish. A diver went down [74B] to bring up the chest, but the fish realized it and was about to wrench his thigh. He poured on it a bottle of vinegar, and it sank. An echo came forth, saying to us, ‘What in the world have you got to do with the chest of the wife of R. Hanina b. Dosa, who is going to store in it the purple-blue for the righteous in the world to come.’”*

IV.18 A. R. Judah the Hindu told this story: *“Once we were traveling along on a ship, and we saw a jewel with a snake wrapped around it. A diver went down to bring up the jewel. The snake drew near, to swallow the ship. A raven came and bit off its head. The waters turned to blood. Another snake and took the head of the snake and attached it to the body again, and it revived. The snake again came to swallow the ship. A bird again came and cut off its head. The diver seized the jewel and threw it into the ship. We had salted birds. We put the stone on them, and they took it up and flew away with it.”*

IV.19 A. Our rabbis have taught on Tannaite authority:

- B. There was the case involving R. Eliezer and R. Joshua, who were traveling on a ship. R. Eliezer was sleeping, and R. Joshua was awake. R. Joshua shuddered and R. Eliezer woke up. He said to him, “What’s wrong, Joshua? How come you trembled?”
- C. He said to him, “I saw a great light on the sea.”
- D. He said to him, “It might have been the eye of Leviathan that you saw, for it is written, ‘His eyes are like the eyelids of the morning’ (Isa. 27: 1).”

IV.20 A. Said R. Ashi, *“Said to me Huna bar Nathan, ‘Once we were traveling in the desert, and we had taken with us a leg of meat. We cut it open, picked out [what we are not allowed to eat] and put it on the grass. While we were going to get some wood, the leg returned to its original form, and we roasted it. When we came back after twelve months, we saw the coals still glowing. When I presented the matter to Amemar, he said to me, ‘The grass was an herb that can unite severed parts, and the coals were broom [which burns a long time inside, while the surface is extinguished].’”*

Leviathan

IV.21 A. “And God created the great sea monsters” (Gen. 1:21):

- B. Here this is interpreted, *“the sea gazelles.”*

- C. R. Yohanan said, “This refers to Leviathan [Slotki:] the slant serpent, and Leviathan the tortuous serpent: ‘In that day the Lord with his sore and great and strong sword will punish Leviathan the slant serpent and Leviathan the tortuous serpent’ (Isa. 27: 1).”

IV.22 A. Said R. Judah said Rab, “Whatever the Holy One, blessed be He, created in his world did he create male and female, and so, too, Leviathan the slant serpent and Leviathan the tortuous serpent he created male and female, and if they had mated with one another, they would have destroyed the whole world.

- B. “What did the Holy One, blessed be He, do? He castrated the male and killed the female and salted it for the righteous in the world to come: ‘And he will slay the dragon that is in the sea’ (Isa. 27: 1).

- C. “And also Behemoth on a thousand hills (Psa. 50:10) he created male and female, and if they had mated with one another, they would have destroyed the whole world.

- D. “What did the Holy One, blessed be He, do? He castrated the male and quick-froze the female and preserved her for the righteous in the world to come: ‘Lo, now his strength is in his loins’ (Job. 40:16) speaks of the male, ‘and his force is in the stays of his body’ (Job. 40:16) speaks of the female.”

- E. *In that other case, too, while castrating the male, why did he not simply quick-freeze the female [instead of killing it]?*

- F. *Fish is dissolute [and cooling would not have sufficed].*

- G. *Why not do it in reverse order?*

- H. *If you wish, I shall say that the female fish preserved in salt tastes better,*

- I. *and if you wish, I shall say, “Because it is written, ‘There is Leviathan whom you have formed to sport with’ (Psa. 104:26), and with the female that would not be seemly.”*

- J. Here, too, in the case of the Behemoth, why not preserve the female in salt?

- K. *Salted fish tastes good, salted meat doesn’t.*

Water: Character and Sources

IV.23 A. And said R. Judah said Rab, “When the Holy One, blessed be He, proposed to create the world, he said to the prince of the sea, ‘Open your mouth, and swallow all the water in the world.’

- B. “He said to him, ‘Lord of the world, it is enough that I stay in my own territory.’

- C. “So on the spot he hit him with his foot and killed him: ‘He stirs up the sea with his power and by his understanding he smites through Rahab’ (Job. 26:12).”
- D. *Said R. Isaac, “That bears the implication that the name of the prince of the sea is Rahab.”*
- E. [Rab continues,] “And had the waters not covered him over, no creature could stand because of his stench: ‘They shall not hurt nor destroy in all my holy mountain...as the waters cover the sea’ (Isa. 11: 9). Do not read ‘they cover the sea’ but ‘they cover the angel of the sea.’”

IV.24 A. And said R. Judah said Rab, “The Jordan issues from the cave of Paneas.”

- B. *So, too, it has been taught on Tannaite authority:*
- C. The Jordan issues from the cave of Paneas.
- D. And it goes through the Lake of Sibkay and the Lake of Tiberias and rolls down into the great sea, and from there it rolls onward until it rushes into the mouth of Leviathan: “He is confident because the Jordan rushes forth to his mouth” (Job. 40:23).
- E. *Objected Raba bar Ulla, “This verse speaks of Behemoth on a thousand hills.”*
- F. Rather, said Raba bar Ulla, “When is Behemoth on a thousand years confident? When the Jordan rushes into the mouth of Leviathan.” [Slotki: So long as Leviathan is alive, Behemoth also is safe.]

IV.25 A. *When R. Dimi came, he said R. Yohanan said, “What is the meaning of the verse, ‘For he has founded it upon the seas and established it upon the floods’ (Psa. 24: 2)? This refers to the seven seas and four rivers that surround the land of Israel. And what are the seven seas? The sea of Tiberias, the sea of Sodom, the sea of Helath, the sea of Hiltha, the sea of Sibkay, the sea of Aspamia, and the Great sea. And what are the four rivers? The Jordan, the Yarmuk, the Keramyhon, and the Pigah.”*

Leviathan Again

IV.26 A. *When R. Dimi came, he said R. Yohanan said, “Gabriel is destined to organize a hunt [75A] for Leviathan: ‘Can you draw out Leviathan with a fish hook, or press down his tongue with a cord’ (Job. 40:25). And if the Holy One, blessed be He, does not help him, he will never be able to prevail over him: ‘He only that made him can make his sword approach him’ (Job. 40:19).”*

IV.27 A. *When R. Dimi came, he said R. Yohanan said, “When Leviathan is hungry, he sends out fiery breath from his mouth and boils all the waters of the deep: ‘He*

makes the deep to boil like a pot' (Job. 41:23). And if he did not put his head into the Garden of Eden, no creature could endure his stench: 'He makes the sea like a spiced broth' (Job. 41:23). And when he is thirsty, he makes the sea into furrows: 'He makes a path to shine after him' (Job. 41:24)."

- B. Said R. Aha bar Jacob, "The great deep does not recover its strength for seventy years: 'One thinks the deep to be hoary' (Job. 41:24), and hoary old age takes seventy years."

IV.28 A. Rabbah said R. Yohanan said, "The Holy One, blessed be He, is destined to make a banquet for the righteous out of the meat of Leviathan: 'Companions will make a banquet of it' (Job. 40:30). The meaning of 'banquet' derives from the usage of the same word in the verse, 'And he prepared for them a great banquet and they ate and drank' (2Ki. 6:23)."

- B. "'Companions' can refer only to disciples of sages, in line with this usage: 'You that dwells in the gardens, the companions hearken for your voice, cause me to hear it' (Song 8:13). The rest of the creature will be cut up and sold in the markets of Jerusalem: 'They will part him among the Canaanites' (Job. 40:30), and 'Canaanites' must be merchants, in line with this usage: 'As for the Canaanite, the balances of deceit are in his hand, he loves to oppress' (Hos. 12: 8). If you prefer: 'Whose merchants are princes, whose traffickers are the honorable of the earth' (Isa. 23: 8)."

IV.29 A. Rabbah said R. Yohanan said, "The Holy One, blessed be He, is destined to make a tabernacle for the righteous out of the hide of Leviathan: 'Can you fill tabernacles with his skin' (Job. 40:31). If someone has sufficient merit, a tabernacle is made for him; if he does not have sufficient merit, a mere shade is made for him: 'And his head with a fish covering' (Job. 40:31). If someone has sufficient merit, a shade is made for him, if not, then a mere necklace is made for him: 'And necklaces about your neck' (Pro. 1: 9). If someone has sufficient merit, a necklace is made for him; if not, then an amulet: 'And you will bind him for your maidens' (Job. 40:29).

- B. "And the rest of the beast will the Holy One, blessed be He, spread over the walls of Jerusalem, and the glow will illuminate the world from one end to the other: 'And nations shall walk at your light, and kings at the brightness of your rising' (Isa. 60: 3)."

Other Statements concerning the Time of the Messiah

IV.30 A. "And I will make your pinnacles of rubies" (Isa. 54:12):

- B. *Said R. Samuel bar Nahmani, "There is a dispute between two angels in the firmament, Gabriel and Michael, and some say, two Amoraim in the West, and who might they be? Judah and Hezekiah, sons of R. Hiyya.*
- C. *"One said, 'The word translated rubies means onyx.'*
- D. *"The other said, 'It means jasper.'*
- E. *"Said to them the Holy One, blessed be He, 'Let it be in accord with both this opinion and that opinion.'"*

IV.31 A. "And your gates of carbuncles" (Isa. 60: 3):

- B. *That is in line with what what said when R. Yohanan went into session and expounded as follows: "The Holy One, blessed be He, is destined to bring jewels and pearls that are thirty cubits by thirty and will cut out openings from them ten cubits by twenty, setting them up at the gates of Jerusalem."*
- C. *A certain disciple ridiculed him, "Well, jewels even the size of the egg of a dove are not available, so will jewels of such dimensions be found?"*
- D. *After a while his ship went out to sea. He saw ministering angels engaged in cutting up jewels and pearls thirty cubits by thirty, on which were engravings ten by twenty. He said to him, "For whom are these?"*
- E. *They said to him, "The Holy One, blessed be He, is destined to set them up at the gates of Jerusalem."*
- F. *The man came before R. Yohanan. He said to him, "Give your exposition, my lord. It is truly fitting for you to give an exposition. For just as you said, so I myself have seen."*
- G. *He said to him, "Empty-headed idiot! If you had not seen, you would not have believed! So you ridicule the teachings of sages." He set his eye on him and the student turned into a heap of bones.*

IV.32 A. *An objection was raised:*

- B. *"And I will lead you upright" (Lev. 26:13) —*
- C. *[Since the word for "upright" can be read to mean, at twice the normal height], R. Meir says, "That means, two hundred cubits, twice the height of the First Man."*
- D. *R. Judah says, "A hundred cubits, the height of the temple and its walls: 'We whose sons are as plants grown up in their youth, whose daughters are as corner pillars carved after the fashion of the temple' (Psa. 144:12)." [Slotki: How then in view of their increase to a hundred cubits in height, requiring correspondingly high gates, can Yohanan say that the gates were only twenty cubits in height?]*

E. *When R. Yohanan made that statement, it was with reference only to [Slotki:] ventilation windows.*

IV.33 A. And said Rabbah said R. Yohanan, “The Holy One, blessed be He, is destined to make seven canopies for every righteous person: ‘And the Lord will create over the whole habitation of Mount Zion and over her assemblies a cloud of smoke by day and the shining of a flaming fire by night, for over all the glory shall be a canopy’ (Isa. 4: 5). This teaches that for every one will the Holy One create a canopy in accord with the honor that is due him.”

B. Why is smoke needed for the canopy?

C. Said R. Hanina, “It is because everyone who treats disciples of sages in a niggardly way in this world will have his eyes filled with smoke in the world to come.”

D. Why is fire needed in a canopy?

E. Said R. Hanina, “This teaches that each one will be burned by [envy for] the canopy of the other. Woe for the shame, woe for the reproach!”

IV.34 A. Along these same lines you may say: “And you shall put some of your honor upon him” (Num. 27:20) — but not of your honor.

B. The elders of that generation said, “The face of Moses glows like the face of the sun, the face of Joshua like the face of the moon.

C. “Woe for the shame, woe for the reproach!”

IV.35 A. Said R. Hama bar Hanina, “Ten canopies did the Holy One, blessed be He, make for the First Man in the garden of Eden: ‘You were in Eden, the garden of God; every precious stone was your covering, the cornelian, the topaz, the emerald, the beryl, the onyx, the jasper, the sapphire, the carbuncle, and the emerald and gold’ (Eze. 28:13).”

B. Mar Zutra said, “Eleven: ‘every precious stone.’”

C. Said R. Yohanan, “The least of them all was gold, *since it was mentioned last.*”

IV.36 A. *What is the meaning of* “by the work of your timbrels and holes” (Eze. 28:13)?

B. Said R. Judah said Rab, “Said the Holy One, blessed be He, to Hiram, king of Tyre, ‘I looked at you [for your arrogance] when I created the excretory holes of human beings.’”

C. *And some say that this is what he said to him,* “I looked at you **[75B]** when I decreed the death penalty against the first Man.”

IV.37 A. *What is the meaning of* “and over her assemblies” (Isa. 4: 5)?

B. Said Rabbah said R. Yohanan, "Jerusalem in the age to come will not be like Jerusalem in this age. To Jerusalem in this age anyone who wants to go up may go up. But to Jerusalem in the age to come only those who are designated as worthy of coming will go up."

IV.38 A. And said Rabbah said R. Yohanan, "The righteous are destined to be called by the name of the Holy One, blessed be He: 'Every one that is called by my name, and whom I have created for my glory, I have formed him, yes, I have made him' (Isa. 43: 7)."

IV.39 A. Said R. Samuel bar Nahmani said R. Yohanan, "There are three who are called by the name of the Holy One, blessed be He, and these are they: the righteous, the Messiah, and Jerusalem."

B. "The righteous, as we have just said."

C. "The Messiah: 'And this is the name whereby he shall be called, the Lord is our righteousness' (Jer. 23: 6)."

D. "Jerusalem: 'It shall be eighteen thousand reeds round about, and the name of the city from that day shall be, "the Lord is there"' (Eze. 48:35). Do not read 'there' but 'its name.'"

IV.40 A. Said R. Eleazar, "The time will come when 'holy' will be said before the name of the righteous as it is said before the name of the Holy One, blessed be He: 'And it shall come to pass that he that is left in Zion and he that remains in Jerusalem shall be called holy' (Isa. 4: 3)."

IV.41 A. And said Rabbah said R. Yohanan, "The Holy One, blessed be He, is destined to lift up Jerusalem to a height of three parasangs: 'And she shall be lifted up and be settled in her place' (Isa. 4: 3). '...In her place' means 'like her place' [Slotki: Jerusalem will be lifted up to a height equal to the extent of the space it occupies]."

IV.42 A. *So how do we know that the place that Jerusalem occupied was three parasangs?*

B. Said Rabbah, "Said to me a certain elder, 'I myself saw the original Jerusalem, and it filled up three parasangs.'"

IV.43 A. And lest you suppose that there will be pain in the ascension, Scripture states, "Who are these that fly as a cloud and as the doves to their cotes" (Isa. 60: 8).

B. *Said R. Pappa, "You may derive from that statement the fact that a cloud rises to a height of three parasangs."*

- IV.44** A. Said R. Hanina bar Pappa, “The Holy One, blessed be He, wanted to give Jerusalem a fixed size: ‘Then said I, Whither do you go? And he said to me, To measure Jerusalem, to see what is its breadth and what is its length’ (Zec. 2: 6).
- B. “Said the ministering angels before the Holy One, blessed be He, ‘Lord of the world, you have created in your world any number of cities for the nations of the earth, and you did not fix the measurements of their length or breadth. So are you going to fix measurements for Jerusalem, in the midst of which are your name, sanctuary, and the righteous?’”
- C. “Then: ‘An angel said to him, Run, speak to this young man, saying, Jerusalem shall be inhabited without walls, for the multitude of men and cattle therein’ (Zec. 2: 8).”
- IV.45** A. Said R. Simeon b. Laqish, “The Holy One, blessed be He, is destined to add to Jerusalem [Slotki:] a thousand gardens, a thousand towers, a thousand palaces, a thousand mansions. And each one of these will be as vast as Sepphoris in its hour of prosperity.”
- IV.46** A. *It has been taught on Tannaite authority:*
- B. Said R. Yosé, “I saw Sepphoris in its hour of prosperity, and in it were one hundred and eighty thousand markets for those who sold pudding [alone].”
- IV.47** A. “And the side chambers were one over another, three and thirty times” (Eze. 41: 6):
- B. *What is the meaning of three and thirty times?*
- C. Said R. Pappi in the name of R. Joshua of Sikni, “If there will be three Jerusalems, each building will contain thirty dwellings piled up on top of one another; if there will be thirty Jerusalems, then each building will contain three apartments on top of one another.”

Purchase of a Ship: Transfer of title

- IV.48** A. *It has been stated:*
- B. As to [the transfer of title to] a ship —
- C. Rab said, “Once the purchaser has dragged it any distance at all, he has acquired title of possession to the ship.”
- D. And Samuel said, “He has acquired title only when he will have pulled the entire length of the ship.” [Slotki: The entire ship must be moved from its position, by the buyer, until its farther end touches the spot on which the nearer end had rested.]
- E. *May we say that at issue is the same principle as in the following Tannaite dispute:*

- F. How is an animal acquired through the mode of handing over [delivery] [Slotki: harnessing, like drawing, is one of the modes of acquiring right of ownership; the buyer takes possession of the animal by performing some act that resembles harnessing, or, in the case of other objects, obtaining full delivery]? If the buyer takes hold of the hoof, hair, saddle, saddle bag that is upon it, bit in the mouth, or bell on the neck, he has acquired title. How is it done through drawing the object? If he calls the beast and it comes, or if he strikes it with a stick and it runs before him, he acquires title as soon as it has moved a foreleg and a hind leg.
- G. R. Ahi, and some say, R. Aha, says, "That takes place only if it has moved the full length of its body." [Slotki: The four legs must be moved from their original position.]
- H. *May we now say that Rab accords with the initial Tannaite authority and Samuel with R. Aha?*
- I. *Rab may say to you, "Well, as a matter of fact, I concur with R. Aha, for R. Aha has made his statement only with reference to animate creatures, for even though it has lifted up a foreleg or a hind leg, it is still standing in place, but in the case of a ship, once it has moved in any part, the whole of it moves."*
- J. *And Samuel may say to you, "Well, I may concur even with the initial authority. For the initial authority takes the position that he does with special reference to animate beings, for, since one foreleg and one hind leg have moved, the other legs are ready to be moved; but in the case of a ship, if he pulls the whole of it, he acquires title, and otherwise he does not."*
- K. *May we say that at issue between Rab and Samuel are the principles subject to dispute in the following conflict of Tannaite opinion, for it has been taught on Tannaite authority:*
- L. Title to a ship passes the moment it has been drawn.
- M. R. Nathan says, "Title to a ship and to letters [documents, bonds, notes] passes at the moment of drawing [Slotki: the buyer of the bond acquires legal right to the debt recorded thereon by drawing the bond], [76A] or by a bill of sale." [Slotki: Mere delivery of the bond does not confer upon the buyer any right to the debt, but only to the scrap of paper.]
- N. *Letters? Who in the world mentioned letters?*
- O. *The formulation clearly is flawed, and this is how it should read:*
- P. Title to a ship passes the moment it has been drawn, and letters by being delivered [Slotki: because drawing the object is effective only in the case of an object of

intrinsic value; the intrinsic value of the bond is only that of the paper that is acquired by drawing; the right of the debt is acquired only by delivery].

- Q. R. Nathan says, "A ship and letters are acquired by drawing and by a bill of sale."
- R. Well, why in the world would a bill of sale be required in the case of the ship?! *It is in the classification of movables [for which drawing suffices]!*
- S. *Rather, this is how the passage should be formulated:*
- T. Title to a ship is transferred through the act of drawing, and title to letters is transferred through delivery.
- U. R. Nathan says, "Title to a ship is transferred through the act of drawing, and title to letters through a bill of sale."
- V. "Title to a ship is transferred through the act of drawing"? *That is precisely what the initial Tannaite authority has said! So may we not say that at issue between them are the principles on which Rab and Samuel dispute?* [Slotki: The first Tannaite authority, like Samuel, requires a full act of drawing, pulling the entire ship into a new position, and Nathan disputes this and maintains like Rab that a slight pull suffices.]
- W. *Not at all. All parties concur [with either Rab's or Samuel's position], and as regards a ship there is no dispute at all. What is at issue is only the matter of letters. And this is the sense of what R. Nathan said to the initial Tannaite authority: "As regards the ship, I of course agree with you, but in respect to words, if there is a bill of sale, he acquires title to the debt, otherwise not."*
- X. *And at issue is the same principle that is at stake in the following dispute among Tannaite authorities, as has been taught on Tannaite authority:*
- Y. "Letters are acquired through delivery [of the document]," the words of Rabbi [= sages vis-à-vis Nathan].
- Z. 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" [= Nathan].
- AA. *How then has the matter been established? That the first Tannaite authority accords with Rabbi? Then should not a ship be acquired also through mere delivery, and why does the initial Tannaite authority also require an act of drawing? For it has been taught on Tannaite authority:*
- BB. "A ship is acquired through delivery," the words of Rabbi.

- CC. And sages say, "Title is transferred only [76B] once the buyer has drawn the object or has rented the place in which it is located."
- DD. *Well, that poses no problem. Rabbi regards delivery as sufficient when the ship is in public domain* [in public domain it is impossible to perform an act of drawing, which is effective only when the object is drawn into the buyers own domain, so possession is acquired through delivery (Slotki)], *and the Tannaite authority who requires an act of drawing deals with a case in which the ship is in an alley* [adjoining public domain] [Slotki: since the alley is used by the public only occasionally and is not public domain, it may be regarded as private domain of anyone who happens to be there, and therefore only an act of drawing suffices].
- EE. *So you have now explained the cited passage? It speaks of a ship in public domain. Then note what follows:* And sages say, "Title is transferred only once the buyer has drawn the object or has rented the place in which it is located." *But if the ship is in public domain, then from whom is the purchaser going to rent the spot? And, furthermore, will an act of drawing that is performed in public domain serve to transfer ownership? Surely both Abbaye and Raba have said, "An act of delivery confers title in public domain or in a courtyard that belongs to neither buyer nor seller; an act of drawing confers ownership in an alley or in a courtyard owned by both of them; and lifting the object confers ownership everywhere."* [Slotki: How then can the passage speak of public domain and provide for acquisition by drawing?]
- FF. *What do the expressions, "...until he has drawn it..." or, "until he has rented the place at which it stands..." mean? What they mean is, "...until he will draw it from public domain into an alleyway,"* and, if it is the property of the owner of the boat, he acquires ownership only "when he has rented out the place where it is located."
- GG. *May we then say that Abbaye and Raba make their statement in accord with the position of Rabbi* [and not the anonymous majority, who hold that delivery is not effective in public domain, since they require the boat be pulled from public domain into an alley (Slotki)]?
- HH. *Said R. Ashi, "If the seller said to the buyer, 'Go, effect acquisition of the object and acquire title,' then even the rabbis would agree*

[that possession is effected in public domain by an act of delivery]. But here with what case do we deal? It is one in which he said to him, 'Go, draw the object, and acquire title.' One authority maintains that the expression was meant to show that he chose his words carefully [and specified the mode of acquisition], and the other authority takes the view that the language he used was meant merely to indicate a suitable place in which to complete the transaction."

IV.49 A. 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.'"

B. Said R. Ashi, "I reported this before R. Kahana, saying to him, 'The operative consideration is that such a statement is presented in a written deed. Lo, if it were not presented in writing, the other would not have acquired title to the debt covered by the commercial paper. So does someone buy a bond just to use it as a stopper for his bottle? [Obviously not! He has bought the bond to collect what is owing on it, not as a mere scrap of paper.]'"

C. He said to me, "Yup! It's no more than a bottle stopper."

IV.50 A. [77A] Said Amemar, "The decided law is that letters are acquired by an act of delivery [and there is no need to write a bill of sale as well (Slotki)], in accord therefore with the position of Rabbi."

B. Said R. Ashi to Amemar, "Is this a received tradition, or is this based on your own reasoning?"

C. He said to him, It is a received tradition."

D. Said R. Ashi, "Well, as a matter of fact, it also is based on reasoning, since letters are words, and words are not to be acquired by other words" [so a bond cannot be acquired by a bill of sale but only by an act of delivery (Slotki)].

E. So they won't, won't they! And has not Rabbah bar Isaac said Rab said, "There are two classifications of deeds. If someone says, 'Take possession of the field in behalf of Mr. So-and-so [as my gift to him],

and also write a deed for him,' he may retract on the deed [Slotki: if the donor, having given instructions to the witnesses, desires to have no written confirmation of the gift, he may recall the deed at any time before it reaches the donee], but he may not retract on the gift of the land. If he says, 'Take possession of the field on condition that you write a deed for him,' he may retract both the deed and the field."

- F. Said R. Hiyya bar Abin said R. Huna, "There are three classifications of deeds, *the two that we have said just now, and the following*: if the seller prior to the sale went ahead and wrote a deed, [Slotki: being anxious to sell, and in order to expedite the transaction on obtaining the consent of the buyer, he requests a scribe to prepare the deed before he knows whether the person to whom he wishes to sell would consent to buy], [77B] in line with that which we have learned in the Mishnah: **They write a writ of sale to the seller, even though the buyer is not with him. [But they do not write a writ of sale for the purchaser, unless the seller is with him [M. B.B. 10:3H-I].** Then, once the buyer has taken possession of the land, he acquires the deed as well, without regard to the location of the deed. And that is in line with what we have learned: movable property may be acquired along with landed property through transfer of money, deed, and exercising a right of possession." [Slotki: In view of the statement that the deed is acquired without regard to its location, how could Amemar and Ashi say that a deed can be acquired only by means of actual delivery?]
- G. *Acquiring a deed along with land is different from acquiring it on its own, for a coin cannot be acquired by a symbolic act of substitution* [Slotki: handing to the purchaser any object in substitution

of the actual thing sold], *but a coin may be acquired along with land [purchased along with it].*

H. *That is in line with what R. Pappa did. He had a claim of money for 12,000 zuz in Khuzistan. He transferred title to the claim to R. Samuel bar Aha along with ownership of his threshold. [Slotki: In this way the threshold and the debt were acquired by Samuel, empowering him to collect the debt as legal owner, freeing the debtors of all further responsibility from the moment they paid him the money.] When the latter came back, he went out to meet him as far as Tavvekh.*

V.1. A. But he has not sold the slaves, packing bags, or lading:

B. *What is the meaning of lading?*

C. *Said R. Pappa, "The merchandise that the ship holds."*

I.1, II.1, III.1, IV.1 provide philological data out of Scripture. IV.2 provides a valuable Tannaite complement to the Mishnah's rules, bearing its own talmud at No. 3. A considerable composite, made up of a variety of distinct compositions, follows, all on the rather flimsy premise that once we are talking about parts of ships, we insert a major construction pertaining, in one way or another, to ships, the sea, seafarers, and the like. The Rabbah part of this composite runs on from No. 4 through No. 6. Then commences a set built around the name of Rabbah bar Hanna, Nos. 7-14. Another set of miscellaneous travel stories is then tacked on, Nos. 15-20. This leads into the subject of sea monsters, No. 21, and there follows a sea monster set, No. 21. The attributive, "said R. Judah said Rab," stands behind the composite that follows in the wake of No. 21 and Nos. 22-24. No. 25 carries forward the established theme, and its attributive accounts for what follows at Nos. 26-27. Then we have another, and connected, attributive composite, Nos. 28-29. Nos. 30-31+32, 33+34 are tacked on to No. 29 because of the reference to the glories of Jerusalem. The subject-matter shades over, in part because not only the topic but also the attributive guides the compositor, into discussion of the age to come, and then one topic slides over into another, for example, from Nos. 32-33+34 to Nos. 35-37, 38 in the agglutinative process of composite making. As we see, a variety of connections, some a shared verse, some a shared attribution, serves to tell a compositor to join one composition to another. Once, in its sequence, No. 38 tells us about being called by the name of the Holy One, No. 39 takes off in that direction, carrying in its wake No. 40. Then Nos. 41+42, 43 bring us back to the attributive line. Nos. 44-45+46, 47 then continue the topic of Jerusalem. That ends this enormous composite. No. 48

reverts to the exposition of the Mishnah's theme, but not its rule. We now deal with the mode of effecting acquisition of an object, that is, the moment at which title passes from seller to buyer. This exercise intersects with, but has nothing to do with the issue addressed by, our Mishnah. No. 49 continues the interest of the foregoing. No. 50 then completes the matter. V.1 gives the Mishnah a minor philological gloss.

5:1E-N

- E. (1) [If] he sold the wagon, he has not sold the mules.
- F. (2) [If] he sold the mules, he has not sold the wagon.
- G. (3) [If] he sold the yoke, he has not sold the oxen.
- H. (4) [If] he sold the oxen, he has not sold the yoke.
- I. R. Judah says, "The price tells all."
- J. How so?
- K. [If] he said to him, "Sell me your yoke for two hundred zuz,"
- L. the facts are perfectly clear,
- M. for there is no yoke worth two hundred zuz.
- N. And sages say, "The price proves nothing."

- I.1 A. R. Tahalipa the Westerner repeated before R. Abbahu the following Tannaite formulation: "If one has sold the wagon, he has sold the mules."
- B. [Abbahu said to him,] "Lo, we have learned in the Mishnah: [If] he sold the wagon, he has not sold the mules."
- C. He said to him, "Shall I suppress this version?"
- D. He said to him, "No, explain your version to speak of a case in which the mules were harnessed to the wagon" [and our Mishnah deals with one in which they were not (Slotki)].

II.1 A. [If] he sold the yoke, he has not sold the oxen:

- B. What sort of case can be contemplated here? If it is a situation in which the yoke is called a yoke and oxen, oxen, then obviously he sold the yoke but not the oxen [so why would the matter depend, for instance, on the price that is paid (Slotki)]? And if the oxen are called a yoke as well, then obviously everything is sold.
- C. No, it was necessary to cover the case of a place in which they call a yoke a yoke, and oxen, oxen, but there are those around who happen to refer to oxen as a yoke. Then R. Judah takes the position that the price tells all, and rabbis maintain that the price does not tell all.

- D. *Well, if the price that is paid is no proof [that the oxen were included in the sale], then let the transaction be cancelled! [78A] And should you say, rabbis do not concur that the transaction is to be cancelled, have we not learned in the Mishnah: R. Judah says, “Also: He who sells a scroll of the Torah, a beast, or a pearl — they are not subject to a claim of fraud by reason of overcharge.” They said to him, “They have specified only these” [M. B.M. 4:9I-K]. [So from rabbis’ viewpoint, in general if there has been an error in the transaction, the overcharge must be returned or the transaction cancelled. So why do they say price is no proof? (Slotki).]*
- E. *What is the meaning of the statement, “Price is no proof”? It is that the sale must be cancelled [and we do not merely require return of the overcharge]. If you prefer, I shall say, when rabbis apply the laws of overcharge and nullification of the sale, it is only in a case in which one is likely to be deceived, but if it is a case in which one is not likely to be deceived, then we assume that the difference was given as a gift.*

I.1 works on the text criticism of the Mishnah. II.1 then explains what is at issue in the Mishnah’s dispute.

5:2

- A. **He who sells an ass has not sold its trappings.**
- B. **Nahum the Mede says, “He has sold its trappings.”**
- C. **R. Judah says, “Sometimes they are sold, and sometimes they are not sold.”**
- D. **“How so?”**
- E. **“[If] there was an ass before him, with its trappings on it, and he said to him, ‘Sell me this ass of yours,’**
- F. **“lo, its trappings are sold.**
- G. **“[If he had said, ‘Sell me] that ass of your’ its trappings are not sold.”**
- I.1** A. Said Ulla, “The dispute concerns the sack, saddle bag, and pallet. *The initial Tannaite authority takes the view that an ass the use of which is otherwise not specified is meant for riding. And Nahum the Mede maintains that an ass the purpose of which is not otherwise specified is meant for carrying a burden.*
- B. “But as to the saddle, pack saddle, cover, saddle belt, all parties concur that these are included in the sale.”
- C. *An objection was raised: “An ass and its trappings I am selling to you” — he has sold the saddle, pack saddle, cover, and saddle belt, but he has not sold*

the bell, halter, saddle bag, pallet, or sack.” But if he said to him, “An ass and everything that is on it I am selling to you,” lo, all of them are sold [T. B.B. 4:2A-C]. So it follows that the operative consideration is that he has said to him, “An ass and everything that is on it I am selling to you,” but if he did not say that to him, the buyer would not have effected acquisition of those things.

- D. No, the law that the saddle and pack saddle are included in the sale pertains even though the seller did not say to him, **An ass and everything that is on it I am selling to you**, but by using that language, the framer of the passage indicates that, even though the seller said to him, **An ass and everything that is on it I am selling to you**, the buyer does not acquire the sack, saddle bag, or pallet.

I.2 A. What is the pallet?

B. Said R. Pappa bar Samuel, “It is a seat for women to ride.”

- I.3** A. The question was raised: “Does the dispute pertain only to a case in which these appurtenances are still on the animal, but when they are not on the beast, Nahum the Mede concurs with rabbis, or perhaps the dispute pertains to a case in which the appurtenances are not on the beast, but if they are yet on the beast, rabbis concur with Nahum?”
- B. Come and take note: **But if he said to him, “An ass and everything that is on it I am selling to you,” lo, all of them are sold.** Now if you maintain that the dispute pertains to the case in which the appurtenances are on the beast, for which authority would then be represented here? It would obviously be rabbis. But if you maintain that the dispute pertains to a case in which the appurtenances are not on the beast, but when they are on the beast, all parties concur that they are sold along with the beast, then in accord with whom would the afore-cited passage concur?
- C. In point of fact, the dispute pertains to a case in which the appurtenances are not on the beast, and the rabbis are the authority behind the passage, but read it in this language: **But if he said to him, “An ass and everything that is supposed to be on it I am selling to you,” lo, all of them are sold.**
- D. Come and take note: **R. Judah says, “Sometimes they are sold, and sometimes they are not sold.”** Does this not pertain to what the initial authority has stated? And since R. Judah addresses a case in which the equipment is presently on the ass, so the first Tannaite authority also must be speaking of a case in which the appurtenances are on the ass!
- E. Not at all. R. Judah’s statement [78B] is free-standing.

- F. *Said Rabina to R. Ashi, "Come and take note: [If] he sold the wagon, he has not sold the mules. R. Tahalipa the Westerner repeated before R. Abbahu the following Tannaite formulation: 'If one has sold the wagon, he has sold the mules.' [Abbahu said to him,] 'Lo, we have learned in the Mishnah: [If] he sold the wagon, he has not sold the mules.' He said to him, 'Shall I suppress this version?' He said to him, 'No, explain your version to speak of a case in which the mules were harnessed to the wagon' [and our Mishnah deals with one in which they were not (Slotki)]. It must then follow that the Mishnah refers to a case in which they are not harnessed, and since the earlier clause speaks of a case in which the appurtenances are no longer on the beasts, the concluding part likewise must speak of a case in which the appurtenances are not on the beast."*
- G. *To the contrary, I may say that the first clause, which says, **But he has not sold the slaves, packing bags, or lading**, in which connection it has been stated, *What is the meaning of lading?* Said R. Pappa, "The merchandise that the ship holds," indicates that the merchandise is in the ship, so the latter case, along these same lines, should speak of a case when the appurtenances are upon the beast. So the Tannaite framer of the passage has dealt with diverse situations in diverse parts of the Mishnah paragraphs before us.*
- I.4** A. *Said Abbaye, "R. Eliezer, Rabban Simeon b. Gamaliel, R. Meir, R. Nathan, Sumkhos, and Nahum the Mede all take the position that when someone sells something, he sells it and all of the appurtenances that pertain to it.*
- B. *"As to R. Eliezer, we have learned in the Mishnah: **R. Eliezer says, 'He who sells an olive press has sold the beam.'**"*
- C. *"As to Rabban Simeon b. Gamaliel, we have learned in the Mishnah: **Rabban Simeon b. Gamaliel says, 'He who sells a town has sold the town guard.'**"*
- D. *"As to R. Meir, it has been taught on Tannaite authority: R. Meir says, 'He who has sold the vineyard also has sold the appurtenances of the vineyard.'*
- E. *"R. Nathan and Sumkhos are covered by the case of the small boat and the fishing boat: **He who sells a ship has sold the wooden implements and the water tank on it. R. Nathan says, "He who sells a ship has sold its rowboat." Sumkhos says, "He who has sold a ship has sold its lighter"** [T. **B.B. 4:1A-C**].*
- F. *"Nahum the Mede: as we have just said."*
- II.1** A. *R. Judah says, "Sometimes they are sold, and sometimes they are not sold":*
- B. *What differentiates the usage **this ass of yours** and **that ass of yours**?*

- C. Said Raba, “*The usage, **This ass of yours** indicates that he knows that the ass was his, and the reason he said, **this**, is on account of the appurtenances that it is bearing. But when he referred to, **that ass of yours**, he was not aware that the ass belonged to him, and that is why he asked, ‘Is that ass yours? Sell it to me.’*”

I.1 clarifies what is subject to the dispute recorded in the Mishnah. No. 2 provides a minor gloss. No. 3 then reverts to the exposition of the Mishnah’s rule. No. 4 goes over the same matter as No. 3. II.1 explains what is at issue in the case that is set forth by the Mishnah.

5:3A-F

- A. (1) He who sells an ass has sold the foal.
- B. (2) [If] he sold the cow, he has not sold its offspring.
- C. (3) [If] he sold a dung heap, he has sold the dung on it.
- D. (4) [If] he sold a cistern, he has sold its water.
- E. (5) [If] he sold a beehive, he has sold the bees.
- F. (6) [If] he has sold the dovecote, he has sold the pigeons.

I.1 A. [He who sells an ass has sold the foal. [If] he sold the cow, he has not sold its offspring:] *How may we imagine the case to which the opening clause refers? If he said to him, “...and its offspring,” then even in the case of the cow and the offspring, the same law should pertain [and the calf goes with the cow]. And if he did not say to him, “...it and its offspring,” then even in the case of the ass, the foal should not be part of the transaction!*

- B. *Said R. Pappa, “We deal with a case in which he said to him, ‘I am willing you a milch ass or a milch cow.’ In the case of the cow, then, it may be taken for granted that the seller assumed the buyer needed the cow for the milk, but in the case of the ass, what could anyone expect when we speak of milch? So he must have meant to say, ‘I am selling you the ass and its foal.’”*

I.2 A. Why is the offspring of the ass called a foal?

- B. Because the Hebrew letters in the word for foal yield the word for “gentle talk,” and a foal will obey mere words, [while the adult ass must be driven by force].

I.3 A. *Said R. Samuel bar Nahman said R. Yohanan, “What is the meaning of the verse, ‘Wherefore those that speak in parables say’ (Num. 21:27)? Those that speak in parables are those who govern their inclination to do evil [the words for parables and govern using the same Hebrew letters].*

- B. “‘Come, Heshbon’ (Num. 21:27): ‘come and let us make a reckoning of the world, the loss incurred by doing a religious duty as against the reward for it, the reward for doing a sin as against the loss caused by it.’
- C. “‘You shall be built and you shall be established’ (Num. 21:27): ‘if you do this, you will be built in this world and you will be established in the world to come.’
- D. “‘Ayyar Sihon’ [using the letters that yield ‘a young ass’] (Num. 21:27): if someone makes himself like a foal that is persuaded by gentle talk [about sin], what follows in Scripture? ‘For a fire goes out of Meheshbon’ (Num. 21:28): a fire will go forth from those who make such a calculation and consume those who do not make such a calculation.
- E. “‘And a flame from the city of Sihon’ (Num. 21:28): from the city of the righteous, who are called trees.
- F. “‘It has devoured Ar Moab’ (Num. 21:28): this is one who follows the inclination to do evil, like a young ass, who follows after gentle talk.
- G. “‘The high places of Arnon’ (Num. 21:28): this refers to the arrogant: ‘Whoever is arrogant falls into Gehenna.’
- H. “[The Hebrew letters of the word that follows,] ‘Wanniram’ (Num. 21:20) [yield the abbreviation, ‘No High One,’ thus:] the wicked one says, ‘There is no High One.’
- I. “‘Heshbon has perished’ (Num. 21:30): the accounting for the world has perished.
- J. “‘Unto Dibon’: said the Holy One, blessed be He, ‘Wait until judgment comes,’
- K. “‘And we shall have laid waste [79A] even unto Nophah’ (Num. 21:30): until a fire comes that does not need fanning [using the same letters as the word for Nophah]
- L. “‘Unto Medebah’ (Num. 21:30): until it melts their souls [using the same letters as the word for Medebah].”
- M. And some say, “Until he has accomplished what he wants to do [Slotki: to the wicked].”

I.4 A. Said R. Judah said Rab, “Whoever abandons words of Torah — fire consumes him: ‘And I will set my face against them, out of the fire are they come forth, and the fire shall devour them’ (Eze. 15: 7).”

I.5 A. *When R. Dimi came, he said R. Jonathan said, “Whoever abandons words of Torah falls into Gehenna: ‘The man who strays out of the way of understanding shall rest in the congregation of the shades’ (Pro. 21:16), and ‘shades’ means only Gehenna: ‘But he knows not that the shades are there, that her guests are in the depths of Sheol’ (Pro. 9:18).”*

The entire composite that follows works on the exegesis of M. **Me. 3:6A-K**, but intersects with our Mishnah-rule at a point at which what is before us contributes to the solution of the problem; but the theoretical problem — the relationship between the container and what is contained — joins both Mishnah-paragraphs. What we have in the aggregate is not Mishnah-exegesis in the present context but in another context; but the power of introducing the other Mishnah-paragraph here is to show that the discrete laws speak to common principles.

II.1 A. **[If] he sold a dung heap, he has sold the dung on it:**

- B. *We have learned in the Mishnah: **Whatever is appropriate for [use on] the altar but not for the upkeep of the house, for the upkeep of the house and not for the altar, not for the altar and not for the upkeep of the house — the laws of sacrilege apply thereto and also to what is within them. How so? [If] one sanctified (1) a hole full of water, (2) a dung heap full of dung, (3) a dovecote full of pigeons, (4) a tree covered with fruit, (5) a field full of herbs — the laws of sacrilege apply to them and to what is in them. But if he sanctified (1) a hole, and afterward it filled with water, (2) a dung heap, and afterward it was filled with dung, (3) a dovecote, and afterward it was filled with pigeons, (4) a tree and afterward it filled with fruit, (5) a field and afterward it was filled with herbs —***
- C. *“The laws of sacrilege apply to them, but the laws of sacrilege do not apply to what is in them,” the words of R. Judah.*
- D. **R. Yosé [Mishnah: Simeon] says, “He who sanctifies a field and a tree — the laws of sacrilege apply to them and to what grows in them, for they are the offspring of that which has been consecrated” [M. **Me. 3:6A-K**].**
- E. *It has been taught on Tannaite authority:*
- F. Said Rabbi, “The opinion of R. Judah makes more sense in the case of the well and dovecote, and the opinion of R. Yosé in the case of a field and a tree.”
- G. *What’s the sense of that statement? There is no problem with the statement, The opinion of R. Judah makes more sense in the case of the well and dovecote, thus bearing the implication that he differs from him in the case of the field and the*

tree. But when it comes to the statement, and the opinion of R. Yosé in the case of a field and a tree implying that he differs in the case of the cistern and the dovecote, surely R. Yosé speaks only of a field and a tree anyhow! [Slotki: But in the case of a cistern and a dovecote, Yosé agrees with Judah! Rabbi's statement should have read, "The opinion of Yosé is acceptable" or "The law is accord to...."] And should you say that Rabbi has formulated his statement within the framework of R. Judah, has it not been taught on Tannaite authority: Said R. Yosé, "I do not concur with the opinion of R. Judah in connection with the field and the tree, because they are things that have been produced by what is sanctified"? It follows that his difference concerns only the cases of field and tree, but he concurs with the other's view in the case of the cistern and dovecote!

- H. *This is the sense of Rabbi's statement: "The opinion of R. Judah is preferable to that of R. Yosé in the matters of the cistern and the dovecote, for R. Yosé does not even differ in that regard, but as to the matters of the field and tree, he concurs with him."*

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

- B. If one sanctified them when they were empty and afterward they were filled up, the laws of sacrilege apply to them, but the laws of sacrilege do not apply to what is in them.
- C. R. Eleazar b. R. Simeon says, "Also, the laws of sacrilege apply to what is in them."
- D. *Said Rabbah, "The dispute concerns a field or a tree, and the initial authority maintains the view of R. Judah, and R. Eleazar b. R. Simeon accords with R. Yosé, but as to the cistern and the dovecote, all parties concur that the laws of sacrilege apply to them but not to what is in them."*
- E. *Said to him Abbaye, "Well, what about that which has been taught on Tannaite authority: If one sanctified them when they were full, the laws of sacrilege apply both to them and what is in them, and R. Eleazar b. R. Simeon reverses what he said. [79B] Now if the dispute concerns the field and the tree [Slotki: since the first part speaks of field and tree, the second also speaks of field and tree], why in the world does he reverse himself?"*
- F. Rather, said Rabbah, "The dispute concerns the cistern and the dovecote, but as to the field and the tree, all parties concur that the laws of sacrilege apply both to them and to what is in them."
- G. *And as to the cistern and dovecote when they are empty, what is the principle under dispute, and as to the cistern and dovecote when they are full, what is the principle under dispute?*

- H. *When they are empty, the dispute follows the lines of the dispute between R. Meir and rabbis, with the initial Tannaite authority maintaining the position of rabbis that one cannot effect transfer of title to something that does not yet exist in the world, while R. Eleazar b. R. Simeon takes the position of R. Meir, who has said that one can effect transfer of title to something that does not yet exist in the world.*
- I. *Well, I can concede that R. Meir has stated that view in the case of the produce of a palm tree, because these usually do make their appearance, but as to the case at hand [water and doves], can you be so sure that they will come into existence? [Slotki: Unless the man himself is to bring water to the cistern and doves to the cote, and in such a case R. Meir will agree that one cannot hand over possession of something that does not exist and thus affords no support to Eleazar.]*
- J. *Said Raba, "You can find such a case, for example, in the case of water that flows through his own courtyard into the cistern or doves come through his own dovecote into the consecrated one."*
- K. *As to the cistern and dovecote when they are full, what is the principle under dispute?*
- L. *Said Raba, "It would involve a case, for example, in which one had consecrated a cistern without further specification as to the contents, and R. Eleazar b. R. Simeon concurs with the principle of his father, who has said, 'We treat as comparable and so infer the law governing what has been consecrated from the rule governing commoners. Just as in the case of a commoner, he can say, "I sold you a cistern, I didn't sell you any water," so in the case of what has been consecrated, one can say, "I sanctified the cistern, I didn't sanctify the water."'"*
- M. *But is it the fact that in the case of a commoner, the water is not sold along with the cistern? Surely we have learned in the Mishnah: **[If] he sold a cistern, he has sold its water!***
- N. *Said Raba, "The Mishnah represents the opinion of a private individual, as has been taught on Tannaite authority: [If] he sold a cistern, he has not sold its water. R. Nathan says, "[If] he sold a cistern, he has sold its water."*

We open, I.1, with the clarification of the case at issue before us. The philological note of No. 2 accounts, also, for the inclusion of Nos. 3, where the same letters are considered at No. 2 recur. Nos. 4-5 then are tacked on because they go over the same ground as No. 3. II.1 then undertakes the Mishnah exegetical work of

showing the interrelationships between distinct but intersecting rules. No. 2 then provides a Tannaite complement to the Mishnah's rule, continuing No. 1. The relevance to the Mishnah paragraph at hand is not only general but verbal, at II.2.M.

5:3G-J

- G. **[80A] (1) He who purchases “the fruit of a dovecote” from his fellow lets go the first pair that are hatched.** [Slotki: The first brood must remain in the cote, because sellers do not include in sales the first brood, which is required to serve as an attraction for their dam, which, in the absence of its young, might altogether quit the cote.]
- H. **(2) [If he bought] “the fruit of a beehive,” he takes three swarms, and then [the seller] makes the rest sterile.** [They will then devote themselves to producing honey.]
- I. **(3) [If he bought] honeycombs, he leaves two honeycombs** [Slotki: to nourish the remaining bees during their hibernation].
- J. **(4) [If he bought] olive trees to cut down, he leaves two shoots** [Slotki: to provide for the future propagation of the olives].
- I.1** A. *But has it not been taught on Tannaite authority:* [The buyer must leave both] the first brood and the second brood?
- B. *Said R. Kahana, “There is no contradiction. The one is for itself, the one for the dam”* [Slotki: the first brood is left as company for the dam, the second brood, the first pair of young doves bred by the first brood, must be left as company for the first brood; the Mishnah then speaks of the first brood only, the cited passage, two broods].
- C. *Then if the mother dove will be attached to the daughter dove and to the mate let with it, why not assume that the daughter dove will be attached to the mother dove and the mate left with it?* [Slotki: Why is it required to leave a pair of the second issue as company for the first?]
- D. *The mother is attached to the daughter, but not the daughter to the mother.*
- II.1** A. **[If he bought] “the fruit of a beehive,” he takes three swarms, and then [the seller] makes the rest sterile:**
- B. How does one sterilize them?
- C. Said R. Judah said Samuel, “With mustard.”

- D. *They say in the west in the name of R. Yosé bar Hanina, "It is not that the mustard emasculates them, but the excessive volume of honey, which the bitterness in their mouths caused by the mustard makes them eat."*

II.2 A. R. Yohanan said, "He takes the three swarms alternately."

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

C. He takes three consecutive swarms and then he takes them alternately.

III.1 A. **[If he bought] honeycombs, he leaves two honeycombs:**

B. Said R. Kahana, "Honey in a beehive never ceases to be classified as food."

C. *Therefore he takes the view that in order to subject honey to the laws governing uncleanness of food, it is not necessary to form the intention of regarding the honey as food. But an objection is to be raised from the following:* Honey in the beehive is classified as neither food nor liquid. [Hence intentionality is required to effect the classification; nothing is intrinsic.]

D. *Said Abbaye, "The cited passage pertains only to those two combs [left in the beehive to keep the bees during hibernation, and these are not considered eo ipse as human food.]"*

E. *Raba said, "The passage derives from the view of R. Eliezer, [80B] for we have learned in the Mishnah: A beehive — R. Eliezer says, 'Lo, it is (1) like the ground; and they write a prosbol depending on it; and it does not receive uncleanness [when standing] in its place; and he who scrapes honey from it on the Sabbath is liable for a sin offering.' And sages say, 'It is (1) not like the ground; and they do not write a prosbol depending on it; and it does receive uncleanness [when standing] in its place; and he who scrapes honey from it on the Sabbath is free of having to present a sin offering' [M. Uqs. 3:10]."*

F. *Said R. Eleazar, "What is the Scripture basis for the position of R. Eliezer? It is written, 'And he dipped it in the honeycomb' (1Sa. 14:27), just as one who plucks something from a wood on the Sabbath is liable to a sin-offering, so one who takes honey from a comb on the Sabbath is liable to a sin-offering."*

III.2 A. [To the statement of R. Kahana, "Honey in a beehive never ceases to be classified as food,"] *an objection was raised:* Honey that exudes the beehive is classified as neither food nor liquid. *Now that poses no problems to the position of Abbaye, [Slotki: this may also speak of the two combs left for the bees in the winter], but from the perspective of Raba there is a problem [even if honey in the beehive in Eliezer's view is*

regarded as equivalent to the ground, honey that has exuded is obviously in a different category]!

- B. Said R. Zebid, “It would speak for example of a case in which the honey exuded into a disgusting utensil” [and since it is therefore not fit for eating, it is not food or drink, even though it has flowed from the hive (Slotki)].
- C. R. Aha bar Jacob said, “For example, it would be honey that flowed onto chips” [Slotki: from which it would not be easily gathered and if gathered would not be suitable for human consumption].

III.3 A. [To the statement of R. Kahana, “Honey in a beehive never ceases to be classified as food,”] *an objection was raised*: Honey in a beehive is classified as neither food nor drink. If one gave thought to it to eat it, it imparts uncleanness in the classification of food; if one thought of drinking it, it imparts uncleanness in the classification of liquid.

B. *Now that poses no problems to the position of Abbaye*, [Slotki: this may also speak of the two combs left for the bees in the winter], *but from the perspective of Raba there is a problem* [even if honey in the beehive in Eliezer’s view is regarded as equivalent to the ground, honey that has exuded is obviously in a different category]!

C. *Raba will give the following answer*: “If he gave thought to use it as food, it still is not subject to the law of uncleanness of food, and if he gave thought to use it as drink, it still does not become subject to the law governing liquid.”

D. *It has been taught on Tannaite authority in accord with the position of R. Kahana*:

E. Honey in a honeycomb is subject to uncleanness as food, even if there is no intention of eating it.

IV.1 A. [If he bought] olive trees to cut down, he leaves two shoots:

B. *Our rabbis have taught on Tannaite authority*:

C. **He who buys a tree from his fellow, intending to cut it down, must leave in the ground a handbreadth of the height of the tree and cut the rest. If it is a virgin sycamore, he must leave three handbreadths in the ground; if it is a sycamore trunk, two; if it is reeds and vines, the cut is to be made from the knot and above; in the case of palm trees and cedars, he may dig down and take them out with the roots, since the stumps will not grow again anyhow [cf. T. B.B. 4:7P-Q].**

- D. So in the case of a virgin sycamore, he must leave three handbreadths in the ground? *And an objection is to be raised: During the Sabbatical Year they do not cut down a virgin sycamore [a young tree which never before has been cut], because it [the cultivation of new branches during the Sabbatical Year] is [prohibited] labor. R. Judah says, “[Cutting] in the normal manner is forbidden. But, he either [cuts the sycamore’s trunk] high [above the ground,] ten handbreadths [or more from ground level,] or he razes it [that is, cuts the tree] down to the ground” [M. Shebiit 4:5E-H]. It follows that it is only at ground level that the cut does damage, but at any other point [up to three handbreadths] it is beneficial!*
- E. *Said Abbaye, “At the height of three handbreadths the cut does good; at ground level, it certainly does bad; anywhere in between it is neither certainly helpful nor certainly injurious. So in the case of the Sabbatical Year, the cut must be beyond doubt injurious; in the case of a commercial transaction, it must be beyond doubt beneficial.”*

IV.2 A. ...In the case of palm trees and cedars, he may dig down and take them out with the roots, since the stumps will not grow again anyhow: so is it the fact that the stumps will not grow again anyhow? *And lo, R. Hiyya b. Lulyani expounded as follows: “‘The righteous shall flourish like a palm tree, he shall grow like a cedar in Lebanon’ (Psa. 92:13). If we speak of a palm tree, why mention a cedar, and if we mention a cedar, why mention a palm tree? If we had spoken of a cedar but not a palm tree, one might have thought that, just as the cedar does not produce fruit, so the righteous will produce no fruit; therefore the palm tree is noted. And if the palm tree is introduced as the governing analogy but not the cedar, it would have been supposed that just as the stump of the palm tree does not grow afresh, so the shoot of the righteous will not grow. Therefore the cedar also is mentioned.”*

- B. *Well, here with what are we dealing? It is with other kinds of cedars, in line with what Rabbah bar R. Huna said, for said Rabbah bar R. Huna, “They say at the household of Rab, ‘There are ten species of cedars, as it is said, ‘I will plant in the wilderness cedar, the acacia tree, the myrtle, and the oil tree’ (Isa. 41:19). [Slotki:] “Erez” means cedar, “shittah” means pine, “hadas” means myrtle, “es shemen” means balsam, “berosh” means cypress, “tidhar” means teak, “teashur” means shurbina.”*

C. But aren’t there only seven kinds of cedar?

D. *When R. Dimi came*, he said, “They added these to the list: alonim, almonim, almogim. [Slotki:] Alonim are pistachio trees, almonim are oaks, almogim [81A] are corals.”

E. Others say, “Aronim, Armonim, Almogim. [Slotki:] Aronim are ore, armonim are plane trees, almogim are corals.”

I.1 compares the Mishnah’s with another Tannaite formulation of the same rule. II.1, 2 gloss the Mishnah. III.1, 2 raise an issue not required for Mishnah exegesis but pertinent to the theme of the Mishnah clause under discussion. No. 3 extends the foregoing. IV.1 amplifies the Mishnah’s rule with a Tannaite counterpart. No. 2 provides a talmud to the foregoing.

5:4

- A. He who buys two trees in his fellow’s field,
- B. (1) lo, this party has not bought the ground [on which they are growing].
- C. R. Meir says, “He has bought the ground.”
- D. (2) [If] they grew up, [the landowner] may not trim them.
- E. (3) What sprouts from the stem belongs to [the purchaser],
- F. [but what sprouts] from the roots belongs to the owner of the land.
- G. (4) And if [the trees] died, [the owner of the trees] has no [claim on the] land.
- H. (1) [If] he bought three, he has [also] bought the ground [on which they are growing].
- I. (2) [If] they grew up, [the landowner] may trim them.
- J. (3) And what sprouts both from the stem and from the roots belongs to [the purchaser].
- K. (4) And if they died, he has a claim on the land.

I.1 A. *There we have learned in the Mishnah: He who buys two trees [that are growing] on [the property] of his fellow brings [first fruits from those trees] but does not recite [over them]. R. Meir says, “He brings and recites” [M. Bik. 1:6A-C].*

B. Said R. Judah said Samuel, “R. Meir would require even who one brought produce in the market to present first fruits and to make the required declaration over them. *How do we know that fact? It is because there is a redundant Mishnah paragraph to make the same point. For since R. Meir has indicated that if he bought two trees, he has acquired the ground, it is self-evident that he has to bring the produce and make the recitation! Hence on the basis of this redundant statement,*

it must be inferred that R Meir would require even who one brought produce in the market to present first fruits and to make the required declaration over them.”

- C. But lo, it is written, “...which you shall bring in from your land” (Deu. 26: 2) [so how can Meir take the position that someone who has no land should present and recite the declaration over first fruits]?
 - D. *That serves merely to eliminate from the requirement of bringing first fruits produce that grows abroad.*
 - E. And lo, it is written, “The choicest first fruit of your land you shall bring” (Exo. 23:19)!
 - F. *That serves merely to eliminate from the requirement of bringing first fruits produce that grows in land of gentiles.*
 - G. And lo, it is written, “The first fruits of the land that you have given me” (Exo. 34:26)!
 - H. *The produce for which you have given me money to buy it.*
 - I. [To Meir’s position] objected Rabbah, ““He who purchases a single tree in the land of his fellow presents the first fruits but does not make the required declaration, since he has acquired no land,’ the words of R. Meir.”
 - J. *That assuredly refutes [the proposal of Samuel].*
- I.2** A. *Said R. Simeon b. Eliaqim to R. Eleazar, [81B] “How come R. Meir takes the position that he does in the case of one tree, and how come rabbis take the position that they do in the case of the purchase of two trees?”*
- B. He said to him, “Are you going to ask me in the house of study concerning a matter on which the earlier masters have not stated a determinative consideration, so as to embarrass me?”
 - C. *Said Rabbah, “So what’s the trouble! Maybe R. Meir was in doubt as to the status of one tree, and rabbis were in doubt as to the status of two trees?”*
 - D. *But was R. Meir really so much in doubt about the case of one tree? Has it not been stated explicitly in so many words, ‘...since he has acquired no land,’ the words of R. Meir?*
 - E. *Say: “Perhaps he has not acquired any land.”*
 - F. *And should one not take account of the possibility that these are not first fruits at all, in which case, one would end up bringing into the Temple court produce that has not been consecrated!*
 - G. *He consecrates them.*

- H. *But isn't the priest suppose to eat the first fruits [and how can he do that if they are consecrated]?*
- I. *He redeems them first.*
- J. *But maybe they're really not first fruits, in which case, by doing what we have just now said he should do, he removes the produce from the required separation of priestly rations and tithe!*
- K. *He does separate these offerings from the first fruits.*
- L. *Well, that would pose no problem as to the great heave-offering, which the priest gets, and the second tithe also goes to the priest, and the poor man's tithe can go to a poor priest. But who gets the first tithe, which rightly belongs to the Levite?*
- M. *That, too, he can give to the priest, in line with the ruling of R. Eleazar b. Azariah, for it has been taught on Tannaite authority: "The great heave-offering goes to the priest, first tithe to the Levite," the words of R. Aqiba. R. Eleazar b. Azariah says, "The first tithe, too, goes to the priest."*
- N. *But maybe the produce really is first fruits, and therefore there should be the recital of the declaration?*
- O. *The declaration is not essential to the rite.*
- P. Well, isn't it? But did not R. Zira say, "In the case of whatever is suitable for mingling, mingling is not essential, and in the case of whatever is not suitable for mingling, mingling is indispensable." [Cashdan, *Menahot*: In Zira's view the law is that mingling can be omitted so long as it is possible to do so if one wants, and the Mishnah's rule would mean that no oil at all was poured in. Slotki: On this analogy, since the doubt as to whether they are first fruits make the declaration impossible, the recital should be indispensable.]
- Q. He acts in accord with R. Yosé bar Hanina, who said, "If he harvested the first fruits and sent them to Jerusalem with a messenger; or the messenger cut the produce and died on route, in which case in any event, the owner brings the produce but does not make the declaration. *How come? Because it is written, 'You shall take and you shall bring' (Deu. 26: 2), meaning [82A] the act of taking the first fruits and the act of bringing them must be performed by one and the same person, and in this case that has not been done.*"
- R. *Said R. Aha b. R. Avayya to R. Ashi, "But all these are biblical verses! Let him just recite them!"*
- S. *He said to him, "It is because he would appear to be lying."*

- T. *R. Mesharshayya b. R. Hiyya said, "The produce might be excluded from the presentation of heave-offering and tithe [though not first fruits, such gifts go to the priest]."*

II.1 A. [If] they grew up, [the landowner] may not trim them:

- B. *What is the definition of what comes from the stem, and what is the definition of what comes from the roots?*
- C. Said R. Yohanan, "Whatever sees the sun is defined as the stem, and whatever does not see the sun is defined as the roots."

III.1 A. [[But what sprouts] from the roots belongs to the owner of the land:] *But should we not take account of the possibility that the ground might have covered up the knots of the lowest shoots, so the buyer could say to the landowner, "You sold me three trees, and so I have a share of the earth"?*

- B. Rather, said R. Nahman, "The buyer must cut them off." [Slotki: Our Mishnah gives the buyer the right over the shoots for the purpose of cutting them off, but they must not remain attached to the tree.]
- C. And so said R. Yohanan, "The buyer must cut them off."

III.2 A. Said R. Nahman, "We hold as a tradition: a palm tree has not got a stem."

- B. *R. Zebid conceived that this implied, "The owner of the palm tree has no rights to what grows from the stem, because since the tree is going to be dug up and taken out with the roots, the buyer discards the shoots from all consideration." [The shoots are ultimately useful only as wood, so the buyer does not expect to benefit from the shoots, which will never produce a fresh growth.]*
- C. *Objected to him R. Pappa, "But lo, one who purchases two trees purchases among them trees that are going to be taken up and pulled out with the roots, and yet the buyer has a title to the stem!"*
- D. Rather, said R. Pappa, "The meaning is, the owner of the palm tree has no title to the stem because the stem ordinarily does not produce shoots" [and if it does, they belong to the landowner; our Mishnah, assigning the buyer title to the stem, speaks of trees the stems of which ordinarily produce shoots (Slotki)].
- E. *But then, from the perspective of R. Zebid, our Mishnah paragraph presents a problem!*
- F. *It refers to a case in which the trees were sold for a span of five years [and the buyer does expect the benefit from any shoots that may grow out of the stem (Slotki)].*

IV.1 A. [If] he bought three, he has [also] bought the ground [on which they are growing]:

- B. How much ground does he acquire?
- C. Said R. Hiyya bar Abba said R. Yohanan, “Lo, this one acquires title to the land under them and between them and outside of them **[82B]** for a space as is required for a gatherer and his basket.”
- D. *Objected R. Eleazar, “Well, if he has no right of passage, does he have the right to for a space as is required for a gatherer and his basket? If he has no right of passage, it is because the trees are growing in another field [Slotki: the three trees through which the buyer has acquired a share in the field are regarded as growing in a field of their own, independent of the rest of the field, which belongs to the landowner]. Should he then have a claim for a space as is required for a gatherer and his basket?”*

IV.2 A. Said R. Zira, “On the basis of what our master has said, we may draw the conclusion that if the buyer has purchased three trees, then he has no right of passage, but if he has purchased only two, he does have the right of passage, saying to the landowner, ‘They stand in your field, and since you sold me trees there, you also have to give me access to them.’”

- B. *Said R. Nahman b. Isaac to Rabbah, “Must we then say that R. Eleazar rejects the position of his master, Samuel, for Samuel said, ‘The decided law is in accord with R. Aqiba, who has said, ‘One who sells does so in a liberal spirit.’”*
- C. *He said to him, “Well, our Mishnah is hardly to be assigned to R. Aqiba. How come? It says, **[If] they grew up, [the landowner] may trim them**, and if you attribute the paragraph to R. Aqiba, how come the landowner may cut down the branches? Doesn’t he take the view, ‘One who sells does so in a liberal spirit’?”*
- D. *He said to him, “Well, maybe R. Aqiba took that position only in the case of the cistern and the cellar, because these don’t cause damage to the ground, but have you heard that he says the same thing in the case of the tree, which does sap the ground? And doesn’t R. Aqiba concur that if a tree’s boughs hang over the field of his neighbor, the latter may cut off the overhanging branches to the height that will allow full passage of the handle that protrudes over the plow?!”*
- E. *It has been taught on Tannaite authority in accord with the position of R. Hiyya bar Abba: Lo, this one acquires title to the land under them and between them and outside of them for a space as is required for a gatherer and his basket.*

- IV.3** A. Said Abbaye to R. Joseph, “Who has the right to sow on the land that is reserved for the gatherer and his basket?”
- B. *He said to him, “You have learned as a Tannaite rule: **And [the owner of] the outer [patch] sows seeds on the pathway [M. B.B. 6:6D].**”*
- C. *He said to him, “Are the cases really comparable? In that case the buyer would not sustain a loss, but here [sowing space allotted to the gatherer and his basket (Slotki)], the owner of the tree sustains a loss, for he may say to the seller of the field, ‘The produce that would drop on the seed will be dirtied.’ Rather, the case is comparable to that covered in the final clause of the Mishnah below: **[If others have given him a path on the side with the knowledge and consent of both parties, he goes in whenever he wants and goes out whenever he wants and brings merchants in with him. But he may not go in through another field.] And neither one of them has the right to sow seed [on the path] [M. B.B. 6:6E-H].**”*
- D. *It has been taught on Tannaite authority in accord with the position of Abbaye: Lo, this one has acquired the land underneath them and between them and outside of them for as much as is required for the gatherer and his basket, and neither one of them has the right to sow seed on that area.*
- IV.4** A. And how much space must there be between the trees [for the buyer of three trees to acquire title to the ground among them]? [Slotki: If they were too close to each other, they would be regarded as a forest, whose trees are for uprooting; if they are too scattered, they could not be regarded as a combination of trees.]
- B. R. Joseph said R. Judah said Samuel [said], “From four to eight cubits [between any two trees].”
- C. Raba said R. Nahman said Samuel said, “From eight to sixteen.”
- D. *Said Abbaye to R. Joseph, “Don’t differ from R. Nahman, since we have a Mishnah paragraph that conforms with his view, for we have learned in the Mishnah: **He who plants his vineyard by [intervals of] sixteen amah, sixteen amah [in rows sixteen cubits apart] — it is permitted to put seed into it [the area between the rows].** Said R. Judah, ‘There was a case in Salmon one planted his vineyard by [intervals of] sixteen, sixteen amah, and he would turn the foliage of two rows to one side and sow the cleared land. And in the next year he would turn the foliage to another place [to the area which he had sown in the previous year] and sow the uncultivated land. And the case came before sages and they permitted [his actions]’” [Slotki: because the branches were turned away from the sown spaces which were sixteen cubits in*

extent. A space of less than sixteen cubits would have been regarded as part of the vineyard. This proves the correctness of Nahman's report that a space of sixteen cubits is regarded for a piece of ground to be regarded as a separate unit.] **[R. Meir and R. Simeon say, "Even he who plants his vineyard by intervals of] eight, eight cubits — it is permitted [to put seed into the area between the rows]" [M. Kil 4:9].**

- E. *He said to him, "I can't say I know a whole lot about that, but there was a case [83A] in Dura DeRaavata, where there were three trees planted at distances of less than eight cubits among them, and these were sold, and when the case came before Rab, he instructed the seller, 'Go, give him space enough for a pair of oxen and their outfit.' Now at that time, I didn't know how great an area is involved in space for a pair of oxen and its outfit. But when I heard the following statement of the Mishnah, A person may not plant a tree near his fellow's field, unless he set it four cubits away from [the other's field], in connection with which it was taught, The four cubits of which they have spoken is sufficient for working in a vineyard, I reached the conclusion that the space of a pair of oxen and their outfit is four cubits."*
- F. *But in accord with the position of R. Joseph have we not learned in the Mishnah: R. Meir and R. Simeon say, "Even he who plants his vineyard by intervals of] eight, eight cubits — it is permitted [to put seed into the area between the rows]" [M. Kil 4:9]?*
- G. *When you have a concrete decision as a precedent, it is best to rely on that.*
- H. *Now from the perspective of R. Joseph, vis-à-vis the position of R. Simeon, we have no problem, for we have in hand a definition of what is meant by scattered trees and also one for what is meant by closely bunched trees. In regard to scattered ones, we have the Mishnah paragraph just cited. With respect to those that are closely bunched, we have learned in the Mishnah: A vineyard which is planted by [intervals of] less than four cubits — R. Simeon says, "[It] is not [considered] a vineyard." And sages say, "[It is considered] a vineyard, and we regard the ones in the middle as though they were not present" [M. Kil. 5:2A-C]. But from the perspective of R. Nahman, vis-à-vis the position of rabbis, while we have an adequate definition of what is meant by scattered trees, have we in hand an adequate definition of what is meant by bunched up ones?*
- I. *Well, as a matter of fact, it can be derived through close reasoning, in this way: since from R. Simeon's perspective, the distances between those that are too*

bunched up are half those that are scattered, the rabbis also will define the proportion of the distances as half.

- J. *Said Raba, “The decided law is that the buyer of three trees acquires the ground when the distances between the various trees are from four to sixteen cubits.”*
- K. *It has been taught on Tannaite authority in accord with the opinion of Raba: How near to one another may the trees be? No closer than four cubits. And how far? No further than sixteen. Lo, one who buys three trees has acquired title to the land around them and to the trees among them. If a tree dries up or is cut down, the buyer retains title to the land. If the distances between or among the trees are less or more, if the trees were purchased in sequence, the buyer does not acquire the land or intervening trees. If the tree dries up or is cut down, the buyer retains no title to any land.*

IV.5 A. *R. Jeremiah raised this question: “When someone takes the measurements [of the distances among the trees], does he measure from the thin or the thick parts of the trees?”*

- B. *Said R. Gebihah of Be Ketil to R. Ashi, “Come and take note of what we have learned in the Mishnah: **The “knee” of the vine shoot [the part of the vine that is bent under the ground] — they measure for it [its area of tillage] only from the second root from the spot at which the vine grows new roots] [M. Kil. 7:1H-I].”***

IV.6 A. *R. Jeremiah raised this question: “When someone sold three branches of one tree, four cubits distant from one another and covered with alluvium at the knots so that they appear as three trees, what is the law?”*

- B. *Said R. Gebihah of Be Ketil to R. Ashi, “Come and take note of what we have learned in the Mishnah: **He who sinks three vine shoots (2) and their roots [the roots of the layers (new vines)] are visible — R. Eleazar b. Sadoq says, “If there are between them [between the layers and the parent vines] from four to eight cubits, lo, these [the layers and the parent vines] combine [to form a vineyard]. And if not, they do not combine [to form a vineyard]” [M. Kil. 7:2A-C].”***

IV.7 A. *R. Pappa raised this question: “If he sold two trees within the field and one at the border, what is the law? If he sold two in his field and one in his fellow’s nearby field, what is the law?”*

- B. *The question stands.*

IV.8 A. **[83B]** *R. Ashi raised this question: “[With reference to the sale of three trees] does a cistern [located within the group of trees] form a partition? Does a water course form a partition? Does the public domain form a partition? Does a [Slotki:] nursery of young inoculated palm trees?”*

B. *The question stands.*

IV.9 A. *Hillel asked Rabbi, “If a cedar grew up between the three trees that one has sold, what is the law [as to whether or not it forms a partition among them]?”*

B. *Well, if it grew up after the sale, it was in the territory of the buyer! But what if at the time of sale there was a cedar among them?*

C. *He said to him, “He most certainly has acquired title to it.”*

IV.10 A. *[As to trees that are from four to sixteen cubits distant from one another, in which case the buyer of the trees has acquired real estate as well,] how are the various trees laid out?*

B. *Rab said, “In line.”*

C. *Samuel said, “Like a tripod.”*

D. *He who has said that they are in a straight line all the more so would accept them if they were arranged as a tripod, but he who has said that they are in a tripod would maintain that if they are laid out in a straight line, that would not be an acceptable arrangement so that land would be acquired, since one can sow between the trees.*

E. *Objected R. Hamnuna, “Is the reason provided by the one who wants the trees laid out in a triangle not that one cannot sow between the trees? If so, let the land also be acquired by him to whom three Roman thorns have been sold [Slotki], since one cannot sow between them either.”*

F. *He said to him, “The thorns are valueless, but trees are valued.”*

I.1 begins with the comparison of the present Mishnah paragraph with an intersecting one. No. 2 continues No. 1 with a secondary analysis of the prior materials. II.1 provides a required definition for the Mishnah's rule. In line with the foregoing, III.1 answers a subsidiary question. No. 2 presents a minor refinement. IV.1 asks an urgent question of Mishnah exegesis. No. 2 then continues the analysis of a detail of the foregoing. No. 3 does the same for No. 2. No. 4 presents a further question of amplification for our Mishnah's rule. Nos. 5-9, 10 continue the exposition of the established propositions.

5:5

- A. (1) He who sells the head [in the case of] large cattle has not sold the feet.
- B. (2) [If] he sold the feet, he has not sold the head.
- C. (3) [If] he sold the lungs, he has not sold the liver.
- D. (4) [If] he sold the liver, he has not sold the lungs.
- E. But in the case of a small beast,
- F. (1) [if] he has sold the head, he has sold the feet.
- G. (2) [If] he has sold the feet, he has not sold the head.
- H. (3) [If] he has sold the lungs, he has sold the liver.
- I. [If] he has sold the liver, he has not sold the lungs.

5:6

- A. There are four rules in the case of those who sell:
- B. [If] one has sold good wheat and it turns out to be bad, the purchaser has the power to retract.
- C. [If one has sold] bad wheat and it turns out to be good, the seller has the power to retract.
- D. [If he has claimed to sell] bad wheat, and it turns out to be bad,
- E. [or if he claimed to sell] good wheat and it turns out to be good,
- F. neither one of them has the power to retract.
- G. [If one sold it as] (1) dark-colored, and it turns out to be white,
- H. white, and it turned out to be dark,
- I. (2) olive wood, and it turned out to be sycamore [wood],
- J. sycamore wood, and it turned out to be olive wood,
- K. (3) wine, and it turned out to be vinegar,
- L. vinegar, and it turned out to be wine,
- M. both parties have the power to retract.

I.1 A. Said R. Hisda, "If someone sold to another party at six zuz what was really worth five [so there was an overcharge of a sixth of the selling price, a fifth of the value of the object], but later on the price went up to eight, since it is the purchaser who has been gouged, the purchaser has the right to retract, but not the seller, since [84A] *the buyer may say to him, 'If you had not gouged me, you would have had no right to withdraw, so now are you going to have the right to withdraw having*

gouged me?’ And the Tannaite authority before us, who has said, [If] one has sold good wheat and it turns out to be bad, the purchaser has the power to retract, thus not the seller, concurs in that proposition.”

- B. And said R. Hisda, “If someone sold something worth six for five zuz, and the object went down in price and was then at the market at three, who has been gouged? It is the seller. Therefore the seller has the right to retract on the sale, but not the buyer. *For the seller may say to him, ‘If you had not gouged me, you would have had no right to withdraw, so now are you going to have the right to withdraw having gouged me?’ And the Tannaite authority before us, who has said, [If one has sold] bad wheat and it turns out to be good, the seller has the power to retract, thus not the buyer, concurs in that proposition.”*
- C. *Now what is it that he proposes to tell us [that we do not already know,] for it is an explicit proposition of the Mishnah anyhow [as he himself has shown]?*
- D. [Verbatim following Slotki:] *If it had to be inferred from our Mishnah, it could have been said that in the cases dealt with in the statement of R. Hisda, both parties may perhaps withdraw, and that the first clause of our Mishnah comes to teach us that the buyer may withdraw, for without this Mishnah it might have been said that he cannot, because it is written, “It is bad, it is bad, says the buyer” (Pro. 20:14). [Slotki: Since the buyer always cries, bad, bad, he should not be entitled to withdraw even when wheat sold as good be found to be bad; hence the necessity for the first clause of the Mishnah. Similarly the second clause is required for the case where the seller is entitled to withdraw though, on the analogy of the seller, he always cries, good, good.]*

II.1 A. [If one sold it as] (1) dark-colored, and it turns out to be white, white, and it turned out to be dark:

- B. *Said R. Pappa, “Since the Mishnah paragraph contrasts white [to the other specified color], it must follow that the sun is a deep red color. You may know that that is the fact, since at sunrise and sunset, the sun is red. The reason that through the day we don’t see it as red is that our eyes are not strong enough [to perceive the redness of the color of the sun].”*
- C. *An objection was raised: “And the appearance thereof is deeper than the skin” (Lev. 13:25) — like the shade of the sun, which is deeper than the shadow. But there, we know, the shade was white [so how in the contrast before us do we conclude that the sun is red]?*
- D. *Well, it is like the shade of the sun but not like the shade of the sun in another; it is like the shade of the sun in that it is deeper than the shadow, and not like the*

shade of the sun in that, there, it is white, but here it is red. And since the sun is red at sunset and sunrise [how can one assume it is white]?

- E. *At sunrise it is red because it reflects the roses of the Garden of Eden, which it passes by, and at sunset it is red because it passes the gate of Gehenna.*
- F. *There are those who reverse matters.*

III.1 A. Wine, and it turned out to be vinegar, vinegar, and it turned out to be wine, both parties have the power to retract:

- B. *May we maintain that our Mishnah paragraph accords with the position of Rabbi and not with that of rabbis, for it has been taught on Tannaite authority: [84B] [For the purpose of designating the priestly ration out of a set of kegs of wine and vinegar,] wine and vinegar are the same species. Rabbi says, “They are two distinct species.” [Slotki: Our Mishnah allows both buyer and seller to retract so its framer must regard wine and vinegar as two distinct kinds, as Rabbi does.]*
- C. *You may even say that it represents the position of rabbis as well. Rabbis differ from Rabbi only in the case of designating tithe and heave-offering, sharing the opinion of R. Ilai. For said R. Ilai, “How on the basis of Scripture do we know that if one designates heave-offering from an inferior batch of produce in behalf of a superior batch of produce, what he has designated as heave-offering in fact is classified as heave-offering? As it is said, ‘And you shall bear no sin by reason of it, seeing that you have set apart from it the best thereof’ (Num. 18:32). [Now the inference is, if you do not set apart from the best but of the worst, you will bear sin.] But if the inferior produce that has been designated in fact is not deemed consecrated, why should there be an issue of sin? Hence it must follow that if one designates heave-offering from an inferior batch of produce in behalf of a superior batch of produce, what he has designated as heave-offering in fact is classified as heave-offering.” But as to commercial transactions, all parties concur that wine and vinegar are not the same species, since some people like wine but not vinegar, and some people like vinegar but not wine.*

I.1 links our Mishnah rule to an established law on price gouging against the true value of an object. II.1 works out a philological problem, with results of some tangential interest to our Mishnah paragraph. III.1 conducts a familiar type of Mishnah exegesis.

5:7

- A. **He who sells produce to his fellow —**
- B. **[If the buyer] drew it but did not measure it, he has acquired possession of it.**

- C. [If] he measured it but did not draw it [to himself], he has not acquired possession.
- D. If he was smart, he will rent the place [in which the produce is located].
- E. He who purchases flax from his fellow —
- F. Lo, this one has not acquired possession until he will move it from one place to another.
- G. But if it was attached to the ground and he has plucked any small quantity of it, he has acquired possession.

- I.1** A. Said R. Assi said R. Yohanan, “If the buyer measured the produce [Slotki: with the seller’s instruments] and puts the produce in an alley, he acquires possession to the produce.”
- B. Said R. Zira to R. Assi, “Perhaps my lord has heard this matter phrased only as, ‘The buyer measured the produce into his own basket?’” [Slotki: The basket is the property of the purchaser and so has acquired possession of the fruit for him; but if the fruit were put on the bare ground of the alley, no transfer of title would have taken place.]
- C. *He said to him, “It would appear that this young rabbi supposes that people do not accurately memorize their traditions. If the buyer had measured the produce into his own basket, would anyone have to specify that ownership was transferred?!”*
- D. *Did [Zira] accept this [captious argument] from him or did he not accept it?*
- E. *Come and hear what R. Yannai said Rabbi said, “In a courtyard belonging to jointholders, the partners to the courtyard may effect possession of objects that they buy from one another. Does this not mean, that they acquired possession on the bare ground?”* [Slotki: And since objects are acquired in a partner’s courtyard, they are also acquired in an alley that is regarded as the property of those who happen to be there? This being the report of Yannai, master of Yohanan, and also in agreement with what Assi stated by Yohanan, it must have been accepted by Zira.]
- F. *No, it refers to a case in which they were put into his basket. And that furthermore stands to reason, for said R. Jacob said R. Yohanan, “If the buyer measured the produce and puts the produce in an alley, he does not acquire possession to the produce.”*
- G. *Well, aren’t the two versions of what he said contradictory [“If the buyer measured the produce and puts the produce in an alley, he acquires/does not acquire possession to the produce”]? Does it not follow, then, that the one refers to a case*

in which he put the produce into his own basket, and the other refers to a case in which he did not put the produce into his own basket?

- H. *It certainly does follow.*
 - I. *Come and take note: [If] he measured it but did not draw it [to himself], he has not acquired possession. Does this not refer to an alley? [Slotki: How then can Assi say that objects, if deposited in an alley, are acquired?]*
 - J. *No, it refers to public domain.*
 - K. *If so, then note the opening clause of the same passage: [If the buyer] drew it but did not measure it, he has acquired possession of it. Does the act of drawing an object effect possession of that object if the action is performed in public domain? [Obviously not.] For lo, both Abbaye and Raba have said, "Delivery of the object accords legal ownership in public domain or in a courtyard that belongs to neither party to the transaction, while drawing the object confers title in an alley or in a yard owned by both of them, and lifting up the object confers title anywhere." [So how can anybody suppose that drawing the object in public domain confers title?]*
 - L. *What is the meaning here of drawing? When our passage speaks of drawing the object, it means, from the public domain to an alley.*
 - M. *Then note what comes later: If he was smart, he will rent the place [in which the produce is located]! But if the object is in the public domain, from whom can he rent the spot?*
 - N. *This is the sense of the passage: And if the object is in the domain of the owner [the seller thereof], then if he was smart, he will rent the place [in which the produce is located].*
- I.2** A. *Both Rab and Samuel say, [85A] "Someone's utensils effect possession for him wherever they are located except for the public domain."*
- B. *And both R. Yohanan and R. Simeon b. Laqish say, "They do so even in public domain."*
 - C. *Said R. Pappa, "In fact, there is no dispute. [Rab and Samuel] speak of public domain, the others speak of an alley."*
 - D. *Yeah, so why do they call it public domain?*
 - E. *Because it isn't private property. That stands to reason, for said R. Abbahu said R. Yohanan, "Someone's utensils effect possession for him wherever they are located — if [to begin with] he has the right to leave them there." So where he has a right*

to set down his utensil, he acquires ownership, but where he does not have that right, he does not effect possession [thus: in public domain].

F. *That proves it.*

G. *Come and take note: There are four principles that pertain to sales. Before the measure has been filled, the contents thereof remain in the domain of the seller. When the measure is filled, the contents are the possession of the buyer. That is the case when the measure belonged to neither one of them. But if the measure belonged to one of them, then the one who owns the measure acquires possession of each single unit of what is poured into it as it is poured in in sequence. These apply to both public domain and a courtyard that belongs to neither one of them. But if the purchase was on the domain of the seller, then the buyer acquires possession only when he has lifted it up or has removed it from the domain of the seller. If the purchase was in the domain of the buyer, he acquires possession as soon as the seller has agreed to the terms of the sale. If the purchase was on the premise of someone with whom it had been left by the seller as a bailment, the buyer acquires possession only after the owner of the premises has agreed to assign to the buyer a portion of his domain on which to effect acquisition of the object, or until the buyer has rented the place where the object is located [cf. T. B.B. 5:1]. So, in any event, here it is taught that possession through one[’s own utensil] may be effected in public domain or in a courtyard that belongs to neither of them. [85B] Does this not mean literally, the public domain?*

H. No, it means an alley.

I. *But is this not in any event comparable to a courtyard that belongs to neither of them* [Slotki: but to a third party, while the alley is regarded as territory of any buyer and seller who happen to be there]?

J. *What is the meaning of a courtyard that belongs to neither one of them? It means the courtyard is not wholly the possession of the one nor wholly the possession of the other but jointly owned by the two of them.*

I.3 A. R. Sheshet raised this question for R. Huna: “If the utensil of the buyer was located on the property of the seller, does the buyer effect possession or not?”

B. *He said to him, “You have learned the answer to that question in the following Tannaite rule: If the husband tossed the writ of divorce into the lap or workbasket of the wife, she has validly acquired the writ and so is divorced.”* [Slotki: It is as if it had been given into her own hand, though the basket may stand in the premises

of the husband. Similarly in the case of commercial transactions, when the buyer's utensil is on the premises of the seller, it effects possession for him.]

- C. *Said to him R. Nahman, "How come you are solving a problem on the basis of something that has been refuted by [Slotki:] a hundred arguments to one! [And these are along the following lines:] For said R. Judah said Samuel, 'That law applies only in a case in which the workbasket is hanging on her.' And R. Simeon b. Laqish said, 'It was fastened to though not hanging on her.' And R. Adda bar Ahba said, 'The basket was located between her thighs.' R. Mesharshayya b. R. Ammi said, 'The husband was selling women's work baskets' [Slotki: so he does not mind her possessing the ground on which the basket stands]. R. Yohanan said, 'The place occupied by her lap and the place occupied by her work basket are her own property.' Raba said, 'What is the rationale for R. Yohanan's position? The reason behind the position of R. Yohanan is that someone does not object to giving over to his wife either the place occupied by her lap or the place occupied by her workbasket.'"*
- D. *[“So, said R. Nahman,] “Present your answer from the following: If the object was located in the domain of the seller, the purchaser has not acquired title until he raises it up or until he takes it out of his domain. Does this not then pertain even to the case when the purchase was in the utensil of the buyer?”*
- E. *Not at all, it speaks of a case in which it is in the utensil of the seller.*
- F. *Yeah, but if the first clause addresses a case in which the purchase is in the utensil of the seller, the final clause also should deal with a case in which it is in the utensil of the seller, in which case, how can you deal with the final clause: **If the purchase was in the domain of the buyer, he acquires possession as soon as the seller has agreed to the terms of the sale?** If the purchase was in the utensil of the seller, why does the buyer acquire possession?*
- G. *The final clause deals with a case in which the utensil belongs to the buyer.*
- H. *How do you know that?*
- I. *In general terms, at the seller's house the utensils of the seller are going to be used, at the buyer's house, the utensils of the buyer are like to be used.*
- J. *Said Raba, “Come and take note: If one drew into his possession the other's asses and workers and brought them into his household, whether he had agreed on a price prior to measuring the produce, or measured the produce prior to having settled on a price, he has not acquired title to them, and either party can retract. **[86A]** If however he had unloaded the asses and brought them into his household, then, if he has settled on the price before he measured the produce, neither party*

can retract, and if he has measured them before settling on a price, both parties can retract. [The criterion is settling on the price, and the man cannot claim the field in the case before us.] *Now since the utensils of the seller are in the domain of the buyer, it does not retain possession for him, so if the utensil of the buyer is on the premise of the seller, it should not effect acquisition for him!*"

- K. Said R. Nahman bar Isaac, "The law speaks of a case in which the goods were emptied out of the seller's sacks into the domain of the buyer."
- L. *Glowered Raba, "So where does it say, 'he emptied them'?! What it says is, 'he unloaded them!'"*
- M. *Rather, said Mar b. R. Ashi, "The law speaks of bundles of garlic."* [Slotki: These are not delivered in sacks. When unloaded, they come in direct contact with the buyer's ground.]
- N. *Said Huna b. Mar Zutra to Rabina, "Since the passage says, 'he unloaded them' [Slotki: into the territory of the buyer, which legally acquires ownership for him], what difference does it make whether or not they had agreed on a price?"*
- O. *He said to him, "If they had agreed on a price, each of the parties concurs, but when there is no price fixed, neither one does."*
- P. *Said Rabina to R. Ashi, "Come and hear, for both Rab and Samuel say, 'Someone's utensils effect possession for him wherever they are located [except for the public domain].' Now what is this meant to encompass? Is it not the premises of the seller?"*
- Q. *"In that case, the other [the seller] said to him, 'Go and acquire ownership.'"*

- I.4** A. *There we have learned: Property for which there is security is acquired through money, writ and usucaption. [And that for which there is no security is acquired only by an act of drawing from one place to another [M. Qid. 1:5A-B]. In Sura they repeated the following tradition in the name of R. Hisda, and in Pumbedita they repeated it in the name of R. Kahana, and some say it in the name of Raba, "They have taught this rule only with regard to things that are not ordinarily raised up, but as to things that are ordinarily raised up, if they are raised up, they are acquired, if they are drawn, they are not acquired."*
- B. *In session Abbaye stated this tradition. Objected R. Adda bar Mattenah to Abbaye, "He who steals a purse on the Sabbath is liable [to make restitution] since he had already incurred the liability on account of the theft prior to incurring [through carrying the purse from one domain to another] the liability for violating the Sabbath. If he was dragging it along and so removed it from the domain of the other in that manner, he is exempt since*

he did not make acquisition of the purse before he had also and simultaneously violated the Sabbath [T. B.Q. 9:19A-C]. Now lo, the purse is something that is readily lifted up, and even so, the thief has effected acquisition by dragging it.”

- C. He said to him, “The rule pertains to something that has a cord.”
- D. [Adda said,] “Yeah, well I’m talking about one with a cord too.”
- E. “The rule speaks of something so heavy that it has to have a cord [and since it is a heavy object, in this case it can be acquired through dragging and not only lifting].”
- F. Come and take note: **But if the purchase was on the domain of the seller, then the buyer acquires possession only when he has lifted it up or has removed it from the domain of the seller.** It follows that with reference to something that may be lifted up, if one wants, he acquires it through lifting it up, and if he wants, he acquires it through dragging it.”
- G. Said R. Nahman bar Isaac, “The passage is to be read so that it speaks of two distinct situations, namely, something that can be lifted up is acquired by being lifted up, and something that can only be dragged is acquired by being dragged.”
- H. **[86B]** Come and take note: **He who sells produce to his fellow — [if the buyer] drew it but did not measure it, he has acquired possession of it.** Now, lo, produce is certainly something that is lifted up, and yet it is taught that it is acquired through dragging.
- I. Well, here, with what sort of case do we deal? It is produce packed in big bags.
- J. Well, then, how about what follows: **He who purchases flax from his fellow — lo, this one has not acquired possession until he will move it from one place to another!** Isn’t flax packed in big bags? [Slotki: If the first clause, on produce, deals with small bags, the final one would, too. The reason for the difference between the modes of acquiring ownership, pulling in the first, lifting in the second, would be explained by the fact that flax is never dragged but always lifted. The purpose of the Mishnah would be to provide the following law: things that are usually lifted may be acquired not only by lifting but also by pulling, while things that are acquired by lifting only are done in that way. If it is assumed that the reason that in the first clause pulling is effective is only that the fruit is packed in large bags, it must consequently be assumed that the reason that the flax cannot be acquired in that way but only by lifting is that it is packed in small bags. If so, it is asked, is not flax also packed in large bags? And if they are so packed, how to explain the different modes of acquisition?]

- K. *Flax is exceptional. [It is packed in small because] because otherwise it slips out. [Slotki: Small bags are usually lifted, hence only lifting and not pulling is the mode of acquisition.]*
- L. *Said Rabina to R. Ashi, "Come and take note: 'Large cattle are acquired by delivery, small cattle by lifting,' the words of R. Meir and R. Simeon. And sages say, 'Small cattle are acquired by drawing.' Now while small cattle can be lifted, it is nonetheless taught by sages that they are acquired through drawing!"*
- M. *The case of small cattle is exceptional, since they hold on to the ground [so it is hard to lift them and therefore drawing serves (Slotki)].*
- I.5** A. **[But if the measure belonged to one of them, then the one who owns the measure acquires possession of each single unit of what is poured into it as it is poured in in sequence:]** *Both Rab and Samuel say, "'A kor for thirty zuz I am selling you' — he can retract even up to the delivery of the last seah. 'A kor for thirty, a seah for a sela,' the buyer acquires possession of every seah as it is measured out for him."*
- B. *Come and take note: But if the measure belonged to one of them, then the one who owns the measure acquires possession of each single unit of what is poured into it as it is poured in in sequence. Now that must speak of the case even where the measure has not yet been filled. [Slotki: How then can it be said that the seller may withdraw even at the last seah?]*
- C. *Our case is one in which the seller said to the buyer, "I am selling you a hin for twelve selaim, every log for a sela." And that is in line with what R. Kahana said, "There were marks in the hin," so in this case, too, there were marks on the measures.*
- D. *Come and take note: He who hired a worker to work for him in the harvesting season at the rate of a denar a day [paying in advance,] [87A], and at that harvest season the worker was worth a sela a day, it is forbidden to derive benefit from it. [Slotki: It is forbidden to derive benefit between the difference between what he has paid in advance and the price of labor at harvest, since this is usury, the laborer is paying a sela in work for every denar he has received in advance.] But if he hired him to start work as of today and to work through the harvest for a denar a day, even though as the harvest wore on, he would have been worth a sela, he is permitted to pay in advance and benefit from the difference. Now if you take the view, "'A kor for thirty, a seah for a sela,' the buyer acquires possession of every seah as it is measured out for him" — here, too, [the language, a denar a day, having been used] then the employer should acquire possession of each day that*

has passed, day by day, and each day should be regarded as distinct from the other days that will follow, and it must follow that he should be forbidden, in the latter case, to derive any benefit at all from the difference between what the employer paid and the true value of the work. Then why is it the case that if he hired him to start work as of today and to work through the harvest for a denar a day, even though as the harvest wore on, he would have been worth a sela, he is permitted to pay in advance and benefit from the difference? Lo, is this not a fee paid for advancing the money?

- E. *Said Raba, "Are you really thinking along these lines? Is it at all forbidden to give a low-ball bid for one's labor? [Accepting a substandard wage is not paying usury to the employer.] And what then is the difference between the first and the second clauses? In the first case, in which the work does not start right away, the difference between the two wage-rates looks like usury [even if it isn't], but in the second case, where the work begins right away, it doesn't look like usury."*

II.1 A. But if it was attached to the ground and he has plucked any small quantity of it, he has acquired possession:

- B. *Merely because he has pulled up some of it, does he acquire possession of all of it?*
 C. *Said R. Sheshet, "Here with what case do we deal? It is a case in which he said to him, 'Go, improve part of it for yourself and thereby acquire possession of everything that is on it.'"*

I.1 pursues the exposition of the Mishnah paragraph's interest in the acquisition of produce under diverse circumstances. Nos. 2, 3, 4 pursue the problem of No. 1. The connection to the Mishnah is not only in principle and problem, but, as we see for instance at 4.H, in detail. No. 5, reverting to the exposition of the cited passage of the Tosefta, addresses the general problem of the Mishnah, namely, transfer of ownership of produce, but it raises an issue of its own. That is, when does the transfer of ownership of each component of a large sale take place. II.1 clarifies a minor problem.

5:8

- A. **He who sells wine or oil to his fellow,**
 B. **and [the price] rose or fell,**
 C. **if this took place before the measure had been filled up, [the price advantage goes] to the seller.**
 D. **[If this took place] after the measure had been filled up, [the price advantage goes] to the purchaser.**
 E. **And if there was a middleman between them,**

- F. [and] the jar was broken,
- G. it is broken [to the disadvantage of] the middleman.
- H. [After emptying the measure], [the seller] is liable to let three drops drip [further into the utensil of the buyer].
- I. [If thereafter] he turned the measure over and drained it, lo [what is drained off] goes to the seller.
- J. But the shopkeeper is not liable to let three more drops drip.
- K. R. Judah says, “[If it is] the eve of the Sabbath at dusk, he is exempt.”

I.1 A. [He who sells wine or oil to his fellow, and [the price] rose or fell, if this took place before the measure had been filled up, [the price advantage goes] to the seller:] *To whom does the measure belong? If we say that the measure belongs to the purchaser, then why should the benefit or loss go to the seller before the measure has been filled? Surely it is the measure belonging to the buyer [and he should acquire ownership]. If the measure belonged to the seller, then why should the benefit or loss be assigned to the buyer after the measure has been filled? Surely the measure belongs to the seller!*

- B. Said R. Ilai, “The measure belongs to the middleman.”
- C. *But lo, it has been taught in the later clause, And if there was a middleman between them, [and] the jar was broken, it is broken [to the disadvantage of] the middleman, it must follow that the opening clause deals with a case in which there is no middleman.*
- D. *The first clause speaks of a measure not in the presence of the middleman, the second clause, of the middleman himself. [Slotki: Since he buys from the seller to sell to the buyer and the measure is his, he himself is present, and the purchase is his until delivery to the buyer.]*

II.1 A. [If thereafter] he turned the measure over and drained it, lo [what is drained off] goes to the seller:

- B. *When R. Eleazar went up, he found Zeiri and said to him, “Is there here a Tannaite authority to whom Rab has taught the Mishnah rule concerning measures?” He pointed out to him R. Isaac bar Abdimi.*
- C. *He said to him, “What’s your problem?”*
- D. *He said to him, “We have learned in the Mishnah: [If thereafter] he turned the measure over and drained it, lo [what is drained off] goes to the seller. [87B] But we also have learned in the Mishnah: If [after three drops had fallen] he*

placed [the jar] on its side and [more oil or wine] drained [from it] — lo, this [wine or oil] is in the status of heave-offering [M. Ter. 11:8]!” [Slotki: If in the former case the accumulation belongs to the seller not the buyer, in this case it should go to the farmer, not the priest.]

- E. *He said to him, “Lo, this has been stated in this connection: said R. Abbahu, ‘The accumulation goes to the seller since the consideration that the owner [rightfully, the buyer] has given up on this quantity’ [he does not expect any more from the purchase after the three drops from the sides have been drained; in the case of heave-offering, the principle of giving up does not pertain to the remnants, which are forbidden to the non-priest (Slotki)].*

III.1 A. But the shopkeeper is not liable to let three more drops drip. R. Judah says, “[If it is] the eve of the Sabbath at dusk, he is exempt”:

- B. *The question was raised: “Does R. Judah make reference to the earlier clause [After emptying the measure, the seller is liable to let three drops drip further into the utensil of the buyer], thus producing a lenient ruling [it does not have to be done on Friday, when everyone is in a hurry], or does he make reference to the later clause [But the shopkeeper is not liable to let three more drops drip], thus producing a strict ruling [the shopkeeper is exempt only on Friday toward dusk]?”*
- C. *Come and take note of what has been taught on Tannaite authority: R. Judah says, “A shopkeeper is exempt on Sabbath eve at dusk, because at that time he is very busy” [so it is a restrictive measure, applying only at that time].*

I.1 answers a critical question for the understanding of the law of the Mishnah. II.1 harmonizes two Mishnah rules that intersect and seem to produce different results. III.1 glosses the Mishnah’s statement.

5:9

- A. **He who sends his child to the storekeeper with a pondion in his hand,**
B. **and [the storekeeper] measured out for him an issar’s worth of oil [half a pondion] and give him an issar [in change],**
C. **and [the child] broke the flask or lost the issar [of change] —**
D. **the storekeeper is liable [to make it up].**
E. **R. Judah declares him exempt,**
F. **for it was with the stipulation [that the father will bear liability] that he had sent him.**

G. **But sages [A-D] concur with R. Judah, that when the flask was in the child's hand, and the storekeeper measured out [oil] into it, the storekeeper is exempt.**

- I.1 A. *Well, there is no problem in understanding the case of the issar and the oil [the storekeeper measured out for him an issar's worth of oil, half a pondion, and give him an issar [in change], and the child broke the flask or lost the issar of change], for this is what is at issue for rabbis: they hold the view that the father sent the child to the store only to tell the storekeeper what he needed [but not to have him send the oil and change back with the child], and R. Judah takes the view that the father sent the child so that the shopkeeper would send him back with what he wanted. But as to the case in which the bottle broke [and the child broke the flask or lost the issar of change], why in the world should rabbis hold the shopkeeper responsible? It is a loss for which the owner, the father, should be prepared to take responsibility!*
- B. *Said R. Oshaia, "Here we deal with a case in which the householder is a bottle-seller, where the storekeeper took the bottle so as to examine it. And this accords with the position of Samuel, for Samuel has said, 'He who takes a utensil from a worker so as to examine it and it broke in his hand is liable to pay for it.'" [Slotki: The shopkeeper by taking the bottle has undertaken responsibility for it and he is not absolved until the bottle has gone back to the owner, not merely to the child.]*
- C. *Is that to suggest that the position of Samuel represents a conflict among Tannaite authorities [and is not generally accepted]? [It places Judah in disagreement with the principle enunciated by Samuel.]*
- D. *Rather, Rabbah and R. Joseph both said, "Here we deal with a storekeeper who sells flasks. And R. Judah is consistent with a position of his taken elsewhere, and rabbis likewise." [Slotki: Judah absolves the storekeeper for responsibility for the oil and the issar, since the child was sent to bring these things to him; for the same reason he absolves the shopkeeper from responsibility for the bottle. Sages say the child was sent to give the order, not bring the oil or issar back, and likewise the bottle.]*
- E. *[The upshot is that rabbis place responsibility on the shopkeeper because the child was sent only to bring the order,] and if so, what about what follows: **But sages concur with R. Judah, that when the flask was in the child's hand, and the storekeeper measured out [oil] into it, the storekeeper is exempt?! Surely you said that the sages say the father sent the child only to inform the storekeeper [not to bring back the oil and the change].***

- F. *Rather, said both Abbaye bar Abin and R. Hanina bar Abin, “Here with what sort of a case do we deal? [88A] It is one in which the shopkeeper took the utensil to measure with it [and so becomes responsible for it,] in line with what Rabbah said, for [with reference to the rule, **If he found a sack or large basket or anything which he would not usually pick up, lo, this one does not have to lower himself and pick it up,**] said Rabbah, ‘If [in the case of a wandering beast,] he hit the beast, he is liable to take care of it.’” [Slotki: By striking the animal and making it move, he assumes responsibility for its safe return until it is delivered to the owner; so in the case of the bottle, the act of grasping it throws responsibility for its safe return on its owner, the shopkeeper.]*
- G. *Well, I might say that Rabbah took that position in the case of animate objects, for by striking them he helps them run away, but would he take that position in such a case as this one [where in taking the bottle, he has not caused any possible loss to the owner (Slotki)]?*
- H. *Rather, said Raba, “I and the lion explain it — and who might he be? It is R. Zira — here with what sort of a case do we deal? It is a case in which he took the flask for the purpose of using it as a measure for what he was to sell to third parties. And at issue between the Mishnah’s authorities is the question of one who borrows something without the knowledge and consent of the owner. One party [Judah] takes the view that he is classified as a borrower, and the other party classifies him as a robber [responsible for the object until the original owner gets it back].”*
- I.2** A. *Reverting to the body of the prior text: Said Samuel, “He who takes a utensil from a worker so as to examine it and it broke in his hand is liable to pay for it”:*
- B. *Now that is the case when the price had already been determined.*
- I.3** A. *There was a man who went into a butcher shop and lifted up a thigh of meat. While he was holding it up, a horseman came by and grabbed it from him. The case came before R. Yemar. He required him to pay the price of it. And that is the case when the price had already been determined.*
- I.4** A. *There was a man who brought pumpkins to Puma Nahara. A crowd assembled, and everybody grabbed one. He yelled at them, “Lo, these are consecrated to heaven.”*
- B. *The case came before R. Kahana, who said to them, “Someone may not consecrate what does not belong to him. And that is the case when the price had already been determined, but if the price had not already been*

set, they remain in the domain of the owner, who has every right to consecrate them.”

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

- B. He who is buying vegetables in the market place selects and leaves produce as he likes all day long and has not acquired ownership of anything nor does he become liable to the tithes for these vegetables. But if he determined to purchase a particular vegetable, he has acquired it and is liable to the tithes deriving from it, and it is not possible for him to return it, for he has already become liable to the tithes, and he cannot tithe it before returning it, since in that case he would reduce the value [of the vegetable, by the amount of the tithe]. What should he do? He tithes it and pays the seller the price of the tithe.
- C. *So is the upshot that merely because he has decided to buy something, he has acquired ownership of it and is liable to the tithes deriving from it?*
- D. *Said R. Hoshaia, “Here we deal with a case of a man who fears heaven, such as R. Safra, who to himself applied the verse, ‘and speaks truth in his heart’ (Psa. 15: 2).” [Slotki: Once he made up his mind to do something, he did not renege, even though he might lose.]*

I.1 provides a first-rate account of what is at issue in the Mishnah’s dispute. No. 2 footnotes the foregoing, and Nos. 3, 4, 5 complement No. 2.

5:10

- A. **A wholesaler must clean off his measures once every thirty days,**
- B. **and a householder once every twelve months.**
- C. **Rabban Simeon b. Gamaliel says, “Matters are just the opposite.”**
- D. **The storekeeper (1) cleans off his measures twice a week, (2) polishes his weights once a week, and (3) cleans his scales after each and every weighing.**

5:11

- A. **Said Rabban Simeon b. Gamaliel, “Under what circumstances?**
- B. **“In the case of liquid measures.**
- C. **“But in the case of dry measures, it is not necessary.”**
- D. **[88B] And [a shopkeeper] is liable to let the scales go down by a handbreadth [to the buyer’s advantage].**
- E. **[If] he was measuring out for him exactly, he has to give him an overweight —**
- F. **One part in ten for liquid measure,**

- G. one part in twenty for dry measure.
- H. In a place in which they are accustomed to measure with small measures, one must not measure with large measures;
- I. With large ones, one must not measure with small;
- J. [In a place in which it is customary] to smooth down [what is in the measure], one should not heap it up;
- K. To heap it up, one should not smooth it down.

I.1 A. [And a shopkeeper is liable to let the scales go down by a handbreadth to the buyer's advantage:] *What is the source of this law in Scripture?*

- B. Said R. Simeon b. Laqish, "Said Scripture, 'A perfect and just measure shall you have' (Deu. 25:15) — justify your weight by giving something of your own."
- C. *Well, what about what follows: If he was measuring out for him exactly, he has to give him an overweight — one part in ten for liquid measure, one part in twenty for dry measure? Now if giving an overweight derives from the authority of the Torah, how can he ever be permitted to give him only the exact weight? Rather, the opening clause speaks of a place in which it is routine to give an overweight [in which case the scale must sink a handbreadth], and the statement of R. Simeon b. Laqish pertains to the latter clause: If he was measuring out for him exactly, he has to give him an overweight — one part in ten for liquid measure, one part in twenty for dry measure. And it is in that context that the question is raised, What is the source of this law in Scripture? And then follows, said R. Simeon b. Laqish, "Said Scripture, 'A perfect and just measure shall you have' (Deu. 25:15) — justify your weight by giving something of your own."*

I.2 A. How much must be added to the weight?

- B. Said R. Abba bar Mamel said Rab, "In liquids, a tenth of a litra for every ten litras."

II.1 A. **One part in ten for liquid measure, one part in twenty for dry measure:**

- B. *The question was raised, "What is the sense of this statement? One part in ten for every ten units of liquid measure, one part in twenty for every twenty dry measure, or does it mean, one part in ten for every ten units of liquid and a tenth unit for every twenty units of dry?*
- C. *The question stands.*

The Penalty for Falsifying Measures Compared with Penalties for Other Transgressions

- II.2** A. Said R. Levi, “The punishment for falsifying measures is more stringent than that for consanguineous relationships. In the latter case [at Lev. 18:6] we find ‘this,’ while in the former, ‘these,’ [with additional letters signifying additional penalty].
- B. *“And how do we know that ‘these’ bears the sense of a more stringent penalty? ‘And the mighty [spelled with the letters that yield “these”] of the land he took away’ (Eze. 17:13).”*
- C. *Well, don’t we find ““these” stated with regard to consanguineous marriages [at Lev. 18:29]?”*
- D. *That serves to exclude from the punishment of extirpation the sin of false measures.*
- E. *So how come false measures are subject to a more severe penalty than consanguineous marriage?*
- F. *In the latter case it is possible to repent [and divorce the consanguineous wife] but in this case there is no possibility of repentance [repentance will not do when one has robbed someone].*
- II.3** A. And said R. Levi, “Robbing a commoner is worse than robbing the Most High, for in the former case, ‘sin’ comes before ‘trespass’ [‘If any one sin and commit a trespass’ (Lev. 5:20) refers to robbing from a common person], while in the latter, trespass comes before sin [‘if one commit a trespass and sin through error,’ (Lev. 5:15) meaning one is guilty of sin only after he has committed the sacrilege].”
- II.4** A. And said R. Levi, “Come and see that the quality of the Holy One, blessed be He, is not like the quality of a mortal. The Holy One, blessed be He, blessed Israel using twenty-two letters of the Hebrew alphabet, while he curses them only with eight. He blesses them with twenty-two, from ‘If you walk in my statutes’ to ‘made you go upright’ (Lev. 26: 3, 13), and he cursed them with eight: ‘And if you shall reject my statutes’ to ‘and their soul abhorred my statutes’ (Lev. 26:15, 43). Moses, by contrast, blessed them with eight and cursed them with twenty-two. He blessed them with eight, **[89A]** ‘And it shall come to pass, if you shall hearken diligently’ (Deu. 28: 1) to ‘to serve them’ (Deu. 28:14), and cursed them with twenty-two, ‘But it shall come to pass, if you will not hearken’ to ‘and no man shall buy you’ (Deu. 28:15, 68).”

III.1 A. In a place in which they are accustomed to measure with small measures, one must not measure with large measures; with large ones, one must not measure with small; in a place in which it is customary to smooth down what is in the measure, one should not heap it up; to heap it up, one should not smooth it down:

B. *Our rabbis have taught on Tannaite authority:*

C. How on the basis of Scripture do we know that **in a place in which it is customary to smooth down what is in the measure, one should not heap it up; to heap it up, one should not smooth it down?** Scripture says, “A perfect measure” (Deu. 25:15). [Slotki: Deviating from the usual practice the buyer or the seller may defraud or mislead others.]

D. And how do we know that if one said, “Lo, where it is customary to heap up, I will level it off, and reduce the price,” or, in a place where they level, “I will heap it up, and raise the price,” they do not listen to him [he may not do so]?

E. Scripture says, “A perfect and just measure you shall have” (Deu. 25:15).

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

B. How on the basis of Scripture do we know that in a place where the practice is to allow an overweight, they do not give the exact weight, and in a place in which they give an exact weight, they do not give an overweight?

C. Scripture says, “A perfect weight” (Deu. 25:15).

D. And how on the basis of Scripture do we know that if one said in a place in which they give an overweight, “Lo, I shall give an exact weight and charge him less,” or in a place in which they give an exact weight, “Lo, I shall give him an overweight and add to the price,” they do not listen to him?

E. Scripture says, “A perfect weight and a just one” (Deu. 25:15).

F. Said R. Judah of Sura, “‘You shall not have anything in your house’ (Deu. 25:14). Why? Because of your ‘diverse weights’ (Deu. 25:13). But if you keep ‘a perfect and just weight, you shall have’ (Deu. 25:15) things, ‘if a perfect and just measure, you shall have....’”

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

B. “‘You shall have...”: this teaches that they appoint market supervisors to oversee measures, but they do not appoint market supervisors to control prices.

III.4 A. *The household of the patriarch appointed market supervisors to oversee measures and to control prices. Said Samuel to Qarna, “Go, repeat the Tannaite*

rule to them: They appoint market supervisors to oversee measures, but they do not appoint market supervisors to control prices.

- B. *He went out and instructed them:* “They appoint market supervisors to oversee measures and to control prices.”
- C. *He said to him, “What do they call you? Qarna [horn]? Let a horn grow out of your eye.” A horn grew out of his eye.*
 - D. *And as for Qarna, in accord with what authority did he reach this conclusion?*
 - E. *It was in accord with what Rammi bar Hama said R. Isaac said, “They appoint market supervisors to oversee measures and to control prices, on account of crooks.”*

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

- B. If somebody ordered a litra, he should measure out a litra; if he ordered a half-litra, he should measure out for him a half-litra; a quarter-litra, he should measure out a quarter.
- C. *So what does that passage tell us?*
- D. *It is that we provide weights in these denominations.*

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

- B. **If someone ordered three-quarters of a litra, he should not say to him, “Weigh out for me three-quarters of a litra one by one,” but he should say to him, “Weight out a litra for me but leave out a quarter-litra with the meat” [Slotki: on the other scale].**

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

- B. **If someone wanted to order ten litras, he should not say to him, “Weigh them out for me one by one and allow an overweight for each,” but all of them are weighed together, with one overweight covering the whole order [cf. T. **B.B. 5:9B-I**].**

The Correct Weights and Measures: Definitions

III.8 A. *Our rabbis have taught on Tannaite authority:*

- B. [Slotki:] The hollow handle in which the tongue of the balance rests must be suspended in the air three handbreadths [removed from the roof from which the balance hangs], and it must be three handbreadths above the ground.
- C. The beam and the rope that goes with it should be twelve handbreadths, and the balances of wool dealers and glassware dealers must be suspended two

handbreadths in the air from the ceiling and two above the ground. The beams and ropes that go with them must be nine handbreadths in length. The balance of a shopkeeper and a householder must be suspended a handbreadth in the air from above and a handbreadth above the ground. The beam and ropes that go with them must be six handbreadths. A gold balance must be suspended three fingerbreadths in the air from above and three above the ground. I don't know the length of the beam and the cords.

D. *What kind of balance is the one mentioned first [before the specific rulings for those of the wool dealers, glassware dealers, and so on]?*

E. **[89B]** *Said R. Pappa, "The one used for heavy pieces of metal."*

III.9 A. *Said R. Mani bar Patish, "Just as they have specified certain restrictions with regard to disqualifying balances for commercial purposes, so they have laid down disqualifications with regard to their constituting utensils for the purpose of receiving cultic uncleanness."*

B. *What does he tell us that we do not learn from the following: **The cord of the scales of the storekeepers and [or] of householders — [to be susceptible to uncleanness must be in length at least] a handbreadth. A handle of the ax at its front — a handbreadth. The projection of the shaft of a pair of compasses — a handbreadth. The shaft of a stonemason's chisel — a handbreadth. A cord of the balances of wool dealers and of glass weighers — two handbreadths. The shaft of a millstone chisel — two handbreadths. The battle ax of the legions — two handbreadths. The goldsmith's hammer — two handbreadths. And of the carpenters — three handbreadths [M. Kel. 29:5-6]!*** [Slotki: Since this restriction has been applied to one kind of balance, are not the other kinds of balance to be implied?]

C. *The statement that he made is necessary to deal with the sizes of the beam and cords [that are not dealt with at the parallel].*

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

B. They make weights out of neither tin or lead or alloy but of stone or glass.

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

B. They make the strike not out of a board, because it is light, nor out of metal, because it is heavy, but out of olive, nut, sycamore, or box wood.

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

B. They do not make the strike thick on one side and thin on the other.

- C. They do not make the strike with a single quick movement, because striking in that way brings loss to the seller and advantage to the buyer, nor very slowly, since this is a loss to the buyer but a benefit to the seller.
- D. In regard to all of these shady practices, said Rabban Yohanan b. Zakkai, “Woe is me if I speak, woe is me if I do not speak. If I speak, then sharpers will learn from me, and if I don’t speak, then the sharpers will say, ‘The disciples of sages haven’t got the slightest idea what we are doing.’”

III.13 A. *The question was raised: “So did he speak of them or didn’t he?”*

B. Said R. Samuel bar R. Isaac, “He did speak of them: ‘For the ways of the Lord are right, and the just walk in them; but transgressors stumble therein’ (Hos. 14:10).”

Falsifying Weights and Measures

III.14 A. *Our rabbis have taught on Tannaite authority:*

- B. “You shall do no unrighteousness in judgment, in surveying, weight, or in measure” (Lev. 19:35):
- C. “In surveying:” these refers to surveying the real estate, meaning, one should not measure for one party in the dry season and another in the rainy season.
- D. “Weight:” one should not keep one’s weights in salt.
- E. “In measure” (Lev. 19:35): one should not make the liquid from a head.
- F. And that yields an argument a fortiori: if with reference to a mere “measure” (Lev. 19:35), which is merely one sixth of a log, the Torah demanded meticulous attention, how much the more so must one give meticulous case in measuring out a hin, half a hin, a third of a hin, a quarter of a hin, a log, a half a log, a quarter of a log, a toman, half a toman, and an uqla.

III.15 A. Said R. Judah said Rab, “It is forbidden for someone to keep in his house a measure that is either smaller or larger than the norm, even for the purpose of a piss pot.”

- B. *Said R. Pappa, “But we have stated that rule only in a place where measures are not properly marked with a seal, but where they are properly sealed, they are permitted, since, if the purchaser sees no mark, he is not going to accept their use. And even in a place where measures are not properly marked with a seal, we have stated that rule only in a case in which they are not supervised [by administrative officers of the market], but if they are ordinarily supervised, we should have no objection.”*

- C. *But that is not the case, for sometimes the buyer may come by at twilight and may happen to take a faulty measure. And so, too, that has been taught on Tannaite authority: It is forbidden for someone to keep in his house a measure that is either smaller or larger than the norm, even for the purpose of a piss pot. But he may make a seah measure, a tarqab, a half-tarqab, a qab, a half-qab, a quarter-qab, a toman, [90B] and an uqla measure. How much is an uqla measure? It is a fifth of a quarter of a qab. In the case of liquid measures, one may make a hin, a half-hin, third-hin, quarter-hin, log, half-log, quarter-log, eighth-log, and eight of an eighth, which is a qortob.*
- D. *So why shouldn't someone also make a double-qab measure?*
- E. *It might be confused with a tarqab.*
- F. *Therefore people may err by as much as a third.*
- G. *If so, then a qab also people should not make, since they might confuse it with a half-tarqab. Rather, as to a double-qab, this is the reason that one is not to make it, specifically, that one will confuse it with a half-tarqab.*
- H. *And this proves that one may err by a quarter.*
- I. *If so, a half-toman and an uqla measure are things people should not make.*
 [Slotki: The difference between a half-toman, a sixteenth-qab, and an uqla, a twentieth-qab, is only one-eightieth of a qab, which is a fifth of the half-toman, less than a quarter, so that these two measures could certainly be mistaken for one another.]
- J. *Said R. Pappa, "With small measures people are quite expert."*
- K. *What about a third of a hin and a fourth of a hin — shouldn't people be forbidden to make these?*
- L. *Since these were utilized in the sanctuary, rabbis made no decree in their regard.*
- M. *Well, shouldn't there be a precautionary decree with respect to the sanctuary?*
- N. *The priests are meticulous in their work.*

- III.16** A. *Said Samuel, "They may not increase the size of the measures [whether or not people concur] by more than a sixth, nor the coins by more than a sixth, and he who makes a profit must not profit by more than a sixth."*
- B. *What is the operative consideration for the first of these three rulings?*
- C. *If we say that it is because the market prices will rise, then for that same consideration, it should not be permitted to increase the size of the measures even by a sixth. And if the operative consideration is overreaching, so that the*

transaction should not have to be annulled, did not Raba say, “One can retract from an agreement that involves fraud in measure, weight, or number, even though it is less than the standard, a sixth, of overreaching.” *And if the operative consideration is that the dealer may not incur any loss, then is the whole purpose of the law to guard him from loss? Is he not entitled to make a profit? But “buy and sell at no profit, merely to be called a merchant!”*

- D. *Rather, said R. Hisda, “Samuel identified a verse of Scripture and interpreted it, ‘And the sheqel shall be twenty gerahs, twenty sheqels, twenty-five sheqels, ten and five sheqels shall be your maneh’ (Eze. 45:12). [90B] Now was the maneh to be two hundred forty denars? [But it is supposed to be twenty-five sheqels or a hundred denars (Cashdan).] But three facts are to be inferred from this statement: [1] the maneh used in the sanctuary is worth double what the maneh is usually worth; [2] they may not increase the size of the measures [whether or not people concur] by more than a sixth, and [3] the sixth is added over and above the original [so to add a sixth, the original is divided into five parts and another part of equal value, making a sixth one, then is added to it, so the maneh consisted of 240 denars (Cashdan, Menahot)].”*

III.17 A. *R. Pappa bar Samuel ordained a measure of three qepizi. They said to him, “Lo, said Samuel, ‘They may not increase the size of the measures [whether or not people concur] by more than a sixth’!”*

- B. *He said to them, “What I am ordaining is an entirely new measure.” He sent it to Pumbedita, and they did not adopt it. He sent it to Papunia and they adopted it, naming it the Pappa-measure.*

Hoarding; Manipulating the Market Prices

III.18 A. *Our rabbis have taught on Tannaite authority:*

- B. Concerning those who store up produce, lend money on usury, falsify measures, and price-gouge, Scripture says, “Saying, when will the new moon be gone, that we may sell grain, and the Sabbath, that we may set forth grain? Making the ephah small and the sheqel great and falsifying the balances of deceit” (Amos 8: 5). And in their regard, Scripture states, “The Lord has sworn by the pride of Jacob, surely I will never forget any of their works” (Amo. 8: 7).

C. *What would be an example of those who store up produce?*

D. *Said R. Yohanan, “Like Shabbetai the produce hoarder.”*

III.19 A. *The father of Samuel would sell produce at the early market price when the early market price prevailed [that is, cheap, so keeping prices down through the year (Slotki)]. Samuel his son held the produce back and sold it when the late market prices prevailed, but at the early market price.*

B. *They sent word from there, "The father is better than the son. How come? Prices that have been held down remain down."*

III.20 A. Said Rab, "Someone may store up his own produce" [but may not hoard for trading purposes (Slotki)].

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

C. **[Following Tosefta's version:] They do not hoard in the Land of Israel things upon which life depends, for example, wine, oil, fine flour, and produce. But things upon which life does not depend, for instance, cummin and spice, lo, this is permitted. And they put things in storage for three years, the eve of the seventh year, the seventh year itself, and the year after the seventh year.**

D. **Under what circumstances?**

E. **In the case of that which one purchases in the market.**

F. **But in the case of what one puts aside from what he himself has grown, even for a period of ten years it is permitted.**

G. **But in a year of famine even a qab of carobs one should not put into storage, because he brings a curse on the prices [by forcing them upward through artificial demand] [T. A.Z. 4:1A-G].**

III.21 A. *Said R. Yosé b. R. Hanina to Puga his servant, "Go, store up fruit for me for the next three years: the eve of the Sabbatical Year, the Sabbatical Year, and the year after the Sabbatical Year."*

III.22 A. *Our rabbis have taught on Tannaite authority:*

B. **They do not export from the Land of Israel to Syria things upon which life depends, for example, wine, oil, and fine flour.**

C. **R. Judah b. Batera says, "I say that they export wine to Syria, because in doing so, one diminishes silliness [in the Land of Israel]."**

D. **Just as they do not export to Syria, so they do not export from one hyparchy to another.**

E. **And R. Judah permits doing so [91A] from one hyparchy to another [T. A.Z. 4:2].**

III.23 A. *Our rabbis have taught on Tannaite authority:*

- B. They are not to make a profit in the Land of Israel from the necessities of life, for instance, wine, oil, and flour.
- C. They said concerning R. Eleazar b. Azariah that he would make a profit from wine and oil all his life [T. A.Z. 4:1H-J].
- D. *In the matter of wine, he concurred with the view of R. Judah [b. Batera], and in the matter of oil, as it happens, in the place where R. Eleazar b. Azariah lived, oil was abundant.*

III.24 A. *Our rabbis have taught on Tannaite authority:*

- B. People are not to profit from eggs twice.
- C. *Said Mari bar Mari, "There was a dispute between Rab and Samuel. One says, 'Two for one' [selling for two what was bought for one], and the other said, 'Selling by a dealer to a dealer' [making two profits on the same object]."*

III.25 A. *Our rabbis have taught on Tannaite authority:*

- B. They sound the alarm on account of a collapse in the market in trading goods even on the Sabbath.
- C. *Said R. Yohanan, "For instance, linen clothing in Babylonia and wine and oil in the Land of Israel."*
- D. *Said R. Joseph, "But that is the case when these are so cheap that ten go for the price of six."*

Migration from the Land of Israel by Reason of Famine; the Case of Ruth's Family

III.26 A. *Our rabbis have taught on Tannaite authority:*

- B. **A person is not allowed to emigrate from the Land of Israel unless wheat goes at the price of two seahs for a sela.**
- C. **Said R. Simeon, "Under what circumstances? Only in a case in which he does not find any to buy even at that price. But if he finds some to buy at that price, even if a seah of grain goes for a sela, he should not emigrate."**
- D. **And so did R. Simeon bar Yohai say, "Elimelech, Machlon and Kilion were the great men of his time, and one of those who sustained the generation. But because he went abroad, he and his sons died in famine. But all the Israelites were able to survive on their own land, as it is said, 'and when they came to Bethlehem, the whole town was stirred because of them' (Rut. 1:19).**

This teaches that all of the town had survived, but he and his sons had died in the famine” [T. A.Z. 4:4A-H].

III.27 A. “And when they came to Bethlehem, the whole town was stirred because of them, and the women said, ‘Is this Naomi’” (Rut. 1:19):

B. *What is the meaning of the phrase, “Is this Naomi”?*

C. Said R. Isaac, “They said, ‘Did you see what happened to Naomi, who emigrated from the Land for a foreign country?’”

III.28 A. And said R. Isaac, “The day that Ruth the Moabite emigrated from the Land to a foreign land, the wife of Boaz died. *That is in line with what people say: ‘Before a person dies, his successor as master of the house is appointed.’*”

III.29 A. Said Rabbah bar R. Huna said Rab, “Isban is the same as Boaz.”

B. *So what in the world does that mean?*

C. *It is in line with what Rabbah b. R. Huna further said, for said Rabbah bar R. Huna said Rab, “Boaz made for his sons a hundred and twenty wedding banquets: ‘And Isban had thirty sons and thirty daughters he sent abroad, and thirty daughters he brought from abroad for his sons, and he judged Israel seven years’ (Jud. 12: 9). For each one of them he made two wedding feasts, one in the household of the father, the other in the household of the father-in-law. But to none of them did he invite Manoah, for he said, ‘How will that barren mule ever repay my hospitality?’ And all of them died in his lifetime. That is in line with what people say, ‘In your lifetime you begot sixty? What good are the sixty? Marry again and get another one, brighter than all sixty.’*”

III.30 A. Said R. Hanan bar Raba said Rab, “Elimelech and Salmon and ‘such a one’ (Rut. 4: 1) and the father of Naomi were all sons of Nahshon b. Amminadab (Exo. 6:23, Num. 10:14).”

B. *So what in the world does that mean?*

C. It is that even one who has a substantial store of unearned merit gained from his ancestors, it will serve him no good when he emigrates from the Land to a foreign land.”

III.31 A. [Giving further examples of how the merit of ancestors did no good for descendants,] And said R. Hanan bar Raba said Rab, “*The mother of Abraham was named Amathelai, daughter of Karnebo; the name of the mother of Haman was Amatehilai, daughter of Orabti; and the mnemonic will be, ‘unclean to the unclean, clean to the clean.’ The mother of David was Nizbeth daughter of Adael, the mother of Samson was Zlelponit, and his sister was Nasyan.*”

B. *So what?*

C. *For answering heretics.*

III.32 A. And said R. Hanan bar Raba said Rab, “For ten years our father, Abraham, was kept in prison, three in Kuta, seven in Kardu.”

B. *And R. Dimi of Nehardea repeats the matter in reverse order.*

C. *Said R. Hisda, “The lesser Kuta is the same as Ur of the Chaldees (Gen. 11:31).”*

III.33 A. And said R. Hanan bar Raba said Rab, “The day on which our father, Abraham, died, all of the principal authorities of the nations of the world formed a line and said, ‘Woe is the world that has lost **[91B]** its leader, woe to the ship that has lost its helmsman.’”

III.34 A. “And you are exalted as head above all” (1Ch. 29:11):

B. *Said R. Hanan bar Raba said Rab, “Even the superintendent of the water supply is appointed by Heaven.”*

III.35 A. Said R. Hiyya bar Abin said R. Joshua b. Qorhah, “God forbid! Even if [Elimelech and his family] had found bran, they would never have emigrated. So why were they punished? Because they should have besought mercy for their generation but failed to do so: ‘When you cry, let them that you have gathered deliver you’ (Isa. 57:13).”

III.36 A. Said Rabbah bar bar Hannah said R. Yohanan, “This [prohibition against emigration] has been taught only when money is cheap [and abundant] and produce expensive, but when money is expensive [and not to be found, there being no capital], even if four seahs cost only a sela, it is permitted to emigration.”

III.37 A. *Said R. Yohanan, “I remember when four seahs of grain cost a sela and many died of starvation in Tiberias, not having an issar for bread.”*

B. *And said R. Yohanan, “I remember when workmen wouldn’t agree to work on the east side of town, where workers were dying because of the scent of bread [which they could not afford to buy].”*

C. *And said R. Yohanan, “I remember when a child would break open a carob pod and a line of honey would run over both his arms.”*

D. *And said R. Eleazar, “I remember when a raven would grab a piece of meat and a line of oil would run down from the top of the wall to the ground.”*

E. *And said R. Yohanan, “I remember when boys and girls would promenade in the market at the age of sixteen or seventeen and not sin.”*

- F. *And said R. Yohanan, "I remember when they would say in the house of study, 'Who agrees with them falls into their power, who trusts in them — what is his becomes theirs.'"*

III.38 A. It is written, "Mahlon and Chilion" (Rut. 1: 2) and it is written "Joash and Saraph" (1Ch. 4:22)!

B. Rab and Samuel —

C. One said, "Their names really were Mahlon and Chilion, and why were they called Joash? Because they despaired hope of redemption [the words for Joash and despair using the same letters], and Saraph? Because they become liable by the decree of the Omnipresent to be burned."

D. And the other said, "Their names really were Joash and Saraph, but they were called Mahlon and Chilion, Mahlon, because they profaned their bodies [the words for Mahlon and profane using the same letters], and Chilion, because they were condemned by the Omnipresent to destruction [the words for destruction and Chilion using the same letters]."

E. *It has been taught on Tannaite authority in accord with the view of him who said that their names really were Mahlon and Chilion. For it has been taught on Tannaite authority: What is the meaning of the verse, "And Jokim and the men of Cozeba and Joash and Saraph, who had dominion in Moab, and Jashubilehem, and the things are ancient"?* (1Ch. 4:22)?

F. "Jokim": this refers to Joshua, who kept his oath to the men of Gibeon (Jos. 9:15, 26).

G. "And the men of Cozeba": these are the men of Gibeon who lied to Joshua [the words for lie and Cozeba using the same letters] (Jos. 9: 4).

H. "And Joash and Saraph": Their names really were Mahlon and Chilion, and why were they called Joash? Because they despaired hope of redemption [the words for Joash and despair using the same letters], and Saraph? Because they become liable by the decree of the Omnipresent to be burned.

I. "Who had dominion in Moab": they married wives of the women of Moab.

J. "And Jashubilehem": this refers to Ruth of Moab, who had returned [using letters that are shared with Jashub] and remained in Bethlehem of Judah.

K. "And the things are ancient": these things were stated by the Ancient of Days.

III.39 A. "These were the potters and those that dwelt among plantations and hedges; there they dwelt occupied in the king's work" (1Ch. 4:23):

- B. “These were the potters”: this refers to the sons of Jonadab, son of Rahab, who kept the oath of their father (Jer. 35: 6).
- C. “And those that dwelt among plantations”: this speaks of Solomon, who in his rule was like a fecund plant.
- D. “And hedges”: this refers to the Sanhedrin, who hedged in the breaches in Israel.
- E. “There they dwelt occupied in the kings work”: this speaks of Ruth of Moab, who lived to see the rule of Solomon, her grandson’s grandson: “And Solomon caused a throne to be set up for the king’s mother” (1Ki. 2:19), in which connection R. Eleazar said, “For the mother of the dynasty.”

The Blessings of Plenty

III.40 A. *Our rabbis have taught on Tannaite authority:*

- B. “And you shall eat of the produce, the old store” (Lev. 25:22) — without requiring preservatives.
- C. *What is the meaning of without requiring preservatives?*
- D. R. Nahman said, “Without grain worms.”
- E. And R. Sheshet said, “Without blast.”
- F. *It has been taught on Tannaite authority in accord with the view of R. Sheshet, and it has been taught on Tannaite authority in accord with the view of R. Nahman.*
- G. *It has been taught on Tannaite authority in accord with the view of R. Nahman:*
- H. “And you shall eat the old store” (Lev. 25:22) — might one suppose that the sense is that the Israelites will be eager for the new produce because last year’s has been destroyed [by the grain worm]? Scripture says, “until her produce came in,” that is, until the produce will come on its own [without an early, forced harvest (Slotki)].
- I. *It has been taught on Tannaite authority in accord with the view of R. Sheshet:*
- J. “And you shall eat of the produce, the old store” (Lev. 25:22) — might one suppose that the sense is that the Israelites will be eager for the new produce because last year’s has been spoiled [Slotki: by the blast]? Scripture states, “until her produce came in,” that is, until the new crop will come in the natural way.

III.41 A. *Our rabbis have taught on Tannaite authority:*

- B. “And you shall eat old store long kept” (Lev. 26:10) — whatever is of an older vintage than its fellow is better in quality than its fellow.

C. I know that that is so only of things that are ordinarily aged. What about things that are not ordinarily aged?

D. Scripture is explicit: “old store long kept” (Lev. 26:10) — in all cases.

III.42 A. “And you shall bring forth the old from before the new” (Lev. 26:10) —

B. This teaches that the storehouses will be full of last year’s crop, and the threshing floors, this year’s crop, and the Israelites will say, “How are we going to remove the one before the other?”

C. *Said R. Pappa, “Everything is better when aged, except for dates, beer, and fish-hash.”*

I.1 finds the scriptural basis for the Mishnah’s rule. No. 2 footnotes No. 1. II.1 opens with an examination of the language of the Mishnah. No. 2, carrying in its wake Nos. 3, 4 deals with the theme, not the substance, of the Mishnah. III.1, 2 provide a scriptural basis for the rule and principle of the Mishnah. The key verse of No. 2 accounts for the inclusion of No. 3, which carries in its wake No. 4. Further Tannaite thematic supplements are at Nos. 5-8. No. 8 is glossed by No. 9, and then Nos. 10-12+13, 14 continue the Tannaite supplement. The structure of the rest is clear as spelled out in Chapter Eleven.