

## IV.

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### BAVLI GITTIN CHAPTER FOUR

### FOLIOS 32A-48B

#### 4:1

- A. He who sends a writ of divorce to his wife, and overtakes the messenger,
- B. or who sent a messenger after him,
- C. and said to him, “The writ of divorce which I gave you is null” –
- D. lo, this is null.
- E. [If] he [the husband] got to his wife first,
- F. or [if] he sent a messenger to her,
- G. and said to her, “The writ of divorce which I sent to you is null” –
- H. lo, this is null.
- I. If [this took place] after the writ of divorce reached her possession, he no longer has the power to annul it.

#### 4:2A-C

- A. At first [the husband] would set up a court in some other place and annul it.
- B. Rabban Gamaliel ordained that people should not do so,
- C. for the good order of the world.

- I.1** A. [He who sends a writ of divorce to his wife, and overtakes the messenger:]  
*The language that is used is not, overtakes him, but rather, overtakes, meaning, even if this happened without prior planning. So we don't invoke the argument, the husband intends only to torment her [for example, by making a special effort to overtake the messenger (Simon)].*

**II.1 A. Or who sent a messenger after him:**

B. *What need do I have for this detail?*

C. *What might you otherwise have imagined? That the second commission is no stronger than the first and therefore cannot nullify it? So we are informed that that is not the case.*

**III.1 A. [If] he [the husband] got to his wife first:**

B. *What need do I have for this detail?*

C. *What might you otherwise have imagined? That where we don't invoke the argument, the husband intends only to torment her, that is the case when it comes to sending a messenger; but if he makes such a statement to the wife herself, he really does want to torment her. So we are informed that that is not the case.*

**IV.1 A. Or [if] he sent a messenger to her:**

B. *What need do I have for this detail?*

C. *What might you otherwise have imagined? That he is the one who would not go to all this trouble merely to torment his wife, but if he sent a messenger, to the inconvenience of which he really is indifferent, I might suppose that he really does want to torment her. So we are informed that that is not the case.*

**V.1 A. If [this took place] after the writ of divorce reached her possession, he no longer has the power to annul it:**

B. *Obviously!*

C. *Not at all. What might you otherwise have supposed? We take the position that retrospectively the matter is revealed that he has nullified the writ? So we are informed that that is not the case.*

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

B. "It is null," "I don't want it" – his words take effect. "It is invalid," "It is not a writ of divorce" – he has said nothing at all.

C. *Does that bear the implication that the expression "null" is tantamount to "let it be nullified"? But didn't Rabbah bar Aibu say R. Sheshet said, and some say, said Rabbah bar Abbuha, "If one who has received a gift said after it has come to hand, 'This gift is null,' 'Let it be null,' 'I don't want it' – he has said nothing. But if he said, 'It is nullified,' 'It is no gift,' his words take effect. So this shows that the language, 'null,' means, nullified as at the outset?" [Simon: And*

therefore the gift had never passed into possession; in the case of a writ of divorce, the language, “null,” should have no effect, because it is a wrong description of the character of a writ of divorce.]

- D. Said Abbaye, “The word ‘null’ [32B] bears two meanings: it means, ‘already nullified,’ but it also means, ‘may it be nullified.’ *When used in the case of either a writ of divorce or a gift, the sense is used that bears effect, one way or the other, respectively.*”
- E. Said Abbaye, “*We hold a tradition that a messenger bearing a gift is in the same status as a messenger bearing a writ of divorce. The upshot is that the language, ‘take,’ does not bear the sense of, ‘effect acquisition of the title.’*”

**V.3** A. *Rabina came across R. Nahman bar Isaac who was leaning against the bolt of the door and raising this question: “As to the language, ‘null,’ what is its effect?”*

B. *The question stands.*

**V.4** A. *Said R. Sheshet, and some say, in a Tannaite statement it has been repeated, “[If someone said,] ‘This writ of divorce will not count, ‘...will not release her,’ ‘...will not part,’ ‘...will not dismiss,’ ‘Let it be a potsherd,’ ‘Let it be like a potsherd’ – his statement is effective. If he said, ‘It doesn’t count,’ ‘...will not release her,’ ‘...will not part,’ ‘...will not dismiss,’ ‘...is a potsherd,’ ‘...is like a potsherd’ – his statement is null.” [In the latter formulations, he has not specified the writ of divorce.]*

**V.5** A. *The question was raised: “What about the language, ‘Behold, it is a potsherd?’”*

B. *Said Rabina to R. Aha b. Raba, and some say, R. Aha b. Raba to R. Ashi, “How is this different from the language, ‘Behold it is sanctified,’ or, ‘Behold it is ownerless property [no longer mine]’ [which formulations are effective]?”*

**V.6** A. What is the rule on his using the same writ to effect a divorce? May he do so or may he not do so?

B. R. Nahman said, “He may go and use it for a writ of divorce.”

C. R. Sheshet said, “He may not go and use it for a writ of divorce.”

D. *And the decided law is in accord with R. Nahman.*

E. *Well, is that so?! And lo, it is an established fact for us that the law is in accord with R. Yohanan, who has said, “She may retract [if the man said, be betrothed at the end of thirty days with this money; if she*

agreed, she may retract through the period of thirty days; just as the betrothal is canceled, so the writ of divorce should be subject to cancellation].”

- F. *Well, how are the cases really parallel? There it is a matter of mere words, and words can come and wipe out words. But here, while he has nullified the commission of his agent, has he actually nullified the writ of divorce itself?!”*

**VI.1 A. At first [the husband] would set up a court in some other place and annul it:**

- B. *It has been stated:*  
C. How many people must be present when he nullifies it?  
D. R. Nahman said, “In front of two.”  
E. R. Sheshet said, “In front of three – *the Mishnah paragraph speaks of a court* [which must be three persons].”  
F. And R. Nahman said, “In front of two, *because people also call two persons a court.*”

**VI.2 A. Said R. Nahman, “On what basis do I make such a statement? Because we have learned in the Mishnah: **This is the substance of the prosbol: ‘I declare to you, [33A] Messrs. X and Y, judges in such-and-such a place, [that every debt which I have [which is owed to me] I may collect [the money owed me] anytime I wish.’ And the judges sign below or the witnesses] [M. Shebi. 10:4A-B].**”** [Here two suffice to be called a court.]

- B. And R. Sheshet?  
C. *So is the Tannaite framer of the passage expected to count them out item by item, like a peddler who is out selling his wares?*  
D. *Said R. Nahman, “On what basis do I make such a statement? Because we have learned in the Mishnah: **And the judges sign below or the witnesses [M. Shebi. 10:4C].** Is the sense, therefore, not ‘just as the witnesses are two, so the judges are two’?”*  
E. And R. Sheshet?  
F. *What makes you so sure? This follows its rule, and that follows its rule.*  
G. *Then why specify judges and why specify witnesses?*

- H. *This serves to inform us that it makes no difference if the document is written by them as judges and then signed as witnesses, or if they word the document as witnesses and sign as judges.*”

**VII.1 A. For the good order of the world:**

- B. *What’s the meaning of for the good order of the world?*
- C. R. Yohanan said, “For the good order of offspring who would otherwise be in the status of mamzerim [children of parents who cannot legally marry, for example, a married woman and someone other than her husband].”
- D. R. Simeon b. Laqish said, “For the good order of women who would otherwise be left in the status of deserted wives for the rest of their lives.”
- E. R. Yohanan said, “For the good order of offspring who would otherwise be in the status of mamzerim [children of parents who cannot legally marry, for example, a married woman and someone other than her husband]”: *He accords with the theory of R. Nahman, who has said, “The writ of divorce could be canceled before two persons,” and since what two do will not necessary be broadly known, so, not having heard and not knowing that she is not legally divorced, she may go and remarry and bear children in the status of mamzerim.*”
- F. R. Simeon b. Laqish said, “For the good order of women who would otherwise be left in the status of deserted wives for the rest of their lives”: *He takes the position of R. Sheshet, who has said, “It must be before three judges,” and what three people do will be well known, and the wife will hear and know that she has not been legally divorced, so she won’t remarry, and therefore there is the real consideration of the good order of women who would otherwise be left in the status of deserted wives [having no alternative].*

**VII.2 A. Our rabbis have taught on Tannaite authority:** “If a husband nullified a writ of divorce that he has issued, it is null,” the words of Rabbi.

- B. Rabban Simeon b. Gamaliel says, “He cannot either nullify it or add anything to what is stipulated in it, for otherwise what power does the court have” [which ordained that there may be no stipulations or annulments of writs of divorce]!
- C. *Now, here is a case in which in accord with the law of the Torah a writ of divorce may be annulled, but because of the consideration of the authority of the court, we nonetheless allow the woman to marry anyone of her choice!*

- D. *Anyone who betroths a woman does so in acknowledgment of the authority of rabbis, and rabbis in this case have removed the effect of his betrothal.*
- E. *Said Rabina to R. Ashi, "Well, that poses no problems for the one who betroths through a money payment, but if he betrothed through an act of sexual relations, what is there to say?"*
- F. *Rabbis have treated that act of sexual relations as nothing more than fornication.*

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

- B. **"If someone said to ten persons, 'Write a writ of divorce for my wife,' he has the power to nullify the instructions given to this group in the absence of the other group," the words of Rabbi.**
- C. **Rabban Simeon b. Gamaliel says, "He can nullify the instructions to the one only in the presence of the other as well" [cf. T. [Git. 3:H-I](#)].**
  - D. *What is at issue between the two?*
  - E. *What is at issue concerns whether, if part of evidence has been nullified, the whole of it is null. Rabbi takes the view that if part of evidence has been nullified, the whole of it is [\[33B\]](#) not thereby null. Therefore, if those who haven't heard the nullification of the writ go and write the writ of divorce and give it to her, they have acted properly.*
  - F. *Rabban Simeon b. Gamaliel maintains that if part of evidence has been nullified, the whole of it is thereby null. If those who don't know that the order is nullified should go and write the writ of divorce and give it to her, they will then turn out to permit a married woman to remarry!*
  - G. *If you prefer, I shall say: Both Rabbi and Rabban Simeon b. Gamaliel concur that if part of evidence has been nullified, the whole of it is not thereby null. But here, this is the operative consideration behind the position of Rabban Simeon b. Gamaliel: He maintains that something that is done in the presence of ten persons can be undone only in the presence of ten persons. [Simon: Hence the practical difference between Rabbi and Simeon b. Gamaliel is that according to the former, he can prevent any two from signing, while according to the latter, he cannot even do this, unless he forbids them all together.]*

- VII.4** A. *The question was raised: [If he said,] “All of you write,” what is the rule? Do we say that Rabban Simeon b. Gamaliel maintains that if part of evidence has been nullified, the whole of it is thereby null, and in the case of these, since he used the language, “all of you,” they cannot write the writ of divorce and hand it over without these two? Or perhaps the operative consideration in the mind of Rabban Simeon b. Gamaliel is that he maintains that something that is done in the presence of ten persons can be undone only in the presence of ten persons. Therefore even if he used the language, “all of you,” [he can nullify his order only when they are all present]?*
- B. *Come and take note: “If someone said to two persons, ‘Write a writ of divorce for my wife,’ he has the power to nullify the instructions give to this person in the absence of the other,” the words of Rabbi. Rabban Simeon b. Gamaliel says, “He can nullify the instructions to the one only in the presence of the other as well” [T. Git. 3:H-I]. Now lo, the two here are tantamount to “all of you,” and yet we see that there is a dispute on the matter.*
- C. *Said R. Ashi, “If the two serve as witnesses to the writing of the writ of divorce, then Rabban Simeon b. Gamaliel would of course concur. But here, with what situation do we deal? It is with witnesses to the delivery of the writ of divorce. [Simon: He appointed the two as bearers to take the writ to the wife, in which case one might take it to her without the other, being unaware that the husband had countermanded the commission.]” That stands to reason, in line with the concluding part of the same passage [of Simeon b. Gamaliel’s statement]: “If he said to this one by himself and that one by himself that he wished to send the writ of divorce, then he has got the power to nullify it even in the presence of one party and the absence of the other” [T. Git. 3:3J]. Now, if you maintain, the passage speaks of witnesses to the delivery of the writ of divorce, this makes good sense [there being no issue of evidence in connection with taking the writ of divorce (Simon)], but if you say it is a case of witnesses to the writing of the writ of divorce, how can these two be joined together*

*[since to begin with they were separate]? Lo, the master has said, “The testimony of witnesses is confirmed only if they had been in sight of one another. [R. Joshua b. Qorha says, ‘Even though this one was not opposite that one.’ Under no circumstances is their testimony confirmed unless both of them are [heard] at the same time. R. Nathan [T.: Simeon] says, ‘They hear out the testimony of this one on one day, and when his fellow comes on the next day, they give a hearing to what he has to say as well’] [T. San. 5:5F-I].”*

D. *But maybe this statement accords with the theory of R. Joshua b. Qorha.*

**VII.5** A. *Said R. Samuel bar Judah, “I heard from R. Abba two rulings, one in accord with Rabbi, the other in accord with Rabban Simeon b. Gamaliel, but I don’t know which one accords with Rabbi and which one accords with Rabban Simeon b. Gamaliel.”*

B. *Said R. Joseph, “Well, let’s see – when R. Dimi came, he said, ‘There was a case, and Rabbi acted in accord with the rulings of sages, and said to him R. Parta b. R. Eleazar b. Parta, grandson of R. Parta the Elder: “Well, if so, what value is the ruling of the court?” so Rabbi reversed his ruling and acted in accord with Rabban Simeon b. Gamaliel.’ Now, since the present item conforms to the view of Rabban Simeon b. Gamaliel, the other must accord with Rabbi.”*

C. *So, too, R. Josiah of Usha concurred in one matter with Rabbi and in the other with Rabban Simeon b. Gamaliel. For said Rabbah bar bar Hannah, “We were five elders before R. Josiah of Usha. Someone came before him, whom he forced to give a writ of divorce even against his will. He said to the witnesses [after forcing the man to act in this way], ‘Go, hide yourselves from him, and write her writ of divorce.’ Now if you maintain that he concurred with Rabbi,*



*even if they concealed themselves, what difference would that make [since the husband can locate two other people and nullify the writ of divorce]? So that shows that he concurred in this item with Rabban Simeon b. Gamaliel. And if it should enter your mind that in the other as well he concurred with Rabban Simeon b. Gamaliel, why in the world should they have had to hide themselves? It would have been quite sufficient if they had just separated from one another [since he could countermand the order only in the presence of both]. So it must follow that he concurred at one point in accord with Rabbi, the other in accord with Rabban Simeon b. Gamaliel.”*

- D. And Raba said R. Nahman [said], “The decided law accords with Rabbi in both items.”
- E. *But doesn’t R. Nahman accept the argument*, “Well, if so, what value is the ruling of the court?” *And didn’t R. Nahman say Samuel said, [34A] “Minor orphans who came to divide up the estate of their father – the court appoints for them a guardian, and he selects a fair share for each of them. When they grow up, however, they can object to the division.” But R. Nahman in his own account said, “When they grow up, they cannot object to the division, for if they can, what value is the ruling of the court?”*
- F. In that case [where he accepts that argument] it has to do with property, but here it has to do with a prohibition as to personal status.

- VII.6** A. *Giddal bar Reilai sent a writ of divorce to his wife. The agent went and found her sitting and weaving. He said to her, "Lo, here is your writ of divorce."*
- B. *She said to him, "Go now, but come back tomorrow."*
- C. *He went to him and told him. The other began with this blessing: "Blessed is the One who is good and does good."*
- D. *[Interpreting this language,] Abbaye said, "Blessed is the One who is good and does good. But the writ of divorce is not nullified."*
- E. *Raba said, "Blessed is the One who is good and does good. And the writ of divorce is nullified."*
- F. *So what's at stake?*
- G. *What is at issue is whether or not an expression of one's intentionality in regard to a writ of divorce has any effect at all. For Abbaye takes the view that an expression of one's intentionality in regard to a writ of divorce has no effect at all. And Raba maintains that an expression of one's intentionality in regard to a writ of divorce matters.*
- H. *Said Raba, "So how do I know? It is because R. Sheshet forced someone to give a writ of divorce even against his will. The man*

*then said to the witnesses, 'I heard R. Sheshet say to you, "Let the writ of divorce be nullified,"' on account of which R. Sheshet forced him to issue yet another writ of divorce."*

I. *And Abbayye?*

J. *"So is R. Sheshet the one who nullified someone else's writ of divorce? It is the man himself who nullified it, and the reason he used this language was because of court officers of R. Sheshet."*

K. *Said Abbayye, "So how do I know? Because R. Judah forced the son-in-law of R. Jeremiah Biraah to issue a writ of divorce, and the latter nullified it, so he went and made him do it again against his will, and said to the witnesses, 'So stuff grass into your ears and write it for him.' Now, if it should enter your mind that an expression of one's intentionality in regard to a writ of divorce matters, don't they see him running after them?"*

L. *And Raba?*

M. *The reason that he's running after them – so they think – is because he wants to say to them, "Be sure to hand it over to her, so as to bring to a close that man's troubles."*

- N. *And said Abbayye, “So how do I know? Because of the case of a man who said, ‘If I don’t come back from now until thirty days have passed, it will be a valid writ of divorce’ [that is, given now, effective in thirty days]. He came at the end of thirty days, but was held up at the ferry. He said to them, ‘Look, I’m back! Look, I’m back!’ Said Samuel, ‘That’s not classified as coming back.’” [Revealing his intention to nullify the writ made no difference (Simon)].*
- O. *And Raba?*
- P. *Did the man in that case really intend to nullify the writ of divorce? What he was trying to do was carry out his prior stipulation, but his stipulation was not fulfilled.*

- VII.7** A. *Someone said, “If I don’t marry her in thirty days, let this be a writ of divorce.” When thirty days had passed, he said to them, “Look, I’m working [to get the thing off the ground].”*
- B. *So why should we take account of the possibility that the writ of divorce is valid? Is it because the man could not marry by reason of an inescapable obstacle? That is no plea in respect to a writ of divorce. If it is because he has revealed his*

*intention of nullifying the writ, that is the very point on which Abbaye and Raba disagreed.*

**VII.8** A. *Someone said, “If I don’t marry her by the first of Adar, this will be a writ of divorce.” When the time came, he said to them, “I was referring to the first of Nisan.”*

B. *Say: So why should we take account of the possibility that the writ of divorce is valid? Is it because the man could not marry by reason of an inescapable obstacle? That is no plea in respect to a writ of divorce. If it is because he has revealed his intention of nullifying the writ, that is the very point on which Abbaye and Raba disagreed.*

**VII.9** A. *Now the decided law is in accord with Nahman [the law follows Rabbi at both points], and the decided law is in accord with Nahman [on the effect of revealing intention], [34B] and the decided law is in accord with Nahmani [that is, Abbaye].*

#### **4:2D-F**

- D. **At first he used to change his name and her name, the name of his town and the name of her town [i.e., to give an adopted name].**
- E. **And Rabban Gamaliel ordained that one should write, “Mr. So-and-so, and whatever alias he has,” “Mrs. So-and-so, and whatever alias she has,”**

**F. for the good order of the world.**

**I.1** A. Said R. Judah said Samuel, “People from overseas sent word to Rabban Gamaliel, ‘Men coming here from the Land of Israel, one called Joseph but known here as Yohanan, or called Yohanan but known here as Joseph – how are they to issue writs of divorce for their wives?’ Rabban Gamaliel went and **Rabban Gamaliel ordained that one should write, ‘Mr. So-and-so, and whatever alias he has,’ ‘Mrs. So-and-so, and whatever alias she has,’ for the good order of the world.’**”

B. *Said R. Ashi, “But that is the case only if it is an established fact that he has two names.”*

C. *Said R. Abba to R. Ashi, “R. Mari and R. Eleazar stand with you.”*

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

E. **If a man had two wives, one in Judah and one in Galilee, and he had two names, one used in Judah and one used in Galilee, if he divorced his wife in Judah by the name he uses in Galilee, and his wife in Galilee by the name he uses in Judah, it is invalid.**

F. **It becomes effective only if he divorces his wife in Judea in the name he bears in Judea with the addition of the name he has in Galilee, and his wife in Galilee in the name he bears in Galilee, including the name he bears in Judah.**

G. **But if he was somewhere else than Judah or Galilee and wrote it in the name he used in either place, it is valid [T. Git. 6:5A-E].**

H. *Now haven’t you said, with the addition of the name he has in Galilee? That proves that the one rule refers to a case in which he is assumed to have more than one name, the other, where he is not assumed to have more than one name.*

**I.2** A. *There was a woman who was called Miriam, but a few people called her Sarah. The Nehardeans said, “In a writ of divorce, she is to be called, ‘Miriam or any other name by which*

she is called,' not 'Sarah or any other name by which she is called.'”

### 4:3

- A. A widow collects [her marriage contract] from the estate of the orphans only by means of an oath.
- B. They held back from imposing the oath on her.
- C. Rabban Gamaliel the Elder ordained that she should take any vow the heirs wanted and collect her marriage contract.
- D. The witnesses sign the writ of divorce,
- E. for the good order of the world.
- F. Hillel the Elder ordained the prosbol,
- G. for the good order of the world.

- I.1** A. [A widow collects [her marriage contract] from the estate of the orphans only by means of an oath:] *Why refer in particular to a widow? The same is the case for anybody, since it is an established fact for us that he who seeks to recover a debt from an estate is to be paid only if he takes an oath!*
- B. *It was necessary to make explicit reference of a widow, since it might have entered your mind to suppose that [35A] so as to make her want to marry, rabbis have imposed a lenient rule in her regard. So we are informed that that is not the case.*

- II.1** A. **They held back from imposing the oath on her:**
- B. *How come? Should we say that it is because of what R. Kahana said, and some say, said R. Judah said Rab, “There was a case of someone who in a time of famine deposited a golden denar with a widow, and she left it in a jar of flour and then baked the flour into bread and gave it to a poor man. Some time later the owner of the denar came and said to her, ‘Give me my denar.’”*
- C. *“She said to him, ‘May a deadly poison make way over one of my sons if I have derived benefit from your denar in any way at all.’”*
- D. *“They say that it was not a long time before one of her sons died. Now when sages heard about the matter, they said, ‘Now, if someone takes an oath in truth [matters turn out that way], if one takes an oath in falsehood, how much the more so!’” [That is why people don’t like to take oaths.]*
- E. *Now why was she punished? Because she had gained from the place of the denar.*

- F. *Then how could sages have referred to her as someone takes an oath in truth?*
- G. *She was like one who had sworn in truth.*
- H. *If that was the operative consideration, then why make reference in particular to a widow? The same would be the case for a divorcée! How come R. Zira said Samuel said, “The rule refers only to a widow, but as to a divorcée, they do impose an oath on her”?*
- I. *Well, the widow is a special case, for, in exchange for the trouble that she goes to for the orphans, she allows herself [to filch from the estate in collecting her marriage settlement].*

- II.2** A. Said R. Judah said R. Jeremiah bar Abba, *“Both Rab and Samuel say, ‘That rule applies only if the oath would be one imposed by the court. But outside of a court, they do impose an oath on her.’”*
- B. *Now is that so, is it? And note, Rab would not order the payment to a widow of a marriage settlement by an estate!*
  - C. *That’s a real question.*
  - D. *In Sura they repeated the matter in the way just now set forth. In Nehardea they repeated it in the following manner:*
  - E. Said R. Judah said Samuel, *“That rule applies only if the oath would be one imposed by the court. But outside of a court, they do impose an oath on her.”*
  - F. But Rab said, *“Even outside of a court as well, they do not impose an oath on her.”*
  - G. *Rab is consistent with views expressed elsewhere, for Rab would not order the payment to a widow of a marriage settlement by an estate.*
  - H. *Why not impose an oath on her so she could collect what was owing to her?*
  - I. *In the time of Rab people treated oaths very lightly.*

- II.3** A. *There was a woman who came before R. Huna. He said to her, “What can I do for you? For Rab would not order the payment to a widow of a marriage settlement by an estate.”*
- B. *She said to him, “But isn’t the only consideration that I might have grabbed something in collection of my marriage settlement? By the life of the Lord of Hosts, if I have derived any benefit in collection of my marriage settlement!”*



- C. Said R. Huna, “Well, Rab would concede that one does so in the case of a woman who takes the oath of her own volition.”

**II.4** A. *There was a woman who came before Rabbah bar R. Huna. He said to her, “What can I do for you? For Rab would not order the payment to a widow of a marriage settlement by an estate, and my master, my father, likewise would not order the payment to a widow of a marriage settlement by an estate.”*

- B. *She said to him, “Then order them to give me my required maintenance.”*

- C. *He said to her, “Maintenance, too, you don’t get, for said R. Judah said Samuel, ‘She who lays claim in court for the payment of her marriage settlement has no claim on maintenance.’”*

- D. *She said to him, “So turn over his chair. He is throwing at me the worst of both worlds.”*

- E. *They turned over his chair, put it upright again, but nonetheless, he wasn’t spared an illness.*

- F. *Said R. Judah to R. Jeremiah Biraah, “Let her take a vow in court and then administer an oath outside of court, and make sure that I hear about it, since I want in this way to establish a precedent!”*

**II.5** A. *Reverting to the body of the foregoing: Said R. Zira said Samuel, “The rule refers only to a widow, but as to a divorcée, they do impose an oath on her”:*

- B. *So can’t a divorcée collect her marriage settlement by taking a vow [not an oath]? Lo, they sent from there [the Land of Israel]: “Stated Mrs. So-and-so, daughter of Mr. Such-and-such: ‘I have received a writ of divorce from Aha bar Hidayya, who is also called Ayya Mari,’ and she took a vow binding herself not to eat any produce in all the world, if she should turn out to have received in payment of her marriage settlement anything other than a blanket, a scroll of Psalms, a scroll of Job, a scroll of Proverbs that was worn out, [35B] and we have placed a value on them of five maneh. When she comes to your authority, collect the rest in her behalf”!*

- C. *Said R. Ashi, "That writ of divorce was one that was issued by a levir" [and the marriage settlement was owing to the deceased childless husband, so the collection was as a widow, not as a divorcée]."*

**III.1 A. Rabban Gamaliel the Elder ordained that she should take any vow the heirs wanted and collect her marriage contract:**

- B. Said R. Huna, "That rule applies only if she did not remarry, but if she has remarried, she cannot take a vow."
- C. *If she remarried, why not? Because her second husband may nullify the vow.*
- D. *But even if she doesn't remarry at the moment, when she does, he still can nullify the vow.*
- E. The husband can't nullify vows she took before he married her.
- F. *But maybe she'll go to a sage, who will release her from the vow!*
- G. He takes the view that she would have to spell out the details of the vow [and would realize that she was trying to steal money from the estate].
- H. R. Nahman said, "[That rule applies] even if she did remarry."
- I. If she remarried, the second husband surely will nullify the vow!
- J. *The case is one in which we impose a vow on her in public.*
- K. *An objection [to Huna]: If she remarried, she may recover her marriage settlement if she took a vow. Doesn't this mean, "if she took a vow now"?*
- L. *No, what it means is that she took a vow to begin with.*
- M. *But hasn't been taught on Tannaite authority: If she remarried, she may recover her marriage settlement if she took a vow?*
- N. *This represents a conflict of Tannaite statements, for there is he who maintains, "A vow that is taken in public may be released," and there is he who holds, "It may not be released."*

**III.2 A. The question was raised: [When someone seeks an abrogation of a vow], is it necessary to spell out the details of the vow, or is it not necessary to do so?**

- B. R. Nahman said, "It is not necessary to spell out the details of the vow."
- C. R. Pappa said, "It is necessary to do so."
- D. R. Nahman said, "It is not necessary to spell out the details of the vow," *for if you maintain that it is necessary to do so, then on*

*occasion the one who has taken the vow may abbreviate the story, and the sage will act on that insufficient information.*

- E. R. Pappa said, “It is necessary to do so,” *for this covers the possibility of violating a prohibition [for example, against stealing or violating an oath].*
- F. *We have learned in the Mishnah: A priest who marries women that are forbidden is invalid until he will vow not to derive benefit [M. Bekh. 7:7G]. A Tannaite statement in that connection: He takes a vow not to derive benefit from her and then may perform the Temple liturgy; then he descends from the altar and issues the writ of divorce.*
- G. *Now if you maintain that he does not have to spell out the details of the vow, shouldn’t we take account of the possibility that, afterward, he may go to a sage, who will release him from his vow [in which case the service he will have performed will prove retrospectively to have been done by an invalid priest]?*
- H. [36A] *We impose the vow in public.*
  - I. *That poses no problem to the one who maintains the view that if a vow is taken in public, it is not subject to remission. But from the perspective of him who said, it is subject to release, what is there to say?*
  - J. *We impose a vow on him that is dependent on the wishes of the community at large.*
  - K. *For said Amemar, “The law is that even in the opinion of him who maintains that a vow imposed in public still may be subject to remission, a vow that is made dependent on the wishes of the community at large may not be remitted; and that is so in the case of an optional matter. But as to a matter that is obligatory, there can be remission.”*

#### **IV.1 A. The witnesses sign the writ of divorce, for the good order of the world:**

- B. **...for the good order of the world?!** *It derives from the Torah itself! For it is written, “...and sign the deeds and seal them” (Jer. 32:44)!*
- C. *Said Rabbah, “No, that observation is required in line with the position of R. Eleazar, for he has said, ‘It is the witnesses to the delivery of the writ that actually effect the severing of the marriage.’ So rabbis ordained that there should also be witnesses to the signing, for the good order of the world, for sometimes the witnesses may die or go overseas.”*

- D. R. Joseph said, “You may even say that it was in accord with the view of R. Meir that they provided that the witnesses should write out their names in full on writs of divorce for the good order of the world. *For it has been taught on Tannaite authority: At first the witness would write, ‘I, So-and-so, have signed as a witness.’ Then, if there was an example of his writing in some other source, it was valid, and if not, it was invalid. Said Rabban Gamaliel, ‘It was a great ordinance that they set up in requiring the witnesses to spell out their names in full for the good order of the world’ [T. Git. 7:13].*”

**IV.2** A. *And isn't signing one's mark sufficient? [Do the witnesses have to write out the whole name?] Lo, Rab would draw a fish, R. Hanina, a palm branch, R. Hisda would mark with an S, R. Hoshayya with an Ayin, Rabbah b. R. Huna would draw a sail!*

B. *Rabbis are a special case, because everybody knows their marks to begin with.*

C. *So how to begin with do they get known?*

D. *On their court orders.*

**V.1** A. **Hillel the Elder ordained the prosbol, for the good order of the world:**

B. *We have learned in the Mishnah there: [A loan against which] a prosbol [has been written] is not cancelled [by the Sabbatical Year]. This is one of the things which Hillel the Elder ordained. When he saw that people refrained from lending one another money [on the eve of the Sabbatical Year] and [thereby] transgressed that which is written in the Torah, “Beware lest you harbor the base thought [...and so you are mean to your kinsman and give him nothing” (Deu. 15: 9)], Hillel ordained the prosbol [whereby the court, on behalf of the creditor, may collect unpaid debts otherwise cancelled by the Sabbatical Year] [M. Shebi. 10:3]. This is the substance of the prosbol: “I declare to you, Messrs. X and Y, judges in such-and-such a place, that every debt which I have [which is owed to me] I may collect [the money owed me] anytime I wish.” And the judges sign below or the witnesses [M. Shebi. 10:4].*

C. *Well, now, is there the possibility that, on the basis of the law of the Torah, the Seventh Year would release a debt, but Hillel then could ordain that such a debt could not be released?*

D. *Said Abbaye, “This referred to the effects of the Seventh Year at this time [after the destruction of the Temple].”*

- E. *“This would represent the position of Rabbi, for it has been taught on Tannaite authority: Rabbi says, “‘This is the manner of release: release [by every creditor of that which he has lent his neighbor” (Deu. 15: 2) – it is of two different acts of release that Scripture speaks, one, the release of lands, the other, the release of debts. When you release lands you release debts, and when you do not release lands, you do not release debts.’ [The prohibition of agricultural labor in the Seventh Year now that the Temple is destroyed is merely by reason of rabbinical authority, and that prohibition is not enforced where loss is involved (Lazarus, Moed Qatan 2B).]”*
- F. **[36B]** *“Now rabbis ordained that the Seventh Year would continue to release debts, as a memorial to the valid Seventh Year of Temple times. So when Hillel saw that people refrained from lending one another money [on the eve of the Sabbatical Year]...Hillel ordained the prosbol.”*
- G. *Well, then, is there the possibility that, on the basis of the law of the Torah, the Seventh Year would not release a debt, but rabbis then could ordain that such a debt could be released?*
- H. Said Abbaye, “It is a case of ‘sit and do nothing.’” [Simon: They do not tell the debtors to commit an actual trespass but merely to refrain from paying debts.]
- I. Raba said, “What a court declares to be ownerless property is indeed ownerless property.”
- J. *For* said R. Isaac, “How on the basis of Scripture do we know that what is declared ownerless property by a court is validly treated as ownerless property? ‘Whosoever did not come within three days according to the counsel of the princes and the elders – all his substance should be forfeited and he himself separated from the congregation of the captivity’ (Ezra 10: 8).”
- K. R. Eleazar said, “It derives from this verse: ‘These are the inheritances, which Eleazar the priest and Joshua b. Nun and the heads of the fathers’ houses of the tribes of the children of Israel distributed for inheritance’ (Jos. 19:51). Now what are ‘heads’ doing alongside ‘fathers’? But this is to tell you that, just as the fathers may assign inheritances to their children in accord with their own wishes, so may the heads likewise assign as an inheritance to the people whatever they choose.”

- V.2** A. *The question was raised: When Hillel ordained the prosbol, did he do it for his own generation only, or for future generations as well?*
- B. *So what difference does it make?*
- C. *Abolishing the ordinance. If you maintain that it was only for his own generation that he made his ordinance, then we can go and abolish it, but if we take the view that he made the ordinance for coming generations as well, then [it is an established principle that] one court cannot come along and reverse the decisions of a prior one unless it is greater in wisdom and in number than the other.*
- D. *So what is the answer?*
- E. *Come and take note that said Samuel, “We write out a prosbol only in the court in Sura or in the court in Nehardea.” Now if you take the view that Hillel did it for all times, then why not write out such a document in any court?*
- F. *But maybe Hillel did make his ordinance for all generations, but he had in mind that the prosbol should be written only by a court of the quality of [Samuel’s], or one of the quality of R. Ammi and R. Assi, which had sufficient power to enforce payment, but not by any common court.*
- G. *Come and take note that said Samuel, “The prosbol represents an act of presumption on the part of the court, and when I am fortunate enough to have the power, I am going to nullify it.” But how could he do so, since [it is an established principle that] one court cannot come along and reverse the decisions of a prior one unless it is greater in wisdom and in number than the other? So this is the sense of his statement: If I should have the good fortune to have even more power than Hillel, I shall nullify it.*
- H. *And R. Nahman said, “I should confirm it.”*
- I. *Confirm it?! Lo, it is in good shape, thank you!*
- J. *This is the sense of his statement: “I shall make the ruling that even though a prosbol has not been written out, it is as though it were written out.”*

**V.3** A. *The question was raised: Is the meaning of the word translated “presumption” actually that, or is the meaning of the word merely “convenience”?*

B. *Come and take note, for said Ulla [with reference to the making of the golden calf], “[Using the same word:] ‘Presumptuous bride, who fornicates right out of the marriage canopy!’”*

- C. *Said R. Mari, son of Samuel's daughter, "What verse of Scripture supports that view? 'While the king sat at his table my spikenard sent forth its fragrance' (Son. 1:12)."*
- D. *Said Raba, "This shows how enduring is his love for them, for what is written is 'sent forth,' and not 'befouled.'"*

**V.4** A. *Our rabbis have taught on Tannaite authority:*

- B. Those who accept insults [using the word translated presumption] but do not inflict them, hear themselves reviled and don't reply, carry out religious duties out of love, accept suffering with joy – of these, Scripture says, "And they that love him are like the sun when he goes forth in his might" (Jud. 5:31).

**V.5** A. *What is the meaning of the word prosbol?*

- B. Said R. Hisda, "[It is Greek:] Before the court" [*pros boulé ubuti*].
- C. **[37A]** The word *boulé* refers to the rich, as it is written, "And I will break the pride of your power" (Lev. 26:19).
- D. *And R. Joseph taught as a Tannaite statement, "This refers to the councils [using the word boulé in the plural]."*
- E. *And the word buti?*
- F. This refers to the poor: "You shall surely lend him sufficient" (Deu. 15: 8) [the word for lend uses the same letters as the word buti].

**V.6** A. *Said Raba to someone who spoke a foreign language, "What is the meaning of the word prosbol?"*

- B. *He said to him, "The manner [Greek: poros] of the matter [pursa demilta]."*

**V.7** A. Said R. Judah said Samuel, "Orphans **[37A]** do not require a prosbol [to prevent the remission of debts owing to them, the court acting as their agency], and so did Rammi bar Hama repeat as a Tannaite rule, "Orphans do not require a prosbol [to prevent the remission of debts owing to them, the court acting as their agency] for Rabban Gamaliel and his court serve as the fathers of all orphans.

**V.8** A. *We have learned in the Mishnah passage: They write a prosbol only against real estate [in cases in which the debtor owns real estate]. If the [debtor] has none, [the creditor] transfers [to the debtor] some [trivial] amount [of property] from his field [and then a prosbol is written] [M. Shebi. 10:6A-C]. So how much is "some trivial amount of property"?*

- B. Said R. Hiyya bar Ashi said Rab, "Even a single stalk of a carob would be enough."

- C. Said R. Judah, “Even if he lent him space for a stove and oven, they would write on such a basis a prosbol document.”
- D. *Well, is that so, is it? And didn’t Hillel repeat as a Tannaite statement: “A prosbol is written only on the strength of a flowerpot with a hole in it” – if it has a hole, it serves, if not, not! But why should this be the case? Lo, the space occupied by the pot is supposed to belong to the debtor?*
- E. *Not at all, it was necessary to deal with a case in which the pot is standing on some pegs.*
- F. *R. Ashi would transfer title to the debtor for the trunk of a date tree and then would write a prosbol for the creditor.*
- G. *The rabbis of the household of Rab would transfer their debts to one another [as a court, not even writing out such a document].*
- H. *R. Jonathan would hand over his debts to R. Hiyya bar Abba. He said to him, “Do I need anything more?”*
- I. *He said to him, “Nope.”*

**V.9** A. *Our rabbis have taught on Tannaite authority:*

- B. If the debtor has no land but someone who serves as his security does, then a prosbol may be written out for him on the strength of the latter. If neither he nor the man who serves as his security has land, but someone who owes him money does, a prosbol may be written out for him.
- C. *That is in line with what R. Nathan said, for it has been taught on Tannaite authority: R. Nathan says, “How on the basis of Scripture do we know that if someone claims a maneh from someone else, and the other party claims the same amount of money from a third party, the money is collected from the third party and paid out directly to the original claimant? ‘And give it to him against whom he has trespassed’ (Num. 5: 7).”*

**V.10** A. *We have learned in the Mishnah passage: **The Sabbatical Year cancels a loan [which is secured] by a bond and [a loan which is] not [secured] by a bond [M. Shebi. 10:1].***

- B. *Both Rab and Samuel say, “The meaning of a **loan [which is secured] by a bond** is, the debtor has given a lien on his property for the debt [following Simon], and the meaning of **and [a loan which is] not [secured] by a bond** is, the debtor has not given a lien on his property for the debt. And all the more so, the Seventh Year releases a debt that is based merely on a verbal agreement.”*



- C. R. Yohanan and R. Simeon b. Laqish both say, “The meaning of a **loan [which is secured] by a bond** is, the debtor has not given a lien on his property for the debt, and the meaning of **and [a loan which is] not [secured] by a bond** is, a debt that is based on a verbal agreement. But in the case of a bond on which the debtor has given a lien on his property, the Seventh Year would not release such a debt.”
- D. *It has been taught on Tannaite authority in accord with the position of R. Yohanan and R. Simeon b. Laqish:*
- E. The Seventh Year releases a debt recorded in a bond, but if the bond includes a lien on the property of the debtor for the payment of the debt, the Sabbatical Year does not release that debt.
- F. *It has further been taught on Tannaite authority:*
- G. If the debtor identified a particular field to the lender as security for the loan, the Seventh Year does not remit that loan. Not only so, but if all he writes is, “All my property is security and guarantee for you,” the loan is not remitted.
- V.11** A. *R. Assi’s relative had a bond in which the debtor gave a lien on his property for the debt, saying to him, “Has the Seventh Year remitted the debt or not?”*
- B. He said to him, “It has not remitted the debt.”
- C. *He left him and came before R. Yohanan, who said to him, “It has remitted the debt.”*
- D. *So R. Assi went to R. Yohanan and said to him, “Is the debt remitted or is it not remitted?”*
- E. He said to him, “It has remitted the debt.”
- F. *He said to him, “But the master is the one who has already ruled, it has not remitted the debt!”*
- G. He said to him, “Just because we have a theoretical view of our own, are we supposed to make a practical decision on that basis?”
- H. *He said to him, “But has it not been taught on Tannaite authority in accord with the master’s view?”*
- I. *He said to him, “Well, maybe that represents the opinion of the House of Shammai, who said, ‘A bond*

*that is going to be collected is treated as though it has already been collected.”*

- V.12** A. *We have learned in the Mishnah there: One who loans [money in exchange for] security and one who hands over his bonds [for collection] to a court – [these loans] are not cancelled [by the Sabbatical Year] [M. Shebi. 10:2H-I]. Now there is no problem understanding why that should be the case for one who hands over to a court his bonds for collection. In that case, the court takes possession of the debtor’s property. But why should that be the case with a loan given on a pledge?*
- B. *Said Raba, “Because the lender already has seized the item.”*
- C. *Said to him Abbaye, “Then what about a case in which he lent him money and lives with him in the same courtyard [belonging to the borrower]? In this case, too, would you say that the debt is not remitted?”*
- D. *He said to him, “The case of a pledge is exceptional, because he acquires title to it, in line with what R. Isaac maintains, for said R. Isaac, ‘How on the basis of Scripture do we know that the creditor acquires title to the pledge [while it is in his possession and so is responsible for any accident that occurs]? Scripture states, “In any case you shall deliver the pledge again when the sun goes down...and it shall be righteousness for you” (Deu. 24:13). Now if the creditor does not acquire title to the pledge, whence the righteousness that is supposed to come to his credit? On this basis we know that the creditor acquires title to the pledge.”*
- V.13** A. *We have learned in the Mishnah there: [37B] One who repays a debt [cancelled] by the Sabbatical Year – [the creditor] must [nevertheless] say to him, “I cancel [the debt].” [If the debtor then] said to him, “Even so [I will repay it],” he must accept it from him, as it is written, “And this is the word of remission [of debts]” (Deu. 15: 2). That is, the creditor must renounce the debt verbally [M. Shebi. 10:8A-E].*
- B. *Raba said, “The creditor may restrain him until he makes that statement.”*
- C. *Objected Abbaye, “[But the passage states:] When he gives him the money, he should not say to him, ‘It is for my debt that I am giving this to you,’ but he says to him, ‘It’s mine, but I’m giving it to you as a gift.’”*
- D. *He said to him, “Sure, sure – so the creditor may restrain him until he makes that statement.”*

- V.14** A. *Abba bar Marta, who is the same as Abba bar Minyumi, was dunned by Rabbah for repayment of money that he had lent him. He brought it to him in the Seventh Year. Rabbah said to him, "So I remit the debt." The other took the money and went his merry way.*
- B. *Abbaye came along and found Rabbah gloomy. He said to him, "Why the gloom?"*
- C. *He told him the story. He went to him and said to him, "So did you offer money to Rabbah?"*
- D. *He said to him, "Yes."*
- E. *He said to him, "And what did he say to you?"*
- F. *He said to him, "I remit the debt.'"*
- G. *He said to him, "And did you say to him, 'Nonetheless...'?"*
- H. *He said to him, "Nope."*
- I. *He said to him, "Well, if you'd said to him, 'Nonetheless..., ' he would have taken the money from you. So now in any event, go and offer it to him with these words, 'Nonetheless: Take it.'"*
- J. *He went and offered him the money, and he said to him, "Nonetheless...." He took the money from him, saying to him, "This neophyte rabbi didn't have brains to start with."*

**V.15** A. Said R. Judah said R. Nahman, "A person is believed to make the claim, 'I had a prosbol, but I lost it.' How come? Since it was rabbis who ordained the prosbol, someone would not neglect what is permitted and consume what is forbidden. [He did what he said he had done.]"

- V.16** A. *When someone came in such a situation before Rab, he would say to him, "Did you have a prosbol and lose it?"*
- B. In such a case: "Open your mouth for the dumb" (Pro. 31: 8) [tell him what to plead in court].
- C. *But to the contrary we have learned in the Mishnah: [If] she produced a writ of divorce, and a marriage contract is not attached to it, she collects her marriage contract. [But if she produced] a marriage contract, and a writ of divorce is not attached to it, [and if] she claims, "My writ of divorce is lost," [while the husband] claims, "My quittance is lost" – and so, too, a creditor who produced a bill of indebtedness and a prosbol [securing the loan in the year of release] is not attached to it – lo,*

these [parties] may not collect [what they claim]. Rabban Simeon b. Gamaliel says, “From the time of the danger and thereafter, a woman collects her marriage contract without her writ of divorce. And a creditor collects what is owing to him without a prosbol attached” [M. Ket. 9:9A-J].

- D. *It represents a difference of opinion between Tannaite authorities, for it has been taught on Tannaite authority:*
- E. He who produces a bond has to show a prosbol with it. But sages say, “He doesn’t have to.”

#### 4:4A-D

- A. A slave who was taken captive, and they redeemed him –
  - B. if as a slave, he is to be kept as a slave;
  - C. if a freeman, he is not to be enslaved.
  - D. Rabban Simeon b. Gamaliel says, “One way or the other, he is to be enslaved.”
- I.1**
- A. *With what situation do we deal? Should we say that the ransom was paid prior to the slave owner’s despairing of recovering the slave? Then, even if he is a free man, why shouldn’t he revert to slavery [since, whatever the stipulation, the slave remains the property of the master until he alienates that property]! But should we say that it was after the owner had despaired of getting the slave back? Then even if ransomed as a slave, why should he go back to slavery [the owner having alienated the property by his despair]?*
  - B. *Said Abbaye, “In point of fact this was prior to the owner’s despair. If he was ransomed as a slave, he goes back to the first owner. If as a free man, he is no longer enslaved to either the first master or the second; to the second, obviously, because he ransomed him on the stipulation that he would be a free man; to the first, because if people know he’s going to go back to slavery, they may not bother to ransom him.*
  - C. “Rabban Simeon b. Gamaliel says, ‘One way or the other, he is to be enslaved’:
  - D. “*He takes the view that just as it is a religious duty to ransom free persons, so it is a religious duty to ransom slaves [T. Git. 3:4D].*”
  - E. Raba said, “In point of fact the rule speaks of the situation prevailing after the owner has despaired of recovering the slave, and if he is ransomed as a slave, it

is as a slave to the second master; if he is ransomed as a free person, he is enslaved to neither the second nor the first. Not to the second, because he ransomed him on the stipulation that he would be a free man, but not to the first, because he had despaired of recovering him.

- F. **“Rabban Simeon b. Gamaliel says, ‘One way or the other, he is to be enslaved’:**
- G. *“He takes the view of Hezekiah: ‘How come they have ruled, **one way or the other, he is to be enslaved?** So that all the slaves won’t go off and throw themselves into the hands of guerillas and free themselves from their masters.”*
- H. *By way of objection to the position of Raba: **Said to them Rabban Simeon b. Gamaliel, “Just as it is a religious duty to ransom free persons, so it is a religious duty to ransom slaves” [T. Git. 3:4D]! Now from the perspective of Abbaye, who has said, “This is prior to the owner’s despairing of recovering the slave,” that is why the formulation requires, **Just as....** But from the perspective of Raba, in which it is a case in which the owner has despaired of recovering the slave, what’s the point of **Just as....**? What is in play is the view of Hezekiah!***
- I. *Raba can say to you, “Rabban Simeon b. Gamaliel was not entirely sure of the situation to which rabbis referred, and this is what he said to them: ‘If it is prior to the owner’s despair that you have made your ruling, then that explains the argument of **Just as....** And if it is after the owner’s despair, then it is in line with what Hezekiah has said.’”*

**I.2** A. *Now, from the perspective of Raba, who has said that it is after the owner has despaired of recovering ownership of the slave, then from whom does the second owner [who reenslaves the man] acquire title to the slave? Is it from the kidnappers? But is the kidnapper now the rightful owner?*

B. *Yes indeed, he has acquired title to the slave in the aspect of his labor. For said R. Simeon b. Laqish, “How on the basis of Scripture do we know that a gentile may acquire title to a gentile in respect to his labor? ‘And also from the children of strangers who sojourn among you, of them you may buy’ (Lev. 25:45) – you buy from them, [38A] but they do not buy from you, and they do not buy from one another, and they do not buy from you. Might one suppose that they may not acquire title to one another at all? But do you say, ‘They may not acquire title to one another at all’? Haven’t you just said that they cannot do so?*

What it means is this: So far as their persons, they may not buy one another. Might one suppose they may not buy one another so far as their labor is concerned? You may state the following argument a fortiori: An Israelite may an idolator purchase as to his labor, so surely a gentile all the more so!”

- C. *But maybe that has to do only with a money purchase, but not with acquisition through usucaption?*
- D. Didn’t R. Pappa say, “The territories of Ammon and Moab they purified [for Israelite acquisition] through the usucaption of Sihon”?
- E. *So we have found adequate proof that a gentile can acquire title to a gentile through usucaption. How do we know that the same applies to an Israelite?*
- F. “And he took some of them captive” (Num. 21: 1).

### I.3

- A. Said R. Shemen bar Abba said R. Yohanan, “A slave who escaped from prison has gone forth to freedom.
- B. “And not only so, but they force his master to write a writ of emancipation for him.”
- C. *We have learned in the Mishnah: **Rabban Simeon b. Gamaliel says, “One way or the other, he is to be enslaved.”** And said Rabbah bar bar Hannah said R. Yohanan, “In any passage in our Mishnah in which Rabban Simeon b. Gamaliel has repeated a statement, the decided law is in accord with his view, except for his view in respect to the matters of serving as a pledge, Sidon, and the case dealing with final evidence.” Now from the perspective of Abbaye, who holds that we speak of a case in which the master has not yet despaired and so relinquished title, there is no difficulty in harmonizing the two statements of R. Yohanan; the latter statement refers to the period prior to despair, the former to the period afterward. But from the perspective of Raba, who maintains that the latter also speaks of the period after the master has despaired and relinquished title, don’t the two statements of R. Yohanan contradict one another?*
- D. *Raba can say to you, “What is the operative consideration here? It is because of Hezekiah’s position. But this doesn’t apply to an escapee, since he is ready to risk his life, all the more so he is going to throw himself into the hands of guerillas.”*

- I.4** A. *A slave girl of Mar Samuel was kidnapped. [Others] redeemed her as a slave and sent her to him. They sent him word, "We accord with the position of Rabban Simeon b. Gamaliel. As for you, even if you accord with the position of rabbis, [take her back] because we have after all ransomed her as a slave." Now they wrote along these lines in the assumption that this was prior to his despairing of getting her back, but that was not the case, it was after he had despaired of getting her back. Samuel not only did not reenslave her, he even did not require her to get a writ of emancipation.*
- B. *Samuel is consistent with positions expressed elsewhere, for said Samuel, "He who declares his slave to be ownerless property – the slave goes forth to freedom and does not require a writ of emancipation, as it is said, 'Every man's slave that is bought for money' (Exo. 12:44) – does this mean the slave of a man and not the slave of a woman? Rather: A slave whose master exercises possession of him is called a slave, but one the master of whom does not exercise possession of him is not called a slave."*
- I.5** A. *A slave girl of R. Abba bar Zutra was kidnapped. A Palmyrean redeemed her as his wife. They sent word to R. Abba, "If you do the right thing, send her a writ of emancipation."*
- B. *What are the conditions that prevail here? If they could redeem her [so she would be reenslaved, then what need is there for a writ of emancipation? And if not, then, even if he sends her a writ of emancipation, what ever difference does it make?*
- C. *In point of fact, they could redeem her, and, if he sent her a writ of emancipation, they would form a partnership to pay to redeem her.*
- D. *And if you wish, I shall say, in point of fact, they could not redeem her, but if he sent a writ of emancipation, she would be cheapened in the eyes of the gentile, and he would agree to ransom her.*

- E. But hasn't a master said, "Gentiles value Israelite cattle more than they value their own wives"?
- F. *That is the case when it is done in private, but as to what is done in public, it is a humiliation to them.*

- I.6**
- A. *There was a slave girl in Pumbedita with whom men would do forbidden things. Said Abbaye, "If it were not for what R. Judah said Samuel said, 'Whoever frees his slave violates a positive commandment,' I would force the owner to write her a writ of emancipation."*
  - B. *Rabina said, "In a case such as this, R. Judah would concur, on account of the prohibited behavior."*
  - C. *Well, wouldn't Abbaye concur that that consideration should govern? But did not R. Aha bar R. Qattina say R. Isaac said, "There was a case in which a woman came, who was half-slave and half free, [38B] and they forced the master to free her"?*
  - D. Said R. Nahman bar Isaac, "It was because men were treating her like a whore."
  - E. *Yes, but how are these cases really parallel? In that case, the woman [not freed] was not able to marry either a slave or a free man, but in the other case, the master can assign her his slave, and he will take care of her.*

- I.7**
- A. *Reverting to the body of the foregoing:* R. Judah said Samuel said, "Whoever frees his slave violates a positive commandment":
  - B. For has not R. Judah said, "Whoever frees his slave violates an affirmative, for it is said, 'They shall be your slaves for ever' (Lev. 25:46)."
  - C. *An objection was raised:* There was the precedent involving R. Eliezer, who came into the synagogue and did not find a quorum of ten, so he freed his slave and thereby completed the necessary quorum of ten.
  - D. *For carrying out a religious duty [in this case, reaching the necessary quorum], the law is different.*
  - E. *Our rabbis have taught on Tannaite authority:*



- F. “You shall take your slaves from them for ever” (Lev. 25:46).
- G. “It is an optional matter,” the words of R. Ishmael.
- H. R. Aqiba says, “It is obligatory.”
- I. *Now maybe R. Eliezer concurs with the position of him who has said that it is optional?*
- J. *Don’t let it enter your mind, for it has been taught in that connection on Tannaite authority:*
- K. R. Eliezer says, “It is obligatory.”

### **Topical Appendix on Freeing Slaves**

- I.8** A. *Said Rabbah, “For these three reasons householders lose their wealth: for freeing their slaves, for inspecting their property on the Sabbath, and for setting the time for their main Sabbath meal at the time that the schoolhouse is in session.”*
- B. *For said R. Hiyya bar Abba said R. Yohanan, “There were two families in Jerusalem. One held its main Sabbath meal on the Sabbath, the other, on the eve of the Sabbath, and both of them disappeared.”*
- I.9** A. Said Rabbah said Rab, “He who declares his slave to be consecrated to the Temple – the slave has gone forth to freedom.”
- B. *How come? Since by definition he cannot consecrate the body of the beast [since the slave cannot be sacrificed and also cannot work in the Temple at all,] and because he has not said that he has consecrated the slave in regard to his monetary value, his intent must therefore be to declare that he is a member of “the holy people” (Deu. 14: 2).*
- C. And R. Joseph said Rab said, “He who declares his slave to be ownerless property – the slave has gone forth to freedom.”
- D. *He who says that that is the case if he sanctifies him all the more so will maintain that that is the rule when he declares him ownerless property. He who has said that that is the case if he declares him ownerless property, however, would not maintain that that is the rule if he sanctified him. For it may be that he has made that statement in respect to the monetary value of the slave.*

- I.10** A. *The question was raised: Under these conditions, does the slave require a writ of emancipation, or does he not require a writ of emancipation?*
- B. *Come and take note, for said R. Hiyya bar Abin said Rab, "All the same is the rule governing this case and that case, and the slave requires a writ of emancipation."*
- C. *Said Rabbah, "We raised an objection in respect to our own teaching on the basis of the following: He who sanctified his property and, in the property, were slaves – the Temple treasurers do not have the right to declare them free, but they sell them to third parties, and the third parties declare them free. Rabbi says, 'I say, he himself may pay the cost of his own redemption and go free, since this act is tantamount to the Temple treasurer's having sold him to himself.'"*
- D. Do you challenge the position of Rab on the basis of a Tannaite statement? Rab himself enjoys the status of a Tannaite authority and so has every right to differ.
- E. *Come and take note [of an objection to Rabbah's view:] "Notwithstanding, no devoted thing...whether of man...shall be redeemed" (Lev. 27:28) – this refers to his Canaanite male and female slaves. [This clearly rejects the theory that he who declares his slave to be consecrated to the Temple – the slave has gone forth to freedom.]*
- F. *Here with what case do we deal? It is one in which he said, "I vow the monetary value."*
- G. *If so, then in the other case, too, it would be a case in which he said, "I vow the monetary value."*
- H. *If so, what's the point of the statement, the Temple treasurers do not have the right to declare them free? What are they doing here? And, furthermore, what's the point of but they sell them to third parties, and the third parties declare them free? And furthermore, what about, Rabbi says, "I say, he himself may pay the cost of his own redemption and go free, since this act is tantamount to the Temple treasurer's having sold him to himself"? If the slave was consecrated as to his value, then*

*what is the point of, since this act is tantamount to the Temple treasurer's having sold him to himself?*

- I. *Come and take note:* He who consecrates his slave – the slave continues to work and support himself, since the master has consecrated only his value. [This contradicts Rabbi's position.]
- J. **[39A]** *Who is the authority behind this view? It is R. Meir, who has said, "A person does not say words for no purpose." [Simon: Here, too, if he declares the slave sanctified, since the person of the slave cannot be sanctified, we assume it means that it is his monetary value.] And that position stands to reason, because of what follows:* He who sanctifies himself continues to support himself by his labor, for he has sanctified himself only as to his value. *Now if you say that that represents the view of R. Meir, there is no problem in making sense of the statement. But if you maintain that it is the view of rabbis, then, while one can make sense of the statement concerning his slave, holding that it represents his value, but can he himself sanctify himself as to his purchase price, since has he got a purchase price at all?*
- K. *May we say that at issue is what is at stake in the following Tannaite conflict:*
- L. He who declares his slave to be sanctified – the laws of sacrilege do not apply [to the slave].
- M. Rabban Simeon b. Gamaliel says, "The laws of sacrilege do apply to his hair."
- N. *Is the dispute not in that the one authority takes the position that the slave is thereby sanctified, and the other, that he is not sanctified?*
- O. *But is that sound reasoning? Rather than the language, the laws of sacrilege apply to him, or, the laws of sacrilege do not apply to him, the wording that is required is, he is holy, or, he is not holy! But in point of fact, all parties concur that he is holy, and what is at issue is this: One authority takes the position that the slave is equivalent to real estate, and the other maintains that he is equivalent to movables.*

- P. *Well, if that is the case, then they should have a dispute concerning the body of the slave himself. Rather, all parties concur that the slave is equivalent to real estate, but here, what is at issue is the status of the hair of the slave that is ready to be sheared off. The one authority maintains that it is equivalent to hair that has been sheared off, and the other, that it is not equivalent to hair that has been sheared off.*
- Q. *May we say that at issue is what is at stake in the following Tannaite conflict, namely, that which we have learned in the Mishnah:*
- R. **R. Meir says, “There are things which are tantamount to being in the ground but still are not deemed to be immovable property like the ground.”**
- S. **And sages do not concur with his view.**
- T. **How so?**
- U. **“Ten fruit-laden vines I handed over to you”**  
—
- V. **and the other says, “They were only five” —**
- W. **R. Meir imposes an oath.**
- X. **And sages say, “Whatever is attached to the ground is like the ground” [M. [Shebu. 6:5A-G](#)].**
- Y. And [in this connection,] said R. Yosé bar Hanina, “We deal in the dispute at hand with grapes that are ready to be harvested.
- Z. “One party takes the view that they are in the status of already having been cut.
- AA. “The other party maintains that they are not regarded as if they have already been cut.”
- BB. *[No, the two cases are not comparable], for you may say that even R. Meir [would not see them as parallel]. R. Meir maintains his position in the cited case because, so long as people leave*

*the grapes, if they are not gathered they deteriorate. But in the case of one's hair, so long as one leaves it, it continues to improve in value, [so the cases are not comparable, since one man may not cut the hair].*

- I.11** A. *When R. Hiyya bar Joseph came up, he reported this statement of Rab ["He who declares his slave to be ownerless property – the slave has gone forth to freedom"] before R. Yohanan. He said to him, "Did Rab really say this? But didn't R. Yohanan say this? For didn't Ulla say R. Yohanan said, 'He who declares his slave to be ownerless property – the slave has gone forth to freedom, and he requires a writ of emancipation'!"*
- B. *This is the sense of what he said to him, "Rab said a statement in line with what he had said."*
- C. *And there are those who say, "He did not complete the entirety of Rab's statement to him, and he said to him, 'Didn't Rab say he requires a writ of emancipation?'"*
- D. *R. Yohanan, moreover, is consistent, for said Ulla said R. Yohanan, "He who declares his slave to be ownerless property – the slave has gone forth to freedom, and he requires a writ of emancipation."*

- I.12** A. *Reverting to the body of the foregoing: Said Ulla said R. Yohanan, "He who declares his slave to be ownerless property – the slave has gone forth to freedom, and he requires a writ of emancipation."*
- B. *R. Abba objected to Ulla: "A proselyte who died, and Israelites grabbed his property, and among them were slaves, whether adult or minor, the slaves have acquired title to themselves as free persons. Abba Saul says, 'The adults have acquired title to themselves as free persons, but the minors – whoever takes hold of them has acquired title to them.' And now, who has written a writ of emancipation for these!?"*
- C. *He said to him, "This rabbi has the fantasy that people don't really learn traditions. [If you think I'm making it up as I go along, you're a fool.]"*
- D. *But how come slaves don't require a writ of emancipation?*

- E. *Said R. Nahman, "Ulla maintains the view that the slave of a proselyte is in the status of his wife: Just as the wife goes forth without a writ of divorce, so his slaves are sent forth without a writ of emancipation."*
- F. *If so, then the same rule should apply to the slaves of an Israelite!*
- G. *Said Scripture, "And you shall leave [Canaanite slaves] as an inheritance for your children after you, to hold for a possession" (Lev. 25:46).*
- H. *If so, then the same rule would apply to him who declares his slave ownerless property and then dies! So on what basis did Amemar say, "He who declares his slave ownerless property and then dies – that slave has no remedy to his situation"?*
- I. *The opinion of Amemar poses a problem.*

**I.13** A. *Said R. Jacob bar Idi said R. Joshua b. Levi, "The decided law is in accord with Abba Saul."*

B *Said R. Zira to R. Jacob bar Idi, [39B] "Did you hear this from him in so many words, or did you derive this position in his name from logic?"*

C. *What would be the logic that would have yielded it?*

D. *[Zira replies:] "It would derive from what R. Joshua b. Levi said: 'They said before Rabbi, "If the owner said, 'I have not despaired of recovering Mr. So-and-so, my slave,' what is the law? He said to them, 'I say, "He has no remedy except by getting a writ of emancipation."' And said R. Yohanan, 'What's the reason that Rabbi took that position? He derives a verbal analogy on the basis of the same word that occurs with reference to a slave and a wife, namely, just as a woman requires a writ to go forth from her husband so a slave does as well.' Now you would have inferred on the basis of what Rabbi said that, just as the woman is released from a prohibition and not a monetary obligation, so the slave is one that is released from a prohibition and not a property obligation.'"* [Simon: Hence Rabbi must have been speaking of adult slaves, who can

acquire their own persons, and as soon as they are declared common property by the owner, they cease to be his possession. In their case, the deed affects only a prohibition, in that it permits them to marry an Israelite; in the case of minors, on whose persons the owner still retains his claim even after having declared them common property, the deed affects money matters, and to such a deed Rabbi was not referring, since it is not comparable to that of the woman; consequently the prohibition of marrying does not apply to children.]

- E. *[Jacob answers,] “Well, so I derived it from logic, so what!”*
- F. *He said to him, “Well, logic yields the opposite conclusion, that’s what, namely, just as, in the case of the woman, the same rule applies whether she is an adult or a minor [so the same is so of the slave].”*
- G. *He said to him, “Well, as a matter of fact, I hear it from him in so many words.”*
- H. And R. Hiyya bar Abba said R. Yohanan [said], “The decided law is not in accord with Abba Saul.”
- I. *Said R. Zira to R. Hiyya bar Abba, “Did you hear this from him in so many words, or did you derive this position in his name from logic?”*
- J. *“What would be the logic that would have yielded it?”*
- K. *“It would derive from what R. Joshua b. Levi said: ‘They said before Rabbi, “If the owner said, ‘I have not despaired of recovering Mr. So-and-so, my slave,’ what is the law? He said to them, ‘I say, “He has no remedy except by getting a writ of emancipation.”’ And said R. Yohanan, ‘What’s the reason that Rabbi took that position? He derives a verbal analogy on the basis of the same word that occurs with reference to a slave and a wife, namely, just as a woman requires a writ to go forth from her husband so a slave does as well.’ Now you would have inferred on the basis of what Rabbi said that, just as the woman is released whether an*

*adult or a minor, so the slave is one that is released whether an adult or a minor.”””* [Simon: Hence Rabbi must have been speaking of adult slaves, who can acquire their own persons, and as soon as they are declared common property by the owner, they cease to be his possession. In their case, the deed affects only a prohibition, in that it permits them to marry an Israelite; in the case of minors, on whose persons the owner still retains his claim even after having declared them common property, the deed affects money matters, and to such a deed Rabbi was not referring, since it is not comparable to that of the woman; consequently the prohibition of marrying does not apply to children.]

- L. *[Jacob answers,] “Well, so I derived it from logic, so what!”*
- M. *He said to him, “Well, logic yields the opposite conclusion, that’s what, namely, just as, in the case of the woman, she is released so far as the prohibition of remarrying is concerned but not so far as the monetary obligation is concerned, so is the case with the slave: It involves the prohibition of marrying an Israelite, but not the matter of the monetary obligation.”*
- N. *He said to him, “Well, as a matter of fact, I hear it from him in so many words.”*

**I.14** A. The master has said: “He said to them, ‘I say, “He has no remedy except by getting a writ of emancipation.”””

- B. *But hasn’t it not been taught on Tannaite authority: Rabbi says, “I say, ‘He himself may pay the cost of his own redemption and go free, since this act is tantamount to the Temple treasurer’s having sold him to himself””?*
- C. *This is the sense of his statement: [He can marry] either by ransoming himself or getting a writ of emancipation; and in this case, the ownership has ceased.*



D. *He thus excludes the position of the following Tannaite authority, for it has been taught on Tannaite authority: R. Simeon says in the name of R. Aqiba, "Is it possible that a money payment completes her emancipation in the same way that a deed does? To the contrary: 'And she be not at all redeemed' (Lev. 19:20) – the entire passage is closely tied to 'because she was not free' to tell you that it is the writ that completes her emancipation, not the money payment."*

**I.15** A. Said R. Ammi bar Hama said R. Nahman, "The decided law is in accord with R. Simeon."

B. And R. Joseph bar Hama said R. Yohanan, "The decided law is not in accord with R. Simeon."

C. *R. Nahman bar Isaac came across Raba bar Sheila, who was standing at the door of the synagogue, and he said to him, "As to the decided law, is it in accord with R. Simeon or not?"*

D. *He said to him, "I say, the decided law is not in accord with him. But our rabbis who have come from Mahoza say, 'Said R. Zira in the name of R. Nahman, "The law is in accord with him."' And when I came to Sura, I came across R. Hiyya bar Abin, who said to me, 'Tell me, precisely what were the details of the case [Simon: in which Nahman decided in accord with Simeon's position]?"*

E. *"He said to me, 'There was a slave girl, whose master was dying. She came crying to him saying, "How long do I have to go on being a slave?" He took*

*his cap and threw it to her, saying, "Go, acquire this, and along with it, ownership of yourself." They came before R. Nahman, who said to them, "He has done nothing whatsoever." Now the person who saw the incident thought that R. Nahman's reason for deciding in that way is that the decided law accords with R. Simeon. But that is not the case. But the operative consideration is that the item that was used for the transfer of title belonged to the one who was handing over title [rather than the one to whom title was being transferred; so the transaction was null].'"*

F. Said R. Samuel bar Anitai said R. Hamnuna the Elder said R. Isaac bar Asian said R. Huna said R. Hamnuna, "The decided law is in accord with R. Simeon."

G. But that is not the case, the decided law does not accord with R. Simeon.

**I.16** A. Said R. Hanina said R. Ashi said Rabbi, "A slave who, in the presence of his master, has married a free woman **[40A]** has gone forth to freedom."

B. Said to him R. Yohanan, "Do you really have in hand such a tradition? But I repeat it as follows: He who writes out a writ of betrothal for his slave girl – R. Meir says, 'She is betrothed.' And sages say, 'She is not betrothed.'"

C. *That is along the lines of what Rabbah b. R. Shila said, "When his master places phylacteries on him..." and here, too, it is when his master marries him off.*

D. *But is there something involving the violation of a prohibition which someone would not allow done in behalf of his slave, but which he would perform in his own behalf [namely, marrying the female slave before writing out a writ of emancipation (Simon)]?*

E. *Said R. Nahman bar Isaac, “Here with what situation do we deal? It is one in which he said to her, ‘Go forth to freedom with this document, and also be betrothed with it as well.’ R. Meir takes the view that, in the language that he has used is language that involves emancipation, and rabbis maintain, in the language that he has used is not an expression involving emancipation.”*

**I.17** A. *Said R. Joshua b. Levi, “A slave who in the presence of his master put on phylacteries has gone forth to freedom.”*

B. *An objection was raised: If his master borrowed from him, or his master appointed him as a guardian, or if in the presence of his master he put on prayer boxes containing verses of Scripture or in the synagogue read three verses of the Torah, he does not go free.*

C. *Said Rabbah bar R. Shila, “It is a case in which the master put the phylacteries on him in his behalf.”*

**I.18** A. *When R. Dimi came, he said R. Yohanan [said], “He who when he was dying said, ‘Miss So-and-so, my slave girl, is not to be subjugated after my death’ – they require the heirs to write her a writ of emancipation.”*

B. *R. Ammi and R. Assi said before him, “My lord, don’t you concur that her sons are nonetheless slaves?”*

C. *When R. Samuel bar Judah came, he said R. Yohanan [said], “He who when he was dying said, ‘Miss So-and-so, my slave girl, has given me satisfaction [in her work]. Give her some satisfaction, too’ – they require the heirs to give her satisfaction. How come? It is a religious duty to carry out the statements of the deceased.”*

**I.19** A. *Said Amemar, “He who declares his slave ownerless – that slave has no remedy [in respect to marriage]. How come? He has not acquired title to himself, but he still is subject to the prohibition [in respect to marrying an Israelite, until he gets a writ of emancipation], and this [remission] the owner cannot now assign to him.”*

B. *Said Amemar to R. Ashi, “But didn’t Ulla say R. Yohanan said, and R. Hiyya bar Abin said Rab said, ‘All the same are this and that one – the slave has gone forth to freedom, and he requires a writ of emancipation’?”*

C. *He said to him, “Sure, he needs such a document, but he has no remedy [as to getting it]!”*

- D. *There are those who say, said Amemar, "He who declares his slave ownerless and then died – that slave has no remedy [in respect to marriage]. How come? He has not acquired title to himself, but he still is subject to the prohibition [in respect to marrying an Israelite, and the power over that item the owner cannot bequeath to his son.]"*
- E. Said R. Ashi to Amemar, "But lo, when R. Dimi came, he said R. Yohanan said [a contrary statement]!"
- F. *"That statement of R. Dimi is an error."*
- G. *"What's the error? That the man did not use the language of 'emancipation'? Lo, if he had used such language, wouldn't they have written a writ of emancipation for her?"*
- H. *He said to him, "I take the position of R. Samuel bar Judah."*

**I.20** A. *There was a settlement comprised of slaves, the owners of which sold to gentiles. The second set of masters died out. The slaves came before Rabina. He said to them, "Go and find the sons of the original masters, who are to write out for you writs of emancipation."*

- B. *Rabbis said to Rabina, "But didn't Amemar say, 'He who declares his slave ownerless and then died – that slave has no remedy [in respect to marriage]'?"*
- C. *He said to them, "I accord with the position of R. Dimi."*
- D. *They said to him, "That statement of R. Dimi is an error."*
- E. *He said to them, "What's the error? That the man did not use the language of 'emancipation'? Lo, if he had used such language, wouldn't they have written a writ of emancipation for her?"*
- F. *And the decided law is in accord with Rabina.*

**I.21** A. *There was a slave belonging to two men. One of them went and declared the half of him that he owned to be a free man. The other said, "Now if rabbis get word of this, they will force me to give him up." He went and transferred ownership of his half to his minor son.*

- B. *R. Joseph b. Raba sent the case to R. Pappa. He replied, "'As he has done, so it shall be done to him; his dealing shall return upon his own head' (Oba. 1:15). It is an established fact with*

*us that a child likes money. We'll just appoint a guardian for him [40B] and the slave will rattle some coins before the child [to induce him to agree to the transaction, and, since the minor can sell movables, he can agree] so the guardian will prepare in the child's name a writ of emancipation for the slave."*

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

- B. He who says, "I have made Mr. So-and-so, my slave, a free man," "He is made a free man," "Lo, he is a free man" – lo, he is a free man. [If he said], "I shall make him a free man" –
- C. Rabbi says, "He has acquired title to himself."
- D. And sages say, "He has not acquired title to himself."
- E. Said R. Yohanan, "But all of these cases involve preparation of a writ [of emancipation, the mere statement having no effect without one]."

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

- B. He who says, "I have given such-and-such a field to So-and-so," "It is given to So-and-so," "Lo, it belongs to him" – lo, it belongs to him.
- C. "I shall give it to him" –
- D. R. Meir says, "He has acquired title."
- E. And sages say, "He has not acquired title."
- F. Said R. Yohanan, "But all of these cases involve preparation of a writ [of emancipation, the mere statement having no effect without one]."

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

- B. He who says, "I have made my slave a free man," and the slave says, "He has not made me a free man" –
- C. *we take account of the possibility that* the owner has conferred upon the slave a benefit through a third party.
- D. If the owner said, "I wrote out and gave him a writ of emancipation," and he says, "He did not write out such a document for me, nor has he given it to me" – the admission of a litigant is equivalent to a hundred witnesses.
- E. He who says, "I have given such-and-such a field to So-and-so," and he says, "He never gave it to me,"
- F. *we take account of the possibility that* the owner has conferred upon the man the title through a third party.

- G. If the owner said, "I wrote out and gave him a deed of donation," and he says, "He did not write out such a document for me, nor has he given it to me" – the admission of a litigant is equivalent to a hundred witnesses.
- H. So who enjoys the usufruct?
- I. R. Hisda said, "The donor enjoys the usufruct."
- J. And Rabbah said, "They hand over the usufruct to a third party."
- K. *But they really don't dispute the matter, the one speaks of the father, the other, the son* [Simon: we accept the disclaimer of the man who is supposed to have received the gift, but not of his son].

#### 4:4E-I

- E. **A slave who was made over as security for a debt by his master to others and whom the master [then] freed –**
  - F. **legally, the slave is not liable for anything.**
  - G. **But for the good order of the world, they force his master to free him.**
  - H. **And he [the slave] writes a bond for his purchase price.**
  - I. **Rabban Simeon b. Gamaliel says, "Only he writes [a bond] who frees him."**
- I.1**
- A. **A slave who was made over as security for a debt by his master to others and whom the master [then] freed: So who freed him?**
  - B. Said Rab, "His first master. In strict law, the slave then does not owe anything to the second master."
  - C. *That is in accord with Raba, for* said Raba, "Sanctification of cattle [mortgaged for a liability] or of leaven and the freeing of a slave remove these things from the mortgage that may have previously pertained."
  - D. **But for the good order of the world, they force his master to free him:**
  - E. Lest he find him in the market **[41A]** and say to him, "You are my slave," **they force his second master to free him.**
  - F. **And the slave writes a bond for his purchase price. Rabban Simeon b. Gamaliel says:**
  - G. "The slave is not the one who writes the bond, but the one who frees the slave writes the bond."
  - H. *What is at issue between them?*

- I. *At issue between them is whether or not he who impairs the value of securities that are mortgaged to his creditor is liable. One authority maintains that he is liable, and the other, that he is exempt.*
- J. *So, too, it has been stated:*
- K. He who impairs the value of securities that are mortgaged to his creditor –
- L. this carries us to the dispute between Rabban Simeon b. Gamaliel and rabbis.
- M. Ulla said, “[**A slave who was made over as security for a debt by his master to others and whom the master [then] freed:**] So who freed him? His second master. In strict justice the slave is not liable to carry out religious duties [that pertain only to free persons].
- N. “**But for the good order of the world, they force his master to free him:** For lo, word has gone out concerning him that he is a free man, so **they force his first master to free him.**”
- O. **And the slave writes a bond for his purchase price. Rabban Simeon b. Gamaliel says:**
- P. “He does not do so, but the one who emancipates him gives the bond.”
- Q. *What is at issue between them?*
- R. *At issue between them is the status of damage that is not readily discernible. The one authority classifies it as actionable damage, the other authority classifies it as not actionable damage.*
- S. *How come Ulla does not explain matters as does Rab?*
- T. *He will say to you, “Can you really call the second party his master [in line with the explicit statement of the Mishnah, **they force his master to free him**]?”*
- U. *How come Rab does not explain matters as does Ulla?*
- V. *He will say to you, “Can you call the second party **the one who frees him**?”*

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

- B. He who assigns his field as a security for a debt he owes to another, and the river flooded the field –
- C. Ammi the Handsome [*Shapir Naeh*] said R. Yohanan [said], “The creditor cannot collect the debt from other property owned by the debtor.”

- D. And the father of Samuel said, “He may collect the debt from other property owned by the debtor.”
- E. *Said R. Nahman bar Isaac, “Because his name is Ammi the Handsome, he says things that are not all that handsome. His tradition must be explained as referring to a case in which the debtor said to the creditor, ‘You may collect only from this field.’” [That is why he cannot collect from any other property.]*
- I.3** A. *So, too, it has been taught on Tannaite authority:*
- B. He who assigns his field as a security for a debt he owes to another, and the river flooded the field – the creditor may collect the debt from other property belonging to the debtor. But if the debtor had said to him, “You may collect only from this field,” he cannot collect the debt from any other property.
- I.4** A. *It has further been taught on Tannaite authority:*
- B. He who assigns his field as a security for a debt to a creditor, or for payment of a woman’s marriage settlement, they may recover from other property that he may own.
- C. Rabban Simeon b. Gamaliel says, “A creditor may collect from other property that he may own. A woman may not collect from other property that he may own, for a woman does not commonly go running to court [to get a court order for seizing other property].”

#### 4:5

- A. “He who is half-slave and half-free works for his master one day and for himself one day,” the words of the House of Hillel.
- B. Said to them the House of Shammai, “You have taken good care of his master, but of himself you have not taken care.
- C. “To marry a slave girl is not possible, for half of him after all is free.
- D. [41B] “[To marry] a free woman is not possible, for half of him after all is a slave.
- E. “Shall he refrain?
- F. “But was not the world made only for procreation, as it is said, ‘He created it not a waste, he formed it to be inhabited’ (Isa. 45:18)?
- G. “But: For the good order of the world, they force his master to free him.
- H. “And he [the slave] writes him a bond covering half his value.”



**I. And the House of Hillel reverted to teach in accord with the opinion of the House of Shammai.**

**I.1** A. *Our rabbis taught on Tannaite authority:*

B. He who frees his slave to the extent of half –

C. Rabbi says, “The slave acquires title to the whole of himself.”

D. And sages say, “He has not acquired title to himself.”

**I.2** A. Said Rabbah, “The dispute concerns a case in which the master has written out a writ of emancipation. For Rabbi takes the view that the language, ‘And she be not at all redeemed, nor freedom given her’ (Lev. 19:20), establishes a verbal analogy, such that we apply the same rule to a document as to money. Just as with money, the slave can acquire half of himself or the whole of himself, so with a writ, he can acquire either half or the whole of himself. And rabbis establish a verbal analogy based on the occurrence of the word ‘to her’ in respect to both a female slave and a divorced wife. Just as a woman cannot be half-divorced, so a slave also cannot be half-freed. But as to the matter of money, both parties concur that he may acquire himself.”

B. *May we then maintain that this is what is at issue between them: [In a case in which we may construct either an analogy or a verbal connection] the one party prefers the analogy, the other, the demonstration of a totality of congruence among salient traits takes precedence?* [One authority maintains that proof supplied by analogy takes priority, and the other party maintains that the proof supplied by the demonstration of a totality of congruence among salient traits takes precedence.]

C. *Not at all. All parties concur that the demonstration of a totality of congruence among salient traits takes precedence, but the present case is exceptional, for there is the possibility of raising this objection to the claim of the totality of congruence, namely, the distinctive trait of a woman is that she does not go forth through the payment of money [but only by a writ of divorce], but can you make that statement of a slave, who does go forth through the payment of money?*

D. *And R. Joseph maintains, “At issue between Rabbi and rabbis is a case in which the half-emancipation is made for money payment. Rabbi takes the view that the language, ‘redeeming, she is not redeemed’ means that she is half-redeemed but not wholly redeemed;*

*rabbis maintain that the Torah uses ordinary language. But where the half-emancipation is made by a deed, all parties concur that the slave does not acquire title to one-half of himself."*

- E. *An objection was raised: He who emancipates his slave to the extent of half, by means of a writ –*
- F. Rabbi says, "He has acquired title to half of himself."
- G. And rabbis say, "He does not acquire title to half of himself."
- H. *Is this not a refutation of the theory of R. Joseph?*
- I. *It indeed refutes the theory of R. Joseph.*
- J. *Then it is with reference to a case in which a writ of emancipation has been issued, but if it is only a payment of money covering half of the value of the slave, then there is no such dispute. May one then propose that this refutes R. Joseph [who has said that at issue between Rabbi and rabbis is a case in which the half-emancipation is made for money payment] in both aspects?*
- K. *R. Joseph may say to you, "There is a dispute in respect to the use of a deed, and the same applies to a money payment. And the reason that they make the dispute explicit with respect to the use of a deed is to indicate to you the extent to which Rabbi is prepared to go in this matter [that half-emancipation can be carried out with either a deed or money payment]."*
- L. *Well, why not frame the dispute with regard to money to show you how far rabbis are prepared to go in the same matter?*
- M. *It is preferable to frame matters so as to show how far one is willing to go in releasing [the slave from his condition].*
- N. *Come and take note: [With reference to the verse, "If a man lies carnally with a woman who is a slave, betrothed to another man and not yet ransomed or given her freedom, an inquiry shall be held. They shall not be put to death, because she was not free; but he shall bring a guilt-offering for himself to the Lord" (Lev. 19:20):] "Ransomed" – might one suppose the whole of her?*
- O. Scripture states, "...not yet ransomed...."
- P. Might one suppose, "...not yet ransomed..."?
- Q. Scripture states, "...ransomed...."
- R. How so?

- S. Reference is made to a woman who has been both redeemed but not redeemed with money or with what is worth money.
- T. How do I know that the same applies to a deed?
- U. Scripture says, “And redeemed, she was not redeemed, nor was her freedom given to her,” and elsewhere, “And he shall write for her a writ of divorce” (Deu. 24: 1) – just as in the latter case, this is accomplished with a document, so here it is with a document.
- V. I know thus far only that half-emancipation can be carried out by money and full emancipation by a deed. How do I know that half-emancipation can be carried out by a deed?
- W. Scripture says, “And redeemed, she be not redeemed or her freedom be not given to her,” which places the deed here as equivalent to a money payment, thus: Just as with money, either half- or full emancipation can be carried out, so with a deed the same is so.
- X. *Now from the perspective of R. Joseph, in the unfolding of the argument [Rabbi doesn’t admit half-emancipation with a deed] after he was refuted, this formulation concurs with Rabbi. But from Rabbah’s perspective, do we have to conclude that the first half [money effects half-emancipation] agrees with all parties, but the second [a deed effects half-emancipation] accords only with Rabbi?*
- Y. *Rabbah may well say to you, “Yes indeed, the first half [money effects half-emancipation] agrees with all parties, but the second [a deed effects half-emancipation] accords only with Rabbi.”*
- Z. R. Ashi said, “It accords wholly with Rabbi” [the slave gets half-emancipation through both means].
- AA. *And then, when our Mishnah paragraph formulates the Tannaite statement, **He who is half-slave and half-free**, that would pose no problem to Rabbah, because he can assign the matter to the case in which there has been a money payment to the extent of half of the worth of the slave, and it would then represent the opinion of all parties. But from the perspective of R. Joseph, shall we then say it represents only the view of Rabbi and not that of rabbis?*
- BB. Said Rabina, [\[42A\]](#) “Well, it can just as well represent a slave belonging to two partners and therefore speak in behalf of all parties.”
- I.3** A. Said Rabbah, “The dispute between Rabbi and rabbis deals with a case in which the master has freed half the slave and left the other half

to himself, but if he freed half of him and sold the other half, or if he gave the other half as a gift, *since the entirety of the ownership of the slave has left the original owner's hands*, all parties concur that the owner has acquired title to himself.”

- B. *Said to him Abbayye, “And is there no dispute in a case in which the master has relinquished ownership of the whole of the slave? And has not a Tannaite formulation maintained: He who writes over his property to his two slaves – they have acquired title and free one another. And a further Tannaite formulation: He who says, ‘All of my property is given to Mr. So-and-so and Mr. So-and-so, my slaves’ – even ownership of themselves they have not acquired. Now is it not the case that the one stands for the position of Rabbi and the other of rabbis?”*
- C. *Not at all. Both formulations represent the position of rabbis, the one refers to a case in which the man assigned the whole to both slaves, the other a case in which he gives half to one, half to the other.*
- D. *But note what the final part of the Tannaite statement maintains: But if he said, “Half to this one, half to that one,” they have not acquired ownership. Then it must follow that the opening clause refers to a case in which he said, “The whole of it...”*
- E. *What we have is a secondary expansion of the foregoing, namely, even ownership of themselves they have not acquired – how so? For example, if he said, “Half...half...” And that stands to reason, for if it should enter your mind that the first clause speaks of a case in which he has said, “The whole of it...,” then, if he has said, “The whole,” they do not acquire title, do we have to be told that where he says, “Half and half,” they don’t acquire title?*
- F. *Well, if that’s the operative consideration, then it really need not follow, for the second clause may be read as a Tannaite statement to clarify the sense of the first, namely, it is so that you should not maintain that the opening clause speaks of a case in which he said, “Half to one, half to the other,” leaving the inference that if he said, “The whole,” they acquire ownership; so he adds in the second clause, “Where he says half and half,” to indicate that the first clause addresses a case in which he says, “The whole” – and even so, they do not acquire title.*

- G. *And if you prefer, I shall say: There is no problem, the one case speaks of an action taken with a writ, the other with two writs. [They cannot be liberated with a single writ, just as two women cannot be divorced with a single writ of divorce.]*
- H. *Well, if we're dealing with only a single writ, then why specify that the language was "half...half...", since, even if he had said, "The whole...", they would not have acquired title [for the reason just now given]!*
- I. *And that's precisely what he meant to say, "Even title to themselves they have not acquired. Under what circumstances? In the case of a single writ. But if he had issued two writs, they will have acquired title to themselves. But if he used the language, 'Half..., half...', even if there were two writs, they also will not have acquired title to themselves."*
- J. *And if you prefer, I shall say: There is no problem, the one case speaks of an action involving two deeds taken simultaneously, the other, an action involving two deeds taken sequentially.*
- K. *Now there is no problem understanding why the second slave does not acquire ownership, because the first of the two has already become his owner. But how come the first slave does not acquire title to himself and also title to the other? So it is better to work things out as we did to begin with.*

- I.4** A. R. Ashi said, "What differentiates the case there is that he has called them in the deed 'my slaves' [which shows he didn't intend to liberate them but only to give him property, but as slaves they can't accept it anyhow]."
- B. Said Rafram to R. Ashi, "But maybe the sense is, 'My slaves of times past' [but not now]. Haven't we learned in the Mishnah: **He who consigns his property to his slave – the slave goes free. If the owner retained any land for himself, the slave does not go free.** R. Simeon says, **[9A]** "In any such case the slave goes free, unless the property owner says, 'Lo, all of my possessions are given to So-and-so, my slave, except for one ten-thousandth part of them'" **[M. Pe. 3:8A-E]**. So the operative consideration is that he has used the language, except for one ten-thousandth part of them. Lo, if he had

*not made such a statement, the other would have acquired title to the property. Now why should this be the case? Lo, he has referred to him as a slave anyhow! So his obvious sense was, 'My slave of times past,' and here, too, the obvious sense is, 'My slaves of times past.'"*

- II.1 A.** [To marry a slave girl is not possible, for half of him after all is free. To marry a free woman is not possible, for half of him after all is a slave:] If an ox gored him, if it is on a day on which he belongs to the master, the compensation is assigned to the master, and if it is on the day when he belongs to himself, it goes to himself. *So then*, on a day on which he belongs to his master, let him marry a slave girl, and on a day on which he belongs to himself, let him marry a free woman!
- B. *In the case of a religious prohibition, we do not invoke that argument.*
- C. *Come and take note:* If one killed someone who was half-slave and half-free, he pays half of the penalty to the master [42B] and half to the slave's heirs. *Now why should this be the case? Here, too, why not say*, if it took place on a day on which he belongs to his master, let the money go to the master, and on a day on which he belongs to himself, let the money go to himself?
- D. *This case is different, because the principal [the slave himself] has perished.*
- E. *Then what would constitute a case in which the entirety of the principal has not perished?*
- F. For instance if he hit him on the arm, and the arm is now broken but is going to heal.
- G. *That poses no problem to Abbaye, who said*, "He pays him compensation for the principal loss of time [meaning, depreciation] and for the minor loss of time [meaning, loss in work time]."
- H. *But to Raba, who said*, "He pays him only the amount of time lost from work from day to day until he recovers [but not for his temporary loss in value]," then we are dealing with an ox, and the master of the ox is liable only for payment of damage [Simon: not for the kind of compensation mentioned by Raba, which is classified as incapacitation]!
- I. *If you wish, I shall say that on the master's day the money goes to the master and on the slave's day to the slave pertains to a case in which the injury is done by man, and if you like, I shall say that what we have in hand is merely a statement of opinion [not given Tannaite status], with which Raba does not concur.*

- II.2** A. *The question was raised:* If an emancipated slave who has not yet received his writ of emancipation – if he is killed by a goring ox, is a fine to be paid for him or is that not the case? *Scripture has said*, “Thirty sheqels of silver he shall give to his master” (Exo. 21:32), *and this is not his master any more, or perhaps, since the issuance of a writ of emancipation is still lacking, we classify the owner as his master?*
- B. *Come and take note:* If one killed someone who was half-slave and half-free, he pays half of the penalty to the master and half the ransom to the slave’s heirs. *Isn’t this in accord with the Mishnah formulation in the aftermath of the House of Hillel’s concession [And the House of Hillel reverted to teach in accord with the opinion of the House of Shammai]?*
- C. *No, it is in accord with the Mishnah formulation prior to their concession.*
- D. *Come and take note:* If one knocked out his tooth and blinded his eye, he goes forth to freedom on account of his tooth and the master pays the value of the eye. *Now if you say that a fine is paid for him and the fine belongs to the master, then, when others injure him they pay the master, so when the master himself injures him, is he going to pay the slave?* [As soon as the tooth is knocked out, he is not a slave, but there has been no deed of emancipation, so a fee does not have to be paid for him if he is killed by a goring ox (Simon).]
- E. *Maybe the passage has been formulated in accord with him who maintains that he does not need a writ of emancipation, for it has been taught on Tannaite authority:* “In all these cases, a slave goes forth to freedom, but he requires a writ of emancipation from his master,” the words of R. Ishmael.
- F. R. Meir says, “He doesn’t require one.”
- G. R. Eliezer says, “He requires one.”
- H. R. Tarfon says, “He doesn’t require one.”
- I. R. Aqiba says, “He requires one.”
- J. Those who settle matters in the presence of sages say, “The position of R. Tarfon makes more sense in the case of a tooth or eye, since the Torah has itself assigned him freedom on these counts, but the position of R. Aqiba is more sensible in the case of other parts of the body, because the freedom that is assigned in those cases represents an extra-judicial penalty imposed by sages on the master.”

K. *Do you really classified it as an extrajudicial penalty? Lo, they derive that fact from the exegesis of Scripture. But rather, say: since it represents an exegesis of sages.*

- II.3** A. *The question was raised: If an emancipated slave has not yet received his writ of emancipation, may he eat food in the status of priestly rations, or may he not eat food in the status of priestly rations? Scripture has said, “[Such food may be eaten by one who is] bought by his money” (Lev. 22:11), and this one is no longer in the status of one bought by his money, or perhaps, since he still has not yet received a writ of emancipation, he remains in the category of one who has been bought by his money?*
- B. *Come and take note: For said R. Mesharshayya, “ A priest girl whose offspring was confused with the offspring of her slave girl – lo, these [men] eat heave-offering. [But there is no writ of emancipation given to the one of them who was a slave.] And they [take and] divide a single share at the threshing floor. [When] the confused children grow up, they free one another [M. Yeb. 11:5A-H].”*
- C. *But are these cases genuinely parallel? In that case, if Elijah should come along and declare one of them to be a slave, we should class him as “the purchase of his money,” but in the other case, he is not “the purchase of his money” at all.*
- II.4** A. *The question was raised: If a slave sold by his master with respect only to the fine that is owing to him [if the slave is gored to death] – is he deemed sold or not sold? The question is to be addressed to R. Meir, and also to rabbis. It is a question for R. Meir, for R. Meir took the position that he did, that someone may assign title to something that is not yet in existence, only in the case of produce of a date tree, which after all is reasonably expected to come into existence later on, but in this case, who knows for sure that the slave will ever be gored? And even if he is gored, how do you know that the owner ever will actually pay off? [43A] Maybe he will concede the matter and exempt himself from having to pay a fine. And it also is a question facing rabbis vis-à-vis R. Meir, for rabbis in that context may take the position that they do, namely, that someone may not assign title to something that is not yet in existence, only in the case of produce of a date tree, which after all is not now producing the dates. But here, you’ve got the ox and you’ve got the slave. So what is the rule?*



- B. *Said R. Abba, "Come and take note: 'And those that are born in his house may eat of his food': Why does Scripture refer to the homeborn?*
- C. **"For if a person who has been purchased as property for money may consume priestly rations, can there be any question concerning the homeborn?"**
- D. **"If that were the case, however, I might maintain that the person acquired as a possession for money, in which the priest has a monetary interest, [may eat priestly rations,] and so, too, may the homeborn in whom the priest has a monetary interest [for example, a slave born in his household]."**
- E. **"How do I know that even though the person has no monetary value whatsoever to the priestly householder, he, too, may eat priestly rations?"**
- F. **"Scripture says, 'Those that are born in his house,'**
- G. **"under all circumstances."**
- H. **"Then I should nonetheless maintain the following: a homeborn, whether or not the priest has a monetary interest in that person, may eat priestly rations, while a person acquired as a possession, if the priest has a monetary interest in him, may eat priestly rations, while if not, he may not."**
- I. **"Accordingly, Scripture says, 'And those that are born in his house may eat of his food,'**
- J. **"to make clear that just as one that is born in his house may eat priestly rations even though the person has no monetary value whatsoever, so the person acquired as a possession for money, even though he has no monetary value whatsoever [for example, an aged slave] also may eat priestly rations [Sifra CCXIX:I.4]. Now, if you take the position that a slave that is sold in respect to a fine is actually sold, then is there a slave not worth selling for his fine [Simon: and if so, how can we speak of 'the purchase of his money' who is worth nothing]?"**
- K. *Well, yes, there is, namely, a slave who is afflicted with a life-threatening ailment.*
- L. *And isn't such a one suitable to get up before him and wait on him?*
- M. *We assume that he is disgusting and covered with boils.*

**II.5** A. *The question was raised: One who was half-slave and half-free who betrothed a free woman – what is the law? If you should propose to invoke the rule, an Israelite man who said to an Israelite woman, "Be betrothed by half," she is betrothed, that is because she is wholly suitable for the entirety of the man himself. But in this case, she is not suitable for the whole of him [but only for*

*his free half]. And if you should propose to invoke the rule, an Israelite man who betrothed half of a woman – she is not betrothed, that is because he has omitted something from his act of acquisition, but lo, the slave has omitted nothing from his act of acquisition. So what is the rule?*

- B. *Come and take note:* If someone killed a man who was half-slave and half-free, he pays half of the indemnity to his master, and half of the required ransom to his heirs. Now, if you should maintain that his act of betrothal is not effective, *then whence come his heirs!*
- C. Said R. Adda bar Ahbah, “It would be a case in which the ox did such damage that the man would not survive for a year. *And what is the meaning in this context of ‘his heirs’? It refers to the man himself.*”
- D. Said Raba, “There are two objections to this proposal. *First, the language, ‘his heirs,’ is used in the Tannaite formulation!* And furthermore, it is a ransom, and said R. Simeon b. Laqish, ‘A ransom is paid only after death.’”
- E. Rather, said Raba, “The rule is that he ought to receive the ransom, but he doesn’t get it [there being no heirs].”

**II.6** A. Said Raba, “Just as he who betroths a half of a woman – she is not betrothed, so if she was half-slave and half-free who was betrothed – an act of betrothal carried out with her is null.”

**II.7** A. Expounded Rabbah bar R. Huna, “Just as he who betroths a half of a woman – she is not betrothed, so if she was half-slave and half-free who was betrothed, she is not betrothed.”

B. *Said to him R. Hisda, “But are the cases really parallel at all? In the one case the man has omitted something in his act of acquisition, in the other, he has omitted nothing in his act of acquisition.”*

C. *Then Rabbah bar R. Huna appointed a public interlocutor in this regard and expounded as follows: “‘This stumbling block is under your hand’ (Isa. 3: 6) – someone does not fully master the teachings of the Torah unless he stumbles over them. Even though they have said, ‘He who betroths a half of a woman – she is not betrothed,’ truly, if she was half-slave and half-free who was betrothed, she is betrothed. How come? In the former case the man has omitted part of his act of acquisition, but in the present case he has not omitted anything in his act of acquisition.”*

**II.8** A. Said R. Sheshet, “Just as he who betroths a half of a woman – she is not betrothed, so if she was half-slave and half-free who was betrothed, an act of

betrothal with her is null. And if someone should murmur to you, ‘**Who is a designated bondwoman** [M. Ker. 2:5A] [Lev. 19:20]? [In Aqiba’s definition,] it is one who was half-slave and half-free betrothed to a Hebrew slave,’ *which shows that she can be betrothed, say to him*, ‘Turn to R. Ishmael, who says, “[Scripture speaks of] a Canaanite slave girl, who has been betrothed to a Hebrew slave.”’ *Now can a Canaanite slave girl become betrothed? Obviously not, so by ‘betrothed’ what R. Ishmael means is, ‘assigned to.’ Here, too, the sense of ‘betrothed’ is merely ‘assigned to.’*”

**II.9** A. Said R. Hisda, “A woman half-slave and half-free who was betrothed to Reuben and freed, and then who went and was betrothed to Simeon, and both died without heirs, enters into a levirate marriage with a Levite. [43B] And we do not classify her as a widow of two husbands [the second of whom has betrothed her but died]. *For what are the alternatives here? If the act of betrothal with Reuben was valid, then the act of betrothal of Simeon was null, and if the act of betrothal of Simeon was valid, then the act of betrothal of Reuben is null.*”

**II.10** A. *It has been stated:*

B. A woman half-slave and half-free who was betrothed to Reuben and then freed, and then went and was betrothed to Simeon –

C. R. Joseph bar Hama said R. Nahman [said], “The first act of betrothal is treated as having been dispatched.”

D. R. Zira said R. Nahman [said], “The first act of betrothal is treated as confirmed.”

E. *Said R. Zira, “My position stands to reason, for it is written, ‘They shall not be put to death, for she was not freed’ (Lev. 19:20) – lo, if she was freed, they are put to death.”*

F. *Said to him Abbaye, “From the perspective of the Tannaite authority of the household of R. Ishmael, who has said, ‘This refers to a Canaanite slave girl betrothed to a Hebrew slave,’ should we say here, too, that if she has been freed, they are put to death? [Simon: This cannot be, since, as a slave woman, she was never properly betrothed.] Rather, what is to be said? She was freed and then betrothed, and here, too, she was freed, then she was betrothed.”*

**II.11** A. Said R. Huna bar Qattina said R. Isaac, “There was a case in which a woman came, who was half-slave and half-free, and they forced the master to free her.”

- B. *In accord with whose position was this decision made?*
- C. *It was in accord with R. Yohanan b. Beroqa, who said, “With regard to both of them, Scripture says, ‘And God blessed them and God said to them, Be fruitful and multiply’ (Gen. 1:28).”*
- D. Said R. Nahman bar Isaac, “That’s not the operative consideration. It was because men were treating her like a whore.”

#### 4:6A-C

- A. **He who sells his slaves to a gentile,**
- B. **or to someone who lives abroad –**
- C. **he [the slave] has gone forth a free man.**

- I.1 A. *Our rabbis have taught on Tannaite authority:*
- B. **He who sells his slave to gentiles – the slave has come forth to freedom, but he requires a writ of emancipation from his first master.**
- C. **Said Rabban Simeon b. Gamaliel, “Under what circumstances? If he did not write out a deed of sale for him, but if he wrote out a deed of sale for him, this constitutes his act of emancipation” [T. A.Z. 3:16A-C].**

- I.2 A. *What is a deed of sale?*
- B. *Said R. Sheshet, “He wrote for him the following language: ‘When you escape from him, I have no claim on you.’”*

- I.3 A. *Our rabbis have taught on Tannaite authority:*
- B. If someone borrowed money from a gentile using his slave as his pledge, once the gentile has fixed on the slave the mark of his right of ownership, the slave has gone forth to freedom.

- I.4 A. *What is the mark of his right of ownership?*
- B. Said R. Huna bar Judah, “His collar.”
- C. *Objected R. Sheshet: “Sharecroppers, tenants, serfs, or a gentile, who have mortgaged a field to an Israelite, even though the Israelite fixed to it the sign of his right of ownership – the land is no longer liable to tithing. [The land remains in the ownership of the gentile.]” Now if you should imagine that what we are talking about is a chain, how in the world are you going to put a chain on a field!*
- D. Rather, said R. Sheshet, “It means a time limit.”

- E. *Then the consideration of the time limit has contradictory results [in the field, the passage of the time limit does not remove the field from the ownership of the first proprietor, in the case of the slave it does (Simon)]!*
- F. *There is no contradiction, the one case [the slave] involves a situation in which the time limit has expired, in the other case, that is not the case.*
- G. *Well, in the case of a slave the time limit of whom has expired, is it necessary to tell us that he goes forth to freedom? Rather, both refer to a case in which the time limit has not expired, but there is no contradiction. In the one case, the body is transferred, in the other, only the produce. [Simon: In the case of the slave the body itself is sold at the end of the time limit if the debt is not paid, and since the master violated the rule by selling his slave to a gentile, his ownership is cancelled even before the time has run out; but the field itself is not sold to the Israelite if the debt is not repaid on time, only the increment thereof, and it does not become liable to tithe.] [44A] Or if you prefer, I shall say, it speaks of a case in which he borrowed the money on condition that he should provide a pledge but then he didn't do so. [Simon: In the case of the field that the gentile offers to pledge, as long as the Israelite doesn't actually take it in pledge, he may eat of the produce without giving tithe, because the field still belongs to the gentile. But if the Israelite offers to pledge the slave to the gentile and the latter has not yet taken him in pledge, if the slave escapes, sages forbid the Jew from claiming him.]*

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

- B. If a gentile seized a slave in payment of a debt owing to him, or if a land grabber seized him, he has not gone forth to freedom.

**I.6** A. Now, if a gentile seized a slave in payment of a debt owing to him, doesn't he go forth to freedom? *And by way of objection:* If the royal administration seized a person's grain in the granary, if it was on account of a debt that he owed, he has to tithe the grain [this is then a kind of sale (Simon)], but if it was on account of a missed installment payment, he is exempt from having to tithe!

- B. *That case is exceptional, because [Simon:] they confer some advantage on him. [Simon: By making him quit of the debt, so he is*

liable to give tithe. But in the case of the slave where the cancellation of the master's ownership is merely a punitive measure for transgressing the rabbinic regulation, no such penalty can be inflicted where the slave was taken against his will.]

- C. *Come and take note of what Rab said, namely, "He who sells his slave to a gentile official – the latter has gone free [when he escapes]."*
- D. *But in that case he should have bribed him in some way or another, and he didn't do so.*

**I.7** A. *Reverting to the body of the foregoing:* Rab said, namely, "He who sells his slave to a gentile official – the latter has gone free [when he escapes]."

B. *So what should he have done?*

C. *But in that case he should have bribed him in some way or another, and he didn't do so.*

**I.8** A. *R. Jeremiah raised the question, "If he sold him for thirty days, what is the law?"*

B. *Come and take note of what Rab said, namely, "He who sells his slave to a gentile official – the latter has gone free [when he escapes]."*

C. *But that refers to a gentile official, in which case the sale is not likely to be cancelled at the specified date.*

**I.9** A. *If he sold him for anything but work, what is the law? If he sold him for any purpose except for the violation of the commandments, what is the law? If he sold him for work anytime except for the Sabbath and festivals, what is the law? If he sold him to a resident alien or to an Israelite apostate, what is the law? If he sold him to a Samaritan, what is the law?*

B. *Well, in any event, you can resolve one of these questions: A resident alien – lo, he is classified as a gentile.*

C. *As to a Samaritan or an Israelite apostate, there are those who say they are classified as gentiles, and there are those who say they are classified as Israelites.*

**I.10** A. *This question was addressed to R. Ammi: "A slave who threw himself into the power of marauders, and his master cannot retrieve him either by Israelite or by gentile law – what is the rule as to his taking payment for him [if it is offered]?"*

B. *Said R. Jeremiah to R. Zeriqa, "Go, review your notes."*

- C. *He went out, examined them, and found the following, taught on Tannaite authority:* He who sells his house [in the Land of Israel] to a gentile – the money paid for it is forbidden. And a gentile who seized the house of an Israelite, and the owner cannot retrieve the house either by Israelite or gentile law – it is permitted to accept the value of the house and write out a deed for it and deposit it in a gentile archive, since he is in the status of saving [capital] from their power.
- D. *But maybe that rule concerns a house in particular, since after all, he cannot get along without a house, so he is not going to sell it, but, as to a slave, since he can get along perfectly well without a slave, he may end up selling him?*
- E. R. Ammi sent word to them, “From me, Ammi bar Nathan, does Torah go forth to all Israel: A slave who threw himself into the power of marauders, and his master cannot retrieve him either by Israelite or by gentile law – it is permitted to accept the value of the slave and write out a deed for him and deposit it in a gentile archive, since he is in the status of saving [capital] from their power.”
- I.11** A. Said R. Joshua b. Levi, “He who sells his slave to a gentile – they impose upon him an extrajudicial penalty of up to a hundred times his value” [in that the seller may have to spend that amount of money to get the slave back from the gentile].
- B. *Is the figure, “a hundred times his value,” meant to be precise, or is it simply an estimate?*
- C. *Come and take note, for* said R. Simeon b. Laqish, “He who sells a large beast to a gentile – they impose upon him an extrajudicial penalty of up to a hundred times its value [to buy the beast back].”
- D. *But maybe the case of the slave is different, because every single day the man is kept away from carrying out his religious duties.*
- E. *And there are those who report the matter as follows:*
- F. Said R. Joshua b. Levi, “He who sells his slave to a gentile – they impose upon him an extrajudicial penalty of up to ten times his value” [in that the seller may have to spend that amount of money to get the slave back from the gentile].
- G. *Is the figure, “ten times his value,” meant to be precise, or is it simply an estimate?*
- H. *Come and take note, for* said R. Simeon b. Laqish, “He who sells a large beast to a gentile – they impose upon him an extrajudicial penalty of up to a hundred times its value [to buy the beast back].”

- I. *The case of a slave is exceptional, for he does not go back to his master after he is redeemed.*
- J. *And what is the reason that a beast must be redeemed at even a hundred times its value?*
- K. *Because it comes back to its master.*
- L. *Then why not impose a sanction that he pay one more than ten [eleven times the value, in the theory that since the owner gets the money back, the value of the beast cannot be reckoned as part of the fine]?*
- M. *Rather, the operative consideration is that the sale of a slave is uncommon, and for any matter that is uncommon, rabbis imposed no decrees.*

**I.12** A. R. Jeremiah raised this question to R. Assi: “If one sold his slave and died, what is the rule on imposing a sanction on his son after him? *If you should propose to cite the rule*, if one slit the ear of a firstling and then died, sages have imposed a sanction on his son after him [and likewise here], *that is because he has violated a prohibition deriving from the Torah, while here, it is a prohibition deriving from the authority of rabbis.* **[44B]** *And if you should invoke as the pertinent parallel the rule that*, if someone planned to do some work during the intermediate days of the festival [for example, cut the grapes of his vineyard, since if he did not work on the intermediate days, he would suffer a loss, so the work is permitted, but if he deliberately planned for the work to be done during those days though he could have done it earlier, the work is forbidden], and then he died, sages did not impose a sanction on his son after him, *the reason is that it was not the son who performed a forbidden action. Here what is the rule? The man himself did sages subject to a sanction, and lo, he is no longer alive, or perhaps it was the man’s property that was subjected to the sanction by rabbis, and lo, it is there to be penalized?”*

B. *He said to him, “You have learned it in the Mishnah: A field which was cleared of thorns [during the Sabbatical Year] may be sown during the year following the Sabbatical [for removing thorns is not a forbidden act of cultivation]. [But a field] which was improved [by the removal of stones during the Sabbatical Year] or which was used as a fold [for animals during the Sabbatical Year, such that it was fertilized by the dung which the animals left on the ground] may not be sown during the year following the Sabbatical [since these activities have the effect of preparing*



land for cultivation] [M. **Sheb. 4:2A-E**]. And said R. Yosé b. R. Hanina, ‘We hold as a tradition that if he improved the field and died, his son may sow the field.’ It follows that the man himself did sages subject to a sanction, but not his son; here, too, the man himself, but not the son, has been subjected to a sanction.”

- C. Said Abbaye, “We hold it as a tradition that if a person imparted uncleanness to food that had been prepared in accord with the rules of cultic cleanness and then died, sages did not impose a sanction upon his son after him. What is the operative consideration? We are dealing with intangible damage, and intangible damage is not treated as tantamount to tangible damage. It is a penalty only on the authority of rabbis, and while rabbis imposed a sanction on the man himself, they did not impose a sanction also upon his son.”

**II.1 A. Or to someone who lives abroad:**

- B. Our rabbis have taught on Tannaite authority:
- C. He who sells his slave overseas – the slave has gone forth to freedom, but requires a writ of emancipation from his second master.
- D. Rabban Simeon b. Gamaliel says, “On some occasions he goes forth to freedom, and on some occasions he does not go forth. How so? If the master says, ‘As to Mr. So-and-so, my slave, I have sold him to Mr. Such-and-such of Antioch,’ he has not gone forth to freedom. If he said, ‘To an Antiochian in Antiochian,’ he does go forth to freedom” [T. **A.Z. 3:18**].
- E. But has it not been taught on Tannaite authority: “I sold him to an Antiochian,” he goes forth to freedom; “To an Antiochian living in Lud,” he doesn’t go forth to freedom?
- F. No problem, the one refers to a case in which the purchaser has a house in the Land of Israel, the other, a person who has only a motel room.

- II.2 A.** R. Jeremiah raised this question: “A Babylonian who married a woman in the Land of Israel, and the latter brought into the marriage slave boys and slave girls, and he plans to return home, what is the law? That question is to be addressed to him who maintains that the husband has the right [in the case of a divorce, to make a money payment in exchange for the original property], and the question is to be asked from the perspective of him who maintains that the wife has the right [to recover the original property, not the money payment stipulated as the value of the property]. The question is to be asked from the perspective of him who maintains that the wife has the right [to

*recover the original property, not the money payment stipulated as the value of the property], in the following terms: Since she has the right to demand the return of the property itself, the property is classified as belonging to her, or perhaps, since the property has been indentured to the husband as to the usufruct, it is as though it belongs to him. And, so, too, the question is to be asked from the perspective of him who maintains that the wife has the right [to recover the original property, not the money payment stipulated as the value of the property], so, since he has the right to substitute a money payment, the property is as though it belongs to him; or perhaps, since he does not acquire title to it, it is as though it belonged to her."*

B. *The question stands.*

**II.3** A. Said R. Abbahu, "R. Yohanan repeated to me the following rule: 'A slave who went forth after his master to Syria, whom the master sold there, has gone forth to freedom.'"

B. *But has it not been taught as a Tannaite statement by R. Hiyya: The slave has lost his right?*

C. *No problem, the one speaks of a case in which the master had the intention of returning to the Land, the other, a case in which the master had not got the slightest intention of returning to the Land, as has been taught on Tannaite authority: A slave must leave the Land of Israel with his master for Syria.*

D. "Must leave"? *Obviously, he cannot be forced to leave, in line with that which we have learned in the Mishnah: **All have the right to bring up [his or her family] to the Land of Israel, but none has the right to remove [his or her family] therefrom [M. Ket. 13:11A].***

E. Rather: If the slave went forth after his master to Syria and his master sold him there, if the master has the intention of returning to the Land, they force him to emancipate him, but if not, he is not forced to do so.

**II.4** A. Said R. Anan, "I heard two things from Mar Samuel, one in regard to this matter [the slave sold overseas], and the other in respect to the following statement, as has been stated:

B. "He who sells a field in the Jubilee year itself –

C. "Rab said, 'It is indeed sold, but it goes forth [at that year].'

D. "And Samuel said, 'It is not sold in any aspect at all.'

- E. “In one instance [my tradition rules that] the purchase money is paid back, and in the other it is not paid back. But I do not know which is which.”
- F. Said R. Joseph, “Let us look into the matter. *Since it is taught in a Tannaite teaching external to the Mishnah: ‘He who sells his slave to someone who lives outside of the Land – the slave has gone forth to freedom, and requires a writ of emancipation from the second master,’ it follows that, since the purchaser is called ‘the second master,’ the purchase money is not restored, [since if the original owner paid back the money, he would be regarded as master of the slave]. It further follows that in the present case, Samuel maintains the view that the field is not sold, and the money is returned [to the purchaser who thought to buy the field in the Jubilee year].*”
- G. **[45A]** And R. Anan? [Why did he not know this on his own?]
- H. *He had not heard the Tannaite teaching external to the Mishnah.*
- I. *And as to the view of Samuel, how do we know that the field is not sold and the money is returned? Perhaps in his view while the field is not sold, the money is regarded as a gift [to the seller]? That outcome would follow the lines of the case of one who betroths his sister, for it has been stated:*
- J. He who betroths his sister –
- K. Rab said, “The money is returned [since the brother has not got the legal right to betroth his sister].”
- L. Samuel said, “The money is considered a gift.” [In the present case, too, regard the money as a gift.] [The matter is not worked out.]
- M. *Said Abbaye to R. Joseph, “Why do we impose a fine on the purchaser, [by taking away his money, for violating the law against removing a slave from the Land of Israel]? Should we not impose a fine on the seller [for selling the slave to someone who would take him away when he should not do so]?”*
- N. *He said to him, “The mouse didn’t do the stealing, the hole [into which a bit of grain fell] did the stealing. [The mouse takes the grain from the hole. It is the hole that received, “stole,” the grain from the stalk, not the mouse.]”*
- O. *But if there were no mouse, how could the hole have done any stealing?*

- P. *It is more reasonable to rule that we impose the penalty on the one who has possession of what is forbidden [that is, the purchaser of the slave].*

**II.5** A. *There was a slave who escaped from overseas to the Land of Israel. His master came after him. He came before R. Ammi. He said to him, "We shall write a bond for you as to his value, and you write him a writ of emancipation, and if you don't, then I'll simply take him away from you."*

- B. *That would be in line with R. Ahi b. R. Josiah's position, for it has been taught on Tannaite authority:*

C. *"They shall not dwell in your land, lest they make you sin against me" (Exo. 23:33) – might one suppose that Scripture here speaks of a gentile who undertook not to serve idolatry?*

D. *Scripture states, "You shall not deliver to his master a servant that has escaped from his master to you" (Deu. 23:16).*

E. *What is his remedy?*

F. *"He shall dwell with you" [so gentiles who do not practice idolatry are permitted to live in the Land of Israel].*

G. *Now R. Josiah found this a difficult statement, for the language, from his master, ought rather to be, from his father [that is, from his god]!*

H. *Rather, said R. Josiah, "Scripture speaks of one who has sold his slave overseas."*

I. *R. Ahi b. R. Josiah found it difficult to accept this statement, for then the language, escaped from his master to you, rather should be, escaped from you!*

J. *Rather, said R. Ahi b. R. Josiah, "Scripture speaks of a slave who escaped from overseas to the Land of Israel."*

**II.6** A. *It has further been taught on Tannaite authority:*

B. *"You shall not deliver unto his master a bondman" (Deu. 23:16) –*

C. *Rabbi says, "Scripture speaks of a person who bought a slave on the stipulation that he would manumit him."*

D. *What circumstances can be contemplated here?*

E. *Said R. Nahman bar Isaac, "The purchaser writes a deed for him: 'When I have purchased you, lo, title to you is assigned to you yourself as from this moment.'"*

- II.7** A. *As to R. Hisda, a slave of his fled to the Samaritans. He sent word to them to return him to him. They sent word to him, "You shall not deliver unto his master a bondman" (Deu. 23:16).*
- B. *He sent word to them, "But that speaks of a slave who fled from overseas to the Land of Israel, as set forth by R. Ahi b. R. Josiah."*
- C. *And how come he cited them the statement of R. Ahi b. R. Josiah [and not Rabbi's]?*
- D. *It is because that sense of the verse would make more sense to them.*
- II.8** A. *Abbaye lost an ass among the Samaritans. He sent word to them, "Return it to me."*
- B. *They sent him word, "Send us an identifying mark."*
- C. *He sent word to them, "It has a white belly."*
- D. *They sent word to him, "Were you not Nahmani, we wouldn't return it to you! Don't all asses have white bellies?"*

#### **4:6D-H**

- D.** **They do not redeem captives for more than they are worth,**
- E.** **for the good order of the world.**
- F.** **And they do not help captives to flee,**
- G.** **for the good order of the world.**
- H.** **Rabban Simeon b. Gamaliel says, "For the good order of captives."**
- I.1** A. *The question was raised: As to the good order of the world, is this on account of the burden on the community, or is this so as not to encourage the bandits to steal more?*
- B. *Come and take note of the fact that Levi bar Darga ransomed his daughter for thirteen thousand gold denars. [So the operative consideration is not to impose a burden on the community.]*
- C. *Said Abbaye, "Yeah, and who's going to tell us that he did it with the approval of sages? Maybe it wasn't with the approval of the sages!"*
- II.1** A. **And they do not help captives to flee, for the good order of the world. Rabban Simeon b. Gamaliel says, "For the good order of captives":**

- B. *So what difference does the distinction make as to the reason given?*
- C. *At issue is a case in which there is only a single captive [and Simeon b. Gamaliel's consideration doesn't then apply].*

- II.2** A. *The daughters of R. Nahman would stir with their hands a boiling hot cauldron. This posed a problem to R. Ilish, since it is written, "One man among a thousand have I found, but a woman among all those I have not found" (Qoh. 7:28) – and here are the daughters of R. Nahman.*
- B. *Something caused it to happen to them that they were kidnapped, and he, too, was kidnapped with them. One day a man was sitting by him, who understood what the birds were saying. A raven came and called to him, and R. Ilish said to him, "So what's it say?"*
  - C. *He said to him, "Ilish, run away, Ilish, run away."*
  - D. *He said, "The raven is a liar, and I'm not going to depend on it."*
  - E. *In the interim a dove came and called out. R. Ilish said to him, "So what's it say?"*
  - F. *He said to him, "Ilish, run away, Ilish, run away."*
  - G. *He said, "The community of Israel is compared to a dove. It must follow that a miracle is going to happen to me." He said, "I'm going to go and see about the daughters of R. Nahman, whether they have stood firm in their faith, and if they have, then I'll bring them back."*
  - H. *He said, "Well, what do you expect of women – whatever business they have they talk over in the privy." He heard them saying to one another, "These men are our husbands, just as the Nehardeans were our husbands. So let's tell our captors to take us away from here, so our husbands won't come and hear where we are and ransom us."*
  - I. *He went and fled with the other fellow. A miracle was done for him, and he got across the river but the other man was caught and put to death.*
  - J. *And when the daughters of R. Nahman got back, he said, "Well, the way they could stir the cauldron that way was by witchcraft."*

#### 4:6I-J

- I. **And they do not purchase scrolls, tefillin, or mezuzot from gentiles for more than they are worth,**
- J. **[45B] for the good order of the world.**

- I.1** A. **[For more than they are worth:]** Said R. Budayya to R. Ashi, “It is **for more than they are worth** *that they are not to be purchased, lo*, for what they are worth they are to be purchased. *That bears the implication*, a scroll of the Torah that is located in the possession of a gentile – they read in it.”
- I.2** A. *But maybe it should be hidden away?*
- B. Said R. Nahman, “We hold it as a tradition: A scroll of the Torah that a heretic wrote is to be burned. If a gentile wrote it, it is to be hidden away. If it is located in the domain of a heretic, it is to be hidden away. If it is located in the domain of a gentile, *there are those who say*, it is to be hidden away, *there are those who say*, they read in it.”
- I.3** A. A scroll of the Torah that a gentile wrote –
- B. *one Tannaite statement:* It is to be burned.
- C. *Another Tannaite statement:* It is to be hidden away.
- D. *And yet another Tannaite statement:* It may be used for reading.
- E. *And there is no contradiction among these statements. The statement on Tannaite authority that it is to be burned belongs to R. Eliezer, who has said, “The unstipulated intention of the gentile always is to serve idolatry.”*
- F. *The statement on Tannaite authority that it is to be hidden away is in line with the Tannaite authority that follows, for R. Hamnuna b. Raba of Pashrunayya taught as a Tannaite statement: A scroll of the Torah, phylacteries, mezuzot that were written by a heretic, an informer, a gentile, a slave, a woman, a minor, a Samaritan, or an Israelite apostate are invalid: “And you shall bind them...and you shall write them...,” (Deu. 6: 8-9) – those who are subject to binding are subject to writing, those who are not subject to binding are not subject to writing.*
- G. *And, finally, the statement on Tannaite authority that the scroll may be read is in line with the Tannaite authority of that which has been taught as a Tannaite statement: **They purchase scrolls of the Torah from gentiles everywhere, so long as they are written out in accord with the law that governs them. There was the case of a gentile in Sidon who was writing scrolls, and Rabban Simeon b. Gamaliel permitted purchasing them from him [T. A.Z. 3:7].***
- H. *But since Rabban Simeon b. Gamaliel requires that the tanning of the parchment for the Torah scroll is to be done for the*

*specific purpose of a Torah scroll, isn't he going to require that the writing of the scroll have been done with the proper intentionality? For it has been taught on Tannaite authority:*

- I. If one covered phylacteries with gold or attached to them the hide of an unclean beast, the phylacteries are invalid.
- J. If one attached to them the hide of a clean beast, they are valid.
- K. That is the case, even though one did not tan the hide for that purpose.
- L. Rabban Simeon b. Gamaliel says, "Even in the case of the hide of a clean beast, the phylacteries are invalid unless one tanned the hide for the purpose of the use of phylacteries."
- M. Said Rabbah bar Samuel, "It involved a proselyte who reverted to his prior error."
- N. *If he returned to his prior error, all the more so that it would be improper, since he would be a heretic!*
- O. Said R. Ashi, "It is the case of his reverting to his prior error out of fear."

**I.4** A. *Our rabbis have taught on Tannaite authority:*

B. They may go above the true value to the extent of a tropaic.

C. *So how much is that?*

D. *Said R. Sheshet, "An aster."*

**I.5** A. *A Tai-Arab woman brought a bag of phylacteries to Abbayye. He said to her, "Give them to me for a couple of dates a pair."*

B. *She got mad and threw them into the canal. He said, "I oughtn't to have made them look all that cheap to her."*

#### 4:7

A. **He who puts his wife away because she has a bad name should not take her back.**

B. **[If he did so] because of a vow [which she had made], he should not take her back.**

C. **R. Judah says, "[If it was on account of ] any sort of vow which is publicly known, he should not take her back.**



- D. “But [if it was on account of] a vow which is not publicly known, he may take her back.”
- E. R. Meir says, “[If it is on account of] any sort of vow which requires the investigation of a sage [for its absolution], he should not take her back.
- F. “[If it is any sort of] vow which does not require the investigation of a sage, he may take her back.”
- G. Said R. Eleazar, “This latter case was prohibited only because of the former.”
- H. Said R. Yosé bar Judah, “M’S<sup>H</sup> B: In Sidon a man said to his wife, ‘Qonam if I do not divorce you,’ and he divorced her. But sages permitted him to take her back,
- I. “for the good order of the world.”

- I.1** A. [He who puts his wife away because she has a bad name should not take her back. If he did so because of a vow [which she had made], he should not take her back:] Said R. Joseph bar Minyumi said R. Nahman, “But that is the case only if he explicitly said to her, ‘I am divorcing you on account of your having a bad name.’ [46A] Or: ‘I am divorcing you on account of your vow.’”
- B. *He takes the view that the operative consideration not to remarry her is to keep him from making trouble later on [for example, saying that now that he realizes the charges were wrong or the vow not in effect, he rescinds his writ of divorce, thus invalidating her later marriage]. If he uses this language to her, he can make trouble for her later on, but if not, he cannot make trouble for her later on. [In that case, there is no reason that he cannot remarry her.]*
  - C. *There are those who report the matter as follows:*
  - D. Said R. Joseph bar Minyumi said R. Nahman, “The husband must say in so many words to her, ‘You should be informed that it is because of a bad name that I am divorcing you,’ or, ‘Because of vows I am divorcing you.’ *What is the premise?* It is so that Israelite women should not be promiscuous about sexual relations or vow taking. *Therefore he has to make such a statement to her.*”
  - E. *It has been taught on Tannaite authority in accord with the former of the two versions, and it has been taught on Tannaite authority in accord with the latter of the two versions:*
  - F. *It has been taught on Tannaite authority in accord with the former of the two versions:*

- G. Said R. Meir, “How come they have said, ‘He who puts his wife away because she has a bad name should not take her back. [If he did so] because of a vow [which she had made], he should not take her back’? She may go off and remarry someone else, and the matter will turn out to have been unsubstantiated, and the husband may then say, ‘If I had known that that is how things are, even if they had given me a hundred manehs, I should never have divorced her,’ with the result that the writ of divorce is null and her children mamzerim. Therefore they say to him, ‘You must know that he who puts his wife away because she has a bad name should not take her back. [If he did so] because of a vow [which she had made], he should not take her back’” [T. Git. 3:5J-M].
- H. *It has been taught on Tannaite authority in accord with the latter of the two versions:*
- I. Said R. Eleazar b. R. Yosé, “How come they have said, ‘He who puts his wife away because she has a bad name should not take her back. [If he did so] because of a vow [which she had made], he should not take her back’? It is so that Israelite women should not be promiscuous about sexual relations or vow taking. Therefore they say to him, ‘Say to her: “You should know that it is on account of a bad name that I am divorcing you,” or, “Because of a vow I am divorcing you”’” [T. Git. 3:5S-W].

- II.1** A. R. Judah says, “[If it was on account of ] any sort of vow which is publicly known, he should not take her back. But [if it was on account of] a vow which is not publicly known, he may take her back”:
- B. Said R. Joshua b. Levi, “*What is the scriptural basis behind the opinion of R. Judah? It is written, ‘And the children of Israel did not smite them, because the princes of the congregation had sworn to them’ (Jos. 9:18).*”
- C. *And rabbis?*
- D. *Did the oath take effect on them at all? Since they said to them, “We come from a distant land,” and they did not come from afar, the oath did not take effect on them at all. And the reason that they didn’t kill them was not because they were subject to an oath, but because of the sanctity of God’s name.*

**III.1 A. Which is publicly known:**

- B. How many constitute a public?
- C. R. Nahman said, “Three persons.”
- D. R. Isaac said, “Ten.”
- E. R. Nahman said, “Three persons”: “Days” means two and “many” means three [at Lev. 15:25].
- F. R. Isaac said, “Ten”: It is written “a congregation” [at Num. 14:27].

**IV.1 A. R. Meir says, “[If it is on account of] any sort of vow which requires the investigation of a sage [for its absolution], he should not take her back. [If it is any sort of] vow which does not require the investigation of a sage, he may take her back”:**

- B. *It has been taught on Tannaite authority:*
- C. R. Eliezer says, “A vow requiring a sage’s investigation was forbidden only because of a vow that does not.”

**IV.2 A. What is at stake between them?**

- B. R. Meir takes the view that it’s quite all right to a man that his wife should have the embarrassment of having to go to court, and R. Eliezer maintains that it is not all right in a man’s view that his wife have the embarrassment of having to go to court.

**V.1 A. Said R. Yosé bar Judah, “M‘SH B: In Sidon a man said to his wife, ‘Qonam if I do not divorce you,’ and he divorced her. But sages permitted him to take her back, for the good order of the world”:**

- B. *What Tannaite statement has been set forth, for which the case in Sidon serves as an illustration or precedent?*
- C. *The formulation is flawed, and this is the sense of the matter:* Under what circumstances? In a case in which she took the oath. But if he is the one who took the oath, he may remarry her. And said R. Yosé bar Judah, “M‘SH B: In Sidon a man said to his wife, ‘Qonam if I do not divorce you,’ and he divorced her. But sages permitted him to take her back, for the good order of the world.”

**V.2 A. [46B] What is the meaning of qonam in this context?**

- B. Said R. Huna, “It is a case in which he says, ‘May all the produce in the world be forbidden to me if I don’t divorce you.’”

**VI.1 A. But sages permitted him to take her back:**

- B. *So what else is new!*
- C. *What might you otherwise have thought? That we should prohibit the remarriage by reason of a decree based on what R. Nathan said? For it has been taught on Tannaite authority: R. Nathan says, "He who takes a vow is as though he built a high place, and he who carries it out is as though he offered an offering on it"? So we are informed that that is not the case.*

**VII.1 A. For the good order of the world:**

- B. *So what **good order of the world** is involved here?*
- C. *Said R. Sheshet, "This refers to earlier lines of the passage."*
  - D. *Rabina said, "In point of fact it refers to the concluding portion, and this is the sense of the statement: In this matter there is no basis to invoke the consideration of the **good order of the world**."*

**4:8**

- A. **He who divorces his wife because of sterility –**
- B. **R. Judah says, "He may not remarry her."**
- C. **And sages say, "He may remarry her."**
- D. **[If] she was married to someone else and had children by him, and she then claims payment for her marriage contract –**
- E. **Said R. Judah, "They say to her, 'Your silence is better for you than your talking.'"**

- I.1** A. *Does this then bear the implication that R. Judah takes account of the possibility of creating problems [for example, for the legitimacy of future offspring], while sages do not take account of that possibility? But lo, we have heard these opinions reversed, for we have learned in the Mishnah: **He who puts his wife away because she has a bad name should not take her back. [If he did so] because of a vow [which she had made], he should not take her back. R. Judah says, "[If it was on account of ] any sort of vow which is publicly known, he should not take her back. But [if it was on account of] a vow which is not publicly known, he may take her back."** Therefore it is rabbis who take account of the possibility of creating problems [for example, for the legitimacy of future offspring], while R. Judah does not take account of that possibility.*
- B. *Said Samuel, "So reverse the attributions – what's the big deal?"*

- C. *Yes, but the continuation of the passage states, [If] she was married to someone else and had children by him, and she then claims payment for her marriage contract – Said R. Judah, “They say to her, ‘Your silence is better for you than your talking.’” From this it follows that R. Judah does take account of the possibility of creating problems [for example, for the legitimacy of future offspring].*
- D. *So here, too, reverse the attributions.*
- E. *Abbaye said, “In point of fact, don’t reverse the attributions. But R. Judah in that case in particular concurs with the view of R. Meir and with R. Eleazar [that is, in the matter of M. 4:7], that is to say, when it is necessary to consult a sage to remit the vow, he concurs with R. Eleazar, and in a case in which it is not necessary, he concurs with R. Meir.”*
- F. *Said Raba, “The two statements of R. Judah conflict, but the two statements of rabbis don’t conflict? [Don’t hand me that!]”*
- G. *Rather, said Raba, “There is no conflict between the two statements of R. Judah, as we have already learned; and between the two statements of rabbis also, there is no contradiction. For whom do sages here represent? It is R. Meir, who said that, in the making of an oath, we require that the stipulation in the oath be duplicated, [and otherwise the oath is null,] and the case with which we are dealing here is one in which the husband did not duplicate his stipulation.”*

#### 4:9A-B

- A. **He who sells himself and his children to a gentile –**
  - B. **they do not redeem him, but they do redeem the children after their father’s death.**
- I.1** A. Said R. Assi, “But that is the case only if he sold himself and went and did it a second and then a third time.”
- I.2** A. *There were some residents of Be Miksi who borrowed money from gentiles but couldn’t pay them back. They came and seized them as slaves. They appealed to R. Huna. He said to them, “What can I do for you? For we have learned in the Mishnah, **He who sells himself and his children to a gentile – they do not redeem him.**”*

B. Said to him R. Abba, "But, our lord, you have taught us yourself: 'But that is the case only if he sold himself and went and did it a second and then a third time.'"

C. *He said to him, "For these guys it's a habit."*

**I.3** A. *There was a fellow who sold himself to Lydians. He came before R. Ammi and said to him, [47A] "Redeem us."*

B. *He said to him, "We have learned in the Mishnah: **He who sells himself and his children to a gentile – they do not redeem him, but they do redeem the children after their father's death – because of the possibility of their being corrupted. All the more so here, where there is the danger of their being killed!**"*

C. *Said rabbis to R. Ammi, "But this is an apostate Israelite, whom people have seen eating carrion and meat from dying beasts."*

D. *He said, "Well, maybe it was because he was hungry that he ate."*

E. *They said to him, "Yes, but sometimes, when there was food that was permitted and food that was forbidden before him, he just ignored what was permitted and ate what was forbidden."*

F. *He said to him, "Then out of here! They won't let me ransom you."*

**I.4** A. *R. Simeon b. Laqish sold himself to Lydians. He took with him a bag with a stone in it, saying, "It is well known that, on the last day [before they kill you], they will do anything you ask of them so that you will forgive them for killing you."*

B. *Well, on the last day, they said to him, "So what would you like?"*

C. *He said to them, "I'd like you to let me tie up your arms and then seat you in a row, and then I want to give each of you one and a half blows with my bottle." So he bound them and seated them in a row and gave each of them a blow with his bag, which stunned them in succession.*

D. *One of them ground his teeth at him.*

E. *"So are you still laughing at me? I still have half a bag left for you, too."*

F. *He killed them all and fled.*

G. *He went and sat down and ate and drank. Said his daughter to him, "Don't you want anything to recline on?"*

H. *He said to her, "My daughter, my belly is my pillow."*

- I. *When he died, he left a qab of saffron, and he recited in his own regard the verse, “And to others they will leave their estate” (Psa. 49:11).*

#### 4:9C-E

- C. **He who sells his field to a gentile and an Israelite purchased it from him –**  
D. **the purchaser brings the first fruits,**  
E. **on account of the good order of the world.**

- I.1 A. Said Rabbah, “Even though a gentile has no rights of true possession in the Land of Israel in such wise as to exempt his property from the obligation to separate tithes from the crops, as it is said, ‘For mine is the land’ (Lev. 25:23), meaning, ‘Mine is the sanctity of the land’ [even when gentiles own title to it, so tithe is owing from it], nonetheless, a gentile does own title to land in the Land of Israel so that he may dig in it pits, ditches, and caves, in line with the verse, ‘The heavens are the heavens of the Lord, but the earth he gave to sons of man’ (Psa. 115:16).”
- B. R. Eleazar says, “Even though a gentile has rights of true possession in the Land of Israel in such wise as to exempt his property from the obligation to separate tithes from the crops, as it is said, ‘The tithe of your grain’ (Deu. 15:23), meaning, not the grain of a gentile, nonetheless, a gentile does not own title to land in the Land of Israel so that he may dig in it pits, ditches, and caves, in line with the verse, ‘The land is the Lord’s’ (Psa. 24: 1).”

I.2 A. *What is at issue between them?*

- B. *The one invokes the argument, “The tithe of your grain” (Deu. 15:23), meaning, not the grain of a gentile.*
- C. *The other invokes the argument, “What you store,” and not what gentiles store [reading the word for “grain” with vowels to yield the stated meaning].*

- I.3 A. *Said Rabbah, “On what basis do I take the position that I do? It is in line with what we have learned in the Mishnah: **Gleanings, forgotten sheaves, and peah, [designated from a field] belonging to a gentile, are subject [to the separation of] tithes, [for the gentile is not required to designate produce for the poor, and so such produce is treated like ordinary produce,] unless [the gentile] had declared them ownerless property [which in any case is not subject***

to the separation of tithes] [M. **Pe. 4:9Eff.**]. Now how are we to understand this case of his having declared it ownerless property? Should I say that the field belongs to an Israelite, and a gentile has gathered the produce? Then what's the point of saying, **unless [the gentile] had declared them ownerless property**, since it already is in that category? So isn't it a case in which the field belongs to a gentile, and an Israelite has gathered the produce? The operative consideration is that he has declared the produce ownerless. So if not, it would have been liable to tithes."

- B. *Not at all. In point of fact, the field belongs to an Israelite, and a gentile collected the produce, and so far as your claim that it already has been declared ownerless, while that may be the case in the view of the Israelite, is it the case in the view of the gentile?* [Simon: Consequently, should a Jew buy these gleanings from the non-Jew, he will have to give tithes unless the original owner had declared them common property.]
- C. *Come and take note: An Israelite who bought a field from a gentile prior to the field's crops having reached a third of their growth, and then who went and sold it to him after the crops had reached a third of their growth – the field is liable to tithes, for the liability had already been incurred [at the point at which the crops reached a third of their growth, when the field belonged to an Israelite]. So if the field had incurred that liability, the crops are subject to tithing, but if not, the crops would not be subject to tithing [so what a gentile owns does not produce a crop subject to tithing].*
- D. *Not at all. Here with what sort of a case do we deal? It involves a field in Syria, and the framer of the passage takes the view that what is conquered by a mere individual is not classified as an Israelite conquest.*
- E. *Come and take note: "An Israelite and a gentile who purchased a field in partnership – [47B] lo, the produce that they grow is in the category of untithed and tithed produce mixed together," the words of Rabbi. Rabban Simeon b. Gamaliel says, "The Israelite's portion of the produce is liable to tithes and heave-offering; the gentile's is not liable" [T. **Ter. 2:10C-E**]. Now the dispute pertains only in that the one authority maintains that the principle of retrospective clarification of the facts of the matter does apply, and*



*the other authority maintains that the principle of the retrospective clarification of the facts of the matter does not apply, but all parties do concur that a gentile has rights of true possession in the Land of Israel in such wise as to exempt his property from the obligation to separate tithes from the crops.*

- F. *Here, too, the rule involves a field in Syria, and the framer of the passage takes the view that what is conquered by a mere individual is not classified as an Israelite conquest.*
- G. *Said R. Hiyya bar Abin, “Come and take note: **He who sells his field to a gentile and an Israelite purchased it from him – the purchaser brings the first fruits, on account of the good order of the world.** So it is merely on account of the good order of the world, but not by reason of the law of the Torah.”*
- H. *Said R. Ashi, “There were two ordinances. To begin with, they would present the first fruits by reason of the law of the Torah. When sages noticed that those who sold the fields would recite the required declaration and still sold the fields, assuming that the fields retained the status of sanctification, they made the rule that first fruits should not be presented. When they saw that those who needed money still sold the fields and the fields remained in the possession of gentiles, they ordained that the first fruits should be presented in Jerusalem.”*

**I.4** A. *It has been stated:*

- B. [As to the requirement to present the first fruits of a field and to recite the confession in their regard,] he who sells [only] the usufruct of the field to his fellow –
- C. R. Yohanan says, “He brings the first fruits and makes the confession.”
- D. R. Simeon b. Laqish says, “He brings the produce but he does not make the recitation.”
  - E. R. Yohanan says, “He brings the first fruits and makes the confession,” *since ownership of the usufruct is tantamount to title to the field.*
  - F. R. Simeon b. Laqish says, “He brings the produce but he does not make the recitation,” *since ownership of the usufruct is not tantamount to title to the field.*
  - G. *An objection was raised by R. Yohanan to R. Simeon b. Laqish, “‘And you shall rejoice in all the good that the Lord has given to you and to your house’ (Deu. 26:11) – this teaches that a*

man brings first fruits belonging to his wife and makes the required declaration over them.”

- H. *He said to him, “That case is exceptional, since the text is explicit in saying ‘his house.’”*
- I. *There are those who say, objected R. Simeon b. Laqish to R. Yohanan, “‘And you shall rejoice in all the good that the Lord has given to you and to your house’ (Deu. 26:11) – this teaches that a man brings first fruits belonging to his wife and makes the required declaration over them. It is in that particular case that the rule is what it is, because it is written, ‘his house,’ but in general, that is not the case.”*
- J. *[Yohanan] said to him, “My scriptural basis derives from that same verse.”*
- K. *He raised this objection: “If someone was going along the way, with first fruits belonging to his wife in hand, and he heard that his wife had died, he nonetheless brings the first fruits and makes the recitation. So if she died, that is the rule, but if not, that is not the rule.”*
- L. *Not at all, the same rule applies to both cases, so that, even if she did not die, he would do so. But it was necessary to state the rule governing the case in which she died, since it might have entered your mind that a precautionary decree would be issued on account of what R. Yosé bar Hanina said, for said R. Yosé bar Hanina, “If he harvested the first fruits and sent them to Jerusalem with a messenger; or the messenger cut the produce and died en 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 the act of taking the first fruits and the act of bringing them must be performed by one and the same person,” so we are informed that that is not the case.*
- M. *Both authorities are consistent with positions taken elsewhere, for it has been stated:*
- N. *He who sells his field [48A] at the time that the Jubilee is in force –*

- O. R. Yohanan says, “He brings the first fruits and makes the confession.”
- P. R. Simeon b. Laqish says, “He brings the produce but he does not make the recitation.”
- Q. R. Yohanan says, “He brings the first fruits and makes the confession,” *since ownership of the usufruct is tantamount to title to the field.*
- R. R. Simeon b. Laqish says, “He brings the produce but he does not make the recitation,” *since ownership of the usufruct is not tantamount to title to the field.*
- S. *And the presentation of both disputes is necessary. For if the dispute had been stated only in the case before us here [land purchased when the Jubilee is in force], then it might be supposed that it is in the present case in particular that R. Simeon b. Laqish takes his position, for when the purchaser takes over the field, he has in mind only the produce of the field, but in the other case, where he has in mind possession of the land itself [as an investment], I might suppose that he concurs with R. Yohanan. And if I knew only the prior case, I might suppose that it is only in that context that R. Yohanan takes the position that he does, but in the present case, he concurs with R. Simeon b. Laqish. So both cases are required.*
- T. **Come and take note: [If] he bought a tree and the ground [on which it grows], he brings and recites the required declaration. [R. Judah says, “Even sharecroppers and tenant farmers [who do not own the land on which their produce grows,] bring [first fruits] and recite”] [1:11C-E].**

- U. *Here with what sort of a case do we deal? It is one in the time in which the Jubilee is no longer in effect.*
- V. *Come and take note: **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] [M. Bik. 1:6A-B].***
- W. *Here, too, with what sort of a case do we deal? It is one in the time in which the Jubilee is no longer in effect.*
- X. *But now that R. Hisda has stated, “The dispute between them concerns the second Jubilee [that is, in the time of the Second Temple, when the laws were carefully observed], but as to the Jubilee in the time of the first Temple, all parties concur that one brings the first fruits and makes the required declaration, *since he could not rely on the fields’ being returned,*” there is no conflict. R. Yohanan speaks of the Jubilee in the First Temple period, R. Simeon b. Laqish speaks of the Jubilee in the Second Temple period.*

**I.5** A. *May we say that the following Tannaite dispute is along the same lines?*

- B. “How do we know that [if a man] purchases a field from his father and then consecrates the field, and then the father died, that [since now the field is received by the purchaser no longer as an acquisition attained through purchase, but through

inheritance] the field falls into the category of a field of possession [and is redeemed in accord with the rules governing redemption of a field of possession that has been consecrated]?

- C. “Scripture states, ‘And if he should consecrate to the Lord a field which he has bought, which is not a field of possession [that is, not a field he has inherited]’ (Lev. 27:22) – thus [making reference] to a field which is not ever going to be suitable to fall into the category of a field of possession.
- D. “That statement then excludes the case at hand, since the land is suitable [at a later point] to fall into the category of a field of possession,” the words of R. Judah and R. Simeon.
- E. R. Meir says, “How do we know that, if one purchases a field from his father and then his father died, and afterward the man consecrated the field, the field falls into the category of a field of possession?
- F. “Scripture states, ‘And if he should consecrate to the Lord a field which he has bought, which is not a field of possession’ (Lev. 27:22) – thus [making reference to] a field which does not fall into the category of a field of possession.

- G. “That statement then excludes the case at hand, which already has fallen into the category of a field of possession.”
- H. *But in the view of R. Judah and R. Simeon, even if the land was consecrated and subsequently the father died, the land falls into the category of land of possession, but no verse of Scripture is required to make that point.*
- I. *Now, is this not what is at issue between them? R. Meir takes the view that ownership of the usufruct is tantamount to title to the field, and in this case, with the death of the father, he does not inherit anything, and therefore if his father died and then he consecrated the field, a verse of Scripture is required to prove that it is a field of possession. R. Judah and R. Simeon, by contrast, take the view that ownership of the usufruct is not tantamount to title to the field, and in the case at hand, when the father dies, he does inherit the field; therefore if he sanctifies it after the death of the father, no verse of Scripture is required to indicate that it is a field of possession. Where such a verse is required is to show that it falls into the category of a field of possession even when he*

*sanctified it before the death of the father.*

- J. *Said R. Nahman bar Isaac, “In point of fact, I shall say to you: In general R. Judah and R. Simeon maintain the view that ownership of the usufruct is tantamount to title to the field, but here, R. Judah and R. Simeon came across a verse of Scripture and interpreted it in this way: The All-Merciful could as well have written, ‘If he sanctifies a field that he has bought, which is not his possession.’ What is the point of saying, ‘Which is not the field of his possession’? It refers to one that is not capable of entering the category of a field of his possession, and we make an exception from the rule for one that is capable of becoming a field of his possession.”*

- I.6** A. *Said R. Joseph, “If R. Yohanan had not taken the position that ownership of the usufruct is tantamount to title to the field, he would not have found a basis for his position in the schoolhouse. For said R. Assi said R. Yohanan, ‘Brothers who have divided up the estate are classified as purchasers and they return to one another their portions in the year of the Jubilee [and they divide up the estate after the year of Jubilee].’ Now if*

it should enter your mind that it is not the case that *ownership of the usufruct is not tantamount to title to the field, you would not turn up anyone who can bring first fruits except for a son who inherited a field from an only son right up to the time of Joshua b. Nun*” [Simon: so that the property had never been divided, for as soon as it was divided, it was in effect sold, and no owner capable of bringing first fruits was present again].

- I.7** A. *Said Raba, “Both a verse of Scripture and a Tannaite statement sustain the position of R. Simeon b. Laqish:*
- B. *“A verse of Scripture: [48B] ‘According to the number of years of the crops he shall sell you’ (Lev. 25:15) [Simon: this indicates that at the time of the Jubilee, the crops were sold, but not the land].*
- C. *“A Tannaite statement, as has been taught on Tannaite authority: A firstborn son gets a double portion of a field that was to return to the father at the time of the Jubilee [which shows that even though the father sold the field, he is still regarded as the other].”*
- I.8** A. *Said Abbaye, “We have in hand a tradition that the husband*



with a case concerning property belonging to his wife has to have authorization from her [even though he enjoys the usufruct]. *That is the case only if the suit does not concern the produce. But if the suit concerns the produce, when laying claim to the produce, he also can lay claim concerning the land itself.*"