

V.

BAVLI YEBAMOT CHAPTER FIVE

FOLIOS 50A-53A

5:1-6

5:1

- A. [In the case of one levir and two deceased childless brother's widows, or two levirs and one deceased childless brother's widow,] Rabban Gamaliel says, "There is no writ of divorce [which is valid] after [another] writ of divorce [so that the second such writ is invalid],
- B. "and no bespeaking [a statement of betrothal in a case of a levirate connection] after another bespeaking,
- C. "and no coition [consummating a levirate marriage] after another coition,
- D. "and no rite of removing the shoe [which is valid] after another rite of removing the shoe."
- E. And sages say, "There is a writ of divorce [which is valid] after [another] writ of divorce,
- F. "and there is bespeaking after bespeaking,
- G. "but there is nothing [validly done] after coition or after a rite of removing the shoe."

5:2

- A. How so?
- B. [If a levir] bespoke his deceased childless brother's widow and [then] gave her a writ of divorce,
- C. she [nonetheless] requires a rite of removing the shoe from him.
- D. [If] he bespoke her and then performed a rite of removing the shoe,
- E. she [nonetheless] requires a writ of divorce from him.
- F. [If] he bespoke her and then had sexual relations, lo, this has been done in accord with its requirement.

5:3

- A. [If] one gave a writ of divorce and [then] bespoke [the deceased childless brother's widow], she requires a writ of divorce and a rite of removing the shoe.
- B. [If] he gave a writ of divorce and then had sexual relations, she requires a writ of divorce and a rite of removing the shoe.
- C. [If] he gave a writ of divorce and performed the rite of removing the shoe, nothing whatsoever follows the rite of removing the shoe [= M. 5:1G].
- D. (1) [If] he performed the rite of removing the shoe and [then] bespoke [the deceased childless brother's widow], [or] (2) gave a writ of divorce, or had sexual relations [with her],
- E. Or [if] he (1) had sexual relations, [then] bespoke [the woman], [or] (2) gave a writ of divorce or performed the rite of removing the shoe,
- F. nothing whatsoever follows the rite of removing the shoe.
- G. [50B] All the same are the cases of a single deceased childless brother's widow with a single levir, and two deceased childless brothers' widows with a single levir.

5:4

- A. How so [M. 5:3G]?
- B. [If] he bespoke this one and bespoke that one, they require two writs of divorce and [one] rite of removing the shoe.
- C. [If] he bespoke this one and [gave] a writ of divorce to that one, she [the bespoken widow] requires a writ of divorce and the rite of removing the shoe.
- D. [If] he bespoke this one and had sexual relations with that one, they require two writs of divorce and [one] rite of removing the shoe.
- E. [If] he bespoke this one and performed the rite of removing the shoe with that one,
- F. the first one requires a writ of divorce.
- G. [If he gave a] writ of divorce to this one and a writ of divorce to that one, they require from him a rite of removing the shoe.
- H. [If he gave] a writ of divorce to this one and had sexual relations with that one,
- I. she [the latter] requires a writ of divorce and a rite of removing the shoe.
- J. [If he gave] a writ of divorce to this one and bespoke that one, she [the latter] requires a writ of divorce and removing the shoe.
- K. [If he gave] a writ of divorce to this one and performed removing the shoe with that one,
- L. nothing whatsoever follows the rite of removing the shoe.

5:5

- A. (1) [If] he performed the rite of removing the shoe [with this one] and performed the rite of removing the shoe [with that one],
- B. or (2) if he performed the rite of removing the shoe with this one and bespoke that one,

- C. or (3) if he gave a writ of divorce to this one and had sexual relations with that one,
- D. (4) if he had sexual relations with this one and had sexual relations with that one,
- E. or (5) if he had sexual relations with this one and bespoke that one,
- F. or (6) if he gave a writ of divorce to this one and performed the rite of removing the shoe with that one,
- G. nothing whatsoever follows the rite of removing the shoe.
- H. [And this is the rule] whether in the case of a single levir and two deceased childless brother's widows, or two levirs and a single deceased childless brother's widow.

5:6

- A. [If] he performed a rite of removing the shoe with one and bespoke one,
- B. gave a writ of divorce to one and had sexual relations with one [= M. 5:3D] ,
- C. or had sexual relations and bespoke, and gave a writ of divorce and performed removing the shoe [= M. 5:3E],
- D. nothing whatsoever follows the rite of removing the shoe [= M. 5:3F]
- E. whether this comes at the outset, or in the middle, or at the end.
- F. As to sexual relations: when this is at the outset, nothing whatsoever follows.
- G. If this comes in the middle or at the end, there is something which follows.
- H. R. Nehemiah says, "All the same are sexual relations and the rite of removing the shoe, whether at the beginning or at the middle or at the end: nothing whatsoever follows either of them."

I.1 A. [There is a writ of divorce which is valid after another writ of divorce, and there is bespeaking after bespeaking, but there is nothing validly done after coition or after a rite of removing the shoe:] *The dispute between Gamaliel and sages concerns only a case of a writ of divorce's being issued after another writ of divorce, or an act of bespeaking after another act of bespeaking. But as to a writ of divorce issued to one deceased childless brother's widow or an act of bespeaking to one — that is valid.* [Slotki: the writ of divorce prevents subsequent levirate marriage, under the prohibition of "that does not build," and the act of bespeaking prevents the levirate marriage of a co-wife under the injunction, a levir may build one house but not two, and necessitates also a writ of divorce should it be desired to cancel the act of bespeaking.]

I.2. A. *How come rabbis have said that a writ of divorce to one deceased childless brother's widow is valid?*

B. *It is because a writ of divorce is valid in general [for any married woman]. Now if, then, you say that it is not valid [so the levir may marry the deceased childless brother's widow after giving her a writ of divorce], people might reason that since a writ of divorce frees a woman and a rite of removing the shoe does the same, just as the writ of divorce is null [leaving the levir free to marry deceased childless brother's widow after divorcing her], so the rite of removing the shoe is null, and someone would end up entering into marriage with a woman with whom*

he has performed the rite of removing the shoe [which is against the law of the Torah].

- I.3.** A. *How come rabbis have said that an act of bespeaking to one deceased childless brother's widow is valid?*
- B. *It is because it is valid in general. For if you were to say that it is not valid in this case, then people would think, the act of bespeaking serves to effect acquisition of the woman, and the act of sexual relations serves to acquire her. If then the act of bespeaking does not serve, the act of sexual relations also does not serve, and therefore they will end up having sexual relations after a valid act of sexual relations.*
- I.4.** A. *How come rabbis have said that after an invalid act of sexual relations, an element of the levirate connection remains?*
- B. *Say: if it is an act of sexual relations after the issuance of a writ of divorce, then the decree is a precautionary measure to take account of the possibility of an act of sexual relations after the rite of removing the shoe. [Slotki: were a writ of divorce alone, without a rite of removing the shoe, permitted, it might be assumed that as unlawful sexual relations is so effective, it might also be effective enough to annul a previous rite of removing the shoe.] And if it is an act of sexual relations after an act of bespeaking, it would stand as a precautionary decree against an act of sexual relations after another act of sexual relations. [Slotki: it might have been assumed that as unlawful cohabitation has the force of validity even after an act of bespeaking, which is a legal form of acquisition, it also has the same force after an act of acquisition effected through lawful cohabitation. Acting on this argument, one would infringe the prohibition of marriage with one's brother's wife.]*
- I.5.** A. *And how come rabbis have said that after an invalid act of removing the shoe, nothing of the levirate connection remains [Slotki: should the levir subsequent to such a rite address an act of bespeaking or give a writ of divorce to a third sister-in-law, his act would have no validity whatsoever]?*
- B. *Say: what alternative precautionary decree would have been necessary? Should it involve forbidding a rite of removing the shoe after a writ of divorce, as a precaution against a rite of removing the shoe after another such rite of removing the shoe? [Slotki: so that a levir does not submit to the rite of removing the shoe of two surviving widows in succession, and two levirs do not do the same with one widow?] In any such situation, the performance of rites of removing the shoe can go on indefinitely [and make no difference anyhow]! And should there be a precautionary decree against performing a rite of removing the shoe after an act of bespeaking, out of consideration for the possibility of a rite of removing the shoe after sexual relations [Slotki: that it be not assumed that the rite of removing the shoe without a writ of divorce is sufficient after an act of cohabitation]? But in the case of the rite of removing the shoe after an act of bespeaking, is a writ of divorce not required anyhow, to deal with one's act of bespeaking? So also in the case of a rite of removing the shoe after sexual relations, a writ of divorce is required in regard to one's act of sexual relations. [Slotki: the implication of the statement that after an invalid act of removing the shoe, nothing of the levirate connection remains is the invalidity of all subsequent acts; any prior act, such as an*

act of bespeaking or of sexual relations, is valid, and a writ of divorce to annul it is certainly required.]

- I.6. A. [51A]** [Rabban Gamaliel says, “There is no writ of divorce [which is valid] after [another] writ of divorce [so that the second such writ is invalid], and no bespeaking [a statement of betrothal in a case of a levirate connection] after another bespeaking, and no coition [consummating a levirate marriage] after another coition, and no rite of removing the shoe [which is valid] after another rite of removing the shoe:”] *What is the reason for the position of Rabban Gamaliel?*
- B. *He is in doubt whether or not the writ of divorce sets aside the levirate connection, and whether the act of bespeaking does or does not effect acquisition [of the woman as a wife].*
- C. *He is in doubt whether or not the writ of divorce sets aside the levirate connection: if the former [the writ of divorce] sets aside the levirate bond, then what purpose is served by the second [writ of divorce], and if the first does not set aside that connection, then the second obviously does not set aside the connection.*
- D. *...and whether the act of bespeaking does or does not effect acquisition [of the woman as a wife]: if the first such act effects acquisition, then in the latter, what has he done anyhow, and if the first does not effect acquisition, then the second such action obviously does not effect acquisition either.*
- E. *Objected Abbaye: “**Rabban Gamaliel concedes that a writ of divorce [to one of the widows of the deceased childless brother] issued after an act of bespeaking [to the other widow], or an act of bespeaking made after a writ of divorce** [Slotki: if a writ of divorce was given to one of the widows first and an act of bespeaking was subsequently addressed to the second, a writ of divorce must also be given to the second in order to annul thereby the force of the act of bespeaking] **is valid; also valid are a valid writ of divorce after an act of sexual relations and an act of bespeaking [addressed to one of the widows prior to the cohabitation with the second that preceded the writ of divorce to the third; the validity of the writ of divorce causes the prohibition to the levir of the relatives of the third widow], and a valid act of bespeaking after an act of sexual relations and a writ of divorce** [Slotki: given to one of the widows prior to the cohabitation with the second that preceded the act of bespeaking addressed to the third; the act of bespeaking constitutes a valid act of acquisition, and the relatives of the third widow are forbidden to the levir, while she herself can be released by a writ of divorce only] [T. **Yeb. 7:3E**]. *But if Rabban Gamaliel is subject to doubt [Slotki: as to the validity of a writ of divorce and an act of bespeaking addressed to a sister-in-law], the act of sexual relations [which took place between the other two acts] should be regarded as if it had taken place to begin with and would thus constitute a valid act of acquisition, for so we have learned in the Mishnah: **As to sexual relations: when this is at the outset, nothing whatsoever follows.**”* [Slotki: and the act that follows it, whether the writ of divorce or the act of bespeaking, should be invalid; in the case of the act of bespeaking, sexual relations, and a writ of divorce, if the act of bespeaking with the first widow was valid and effected acquisition, the sexual relations with the*

second were obviously invalid, all the more so the writ of divorce given to the third; if the act of bespeaking to the first was invalid, the sexual relations with the second widow that followed were obviously valid, and there could consequently be no validity in the writ of divorce that was subsequently given to the third; in the case of divorce, sexual relations, and the act of bespeaking, if the writ of divorce given to the first widow was valid, the sexual relations that followed were null, all the more so the act of bespeaking at the end; if the writ of divorce given to the first widow was invalid, the sexual relations with the second widow that followed were obviously valid, so the act of speaking that was later on addressed to the third widow was null; so the sexual relations that book place between the other two acts should be valid, as though they had taken place to begin with.]

- F. *Rather, said Abbaye, "In point of fact, it was perfectly clear to Rabban Gamaliel that the writ of divorce does override the levirate bond, and that an act of bespeaking does effect acquisition. [Slotki: cohabitation that follows either of these acts cannot have the same force as cohabitation that takes place prior to them.] However, rabbis take the position that as to the deceased childless brother's widow, a writ of divorce is partially valid and an act of bespeaking is partially valid. Therefore a writ of divorce issued after another such writ has been given does not set aside the levirate bond, [Slotki: the first writ of divorce has set aside whatever part of the levirate bond a writ of divorce can set aside, and the second can do nothing that the first has not already done]; and an act of bespeaking after another such act does not effect acquisition, since so far as an act of bespeaking effects acquisition, it has already been done; and with a writ of divorce after an act of bespeaking and an act of bespeaking after a writ of divorce, the one act does set aside the other, and the other act does effect acquisition. And how then can rabbis [hold that **there is a writ of divorce which is valid after another writ of divorce, and there is bespeaking after bespeaking**]? They have ordained for each levir a writ of divorce and an act of bespeaking in regard to every deceased childless brother's widow."* [Slotki: the divorce or act of bespeaking of one levir does not in any way affect the validity of that of any other levir, nor if he does one of these acts in regard to one widow, he may still do one of them in regard to another.]
- G. [But from the perspective of Gamaliel, who holds that a writ of divorce after sexual relations after an act of bespeaking is valid, or an act of bespeaking after sexual relations after a writ of divorce is valid,] *an invalid act of sexual relations [preceding by a writ of divorce or an act of bespeaking] in one aspect is superior to the act of bespeaking but in another aspect is inferior to the act of bespeaking.*
- H. *an invalid act of sexual relations [preceding by a writ of divorce or an act of bespeaking] in one aspect is superior to the act of bespeaking: while an act of bespeaking after another such act is not effective, an act of sexual relations after an act of bespeaking is effective [Slotki: as may be inferred from the ruling concerning a writ of divorce after an act of sexual relations and an act of bespeaking, which implies that an act of sexual relations after an act of bespeaking is valid].*
- I. *but in another aspect is inferior to the act of bespeaking: while an act of bespeaking after a writ of divorce effects acquisition of whatever relationship the*

writ of divorce has left [Slotki: for should an act of bespeaking after the first be addressed to a third widow, it would be entirely invalid, Gamaliel maintaining that no act of bespeaking after another is valid, whether the first one was or was not preceded by a writ of divorce], *an act of sexual relations after a writ of divorce does not effect acquisition of whatever relationship the divorce has left* [Slotki: an act of bespeaking being valid even if it was addressed after an act of sexual relations that followed a writ of divorce].

II.1 A. *Our rabbis have taught on Tannaite authority:*

- B. **How so in the case of what Rabban Gamaliel said, namely, “There is no writ of divorce [which is valid] after [another] writ of divorce [so that the second such writ is invalid]”?**
- C. **Two deceased childless brother’s widows who fell to the lot of a single levir, and he gave a writ of divorce to this one and a writ of divorce to that one —**
- D. **Rabban Gamaliel says, “He performs the rite of removing the shoe with the first of the two, and is forbidden to marry her relatives, but is permitted to marry the relatives of the second widow.”**
- E. **And sages say, “If he gave a writ of divorce to this one and a writ of divorce to that one, then he is forbidden to marry the relatives of either one of them, but he performs the rite of removing the shoe with only one of them.**
- F. **And so is the rule in the case of two levirs and a single deceased childless brother’s widow.**
- G. **How so in the case of what Rabban Gamaliel said, namely, “There is no valid act of bespeaking after another valid act of bespeaking?”**
- H. **Two deceased childless brother’s widows who fell to the lot of a single levir, and he performed an act of bespeaking with this one and an act of bespeaking with that one —**
- I. **Rabban Gamaliel says, “He gives a writ of divorce to the first one and performs a rite of removing the shoe with her, and is forbidden to marry her relatives, but permitted to marry the relatives of the second.”**
- J. **And sages say, “He gives a writ of divorce to them both and is forbidden to marry the relatives of both of them, but he performs the rite of removing the shoe with only one of them.**
- K. **And so is the rule in the case of two levirs and a single deceased childless brother’s widow [T. [Yeb. 7:3F-O](#)].**

II.2. A. **The master has said, Two deceased childless brother’s widows who fell to the lot of a single levir, and he gave a writ of divorce to this one and a writ of divorce to that one — Rabban Gamaliel says, “He performs the rite of removing the shoe with the first of the two, and is forbidden to marry her relatives, but is permitted to marry the relatives of the second widow:”**

- B. *May we say that this refutes the position of Samuel, for said Samuel, “If the levir performed the rite of removing the shoe with the one of the two sisters-in-law, widows of the same childless brother, who had been divorced [by the levir prior to the rite of removing the shoe], her rival is not exempt [since the performance of the rite of removing the shoe after a divorce is invalid, the levirate bond having been severed by the divorce that preceded it. If he entered the rite of removing the*

shoe with the sister-in-law to whom he had already conducted a rite of bespeaking, her co-wife is not exempt [since the rite of removing the shoe on its own does not exempt the widow, for, once the bespeaking has taken place, a writ of divorce is now required]”?

- C. *Samuel may say to you, “When I made that statement, it was in the context of the position of him who has said that there is a levirate connection, but Rabban Gamaliel takes the position that there is no levirate connection.”*
- D. *But since Rabban Gamaliel takes the view that there is no levirate connection, [51B] rabbis must assume that there is a levirate connection. And yet the final clause states, **And so is the rule in the case of two levirs and a single deceased childless brother’s widow!** [Slotki: according to this rabbis maintain that either levir may undergo the rite of removing the shoe, and the performance of this impaired rite exempts the other brother.] May we then say that this constitutes a refutation of the position of Rabbah bar R. Huna stated in the name of Rab, for said Rabbah bar R. Huna said Rab, “In the case of an invalid rite of removing the shoe, the deceased childless brother’s widow has to make the rounds of all the brothers”?*
- E. *Rabbah b. R. Huna may say to you, “Both from the perspective of Rabban Gamaliel and from the viewpoint of rabbis, there is no levirate bond, and here how do they differ? It is the issue of whether or not there is a valid writ of divorce following another, or a valid act of bespeaking following another.”*

II.3. A. A master has said: **Two deceased childless brother’s widows who fell to the lot of a single levir, and he performed an act of bespeaking with this one and an act of bespeaking with that one — Rabban Gamaliel says, “He gives a writ of divorce to the first one and performs a rite of removing the shoe with her, and is forbidden to marry her relatives, but permitted to marry the relatives of the second:”**

- B. *Now since Rabban Gamaliel maintains that no valid act of bespeaking follows another, the first widow should be permitted to enter into levirate marriage [not only to perform the rite of removing the shoe, since the second act was null]!*
- C. *It is a precautionary decree against the possibility that the levir may marry the second of the two.*

II.4. A. Said R. Yohanan, “Rabban Gamaliel, the House of Shammai, R. Simeon, Ben Azzai, and R. Nehemiah all take the view that the act of bespeaking effects a complete transfer of ownership [of the widow to the levir].”

- B. *As to Rabban Gamaliel: it is as has already been stated.*
- C. *As to the House of Shammai, it is in line with that which we have learned in the Mishnah: **Three brothers, two married to two sisters, and one unmarried, and one of the married brothers died, and the unmarried brother bespoke the widow, and then his second brother died — the House of Shammai say, “His [bespoken] wife abides with him, and the other is free as being his wife’s sister.” And the House of Hillel say, “He must put away his [bespoken] wife both by bill of divorce and by rite of removing the shoe, and his brother’s wife by rite of removing the shoe.” This is a case whereof they have said, “Woe to him because***

of [the loss of] his wife, and woe to him because of [the loss of] his brother's wife!"

- D. *R. Simeon, in line with that which has been taught on Tannaite authority: said R. Simeon to sages, "If the first act of sexual relations was valid, the second is null, and if the first is not valid, then the second also is not valid." Now so far as rabbis are concerned, the act of sexual relations of a nine year old is treated as tantamount to the act of bespeaking, and yet, as we see, R. Simeon has declared that such an act of sexual relations is null.*
- E. *Ben Azzai, as has been taught on Tannaite authority: Ben Azzai says, "There can be a valid act of bespeaking after another act of bespeaking, in the case of two levirs and one deceased childless brother's widow, but there cannot be a valid act of bespeaking after another such act where there are two deceased childless brother's widows and one levir." [Slotki: the second act of bespeaking has no validity, because by the first act of bespeaking the levir had already effected acquisition of the widow to whom he had addressed it.]*
- F. *R. Nehemiah, in line with that which we have learned in the Mishnah: R. Nehemiah says, "All the same are sexual relations and the rite of removing the shoe, whether at the beginning or at the middle or at the end: nothing whatsoever follows either of them." Now lo, an invalid act of sexual relations is treated by rabbis as equivalent to an act of bespeaking, and yet it has been stated, nothing whatsoever follows either of them.*

II.5. A. How so? [If a levir] bespoke his deceased childless brother's widow and [then] gave her a writ of divorce, she [nonetheless] requires a rite of removing the shoe from him:

- B. **[52A]** *Does this really illustrate the case of a writ of divorce after another writ of divorce? [In fact, we have an act of bespeaking after a writ of divorce!]*
- C. *Said R. Judah, "This is the sense of the statement: As to illustrations for the rules, There is a writ of divorce [which is valid] after [another] writ of divorce, and there is bespeaking after bespeaking, it is as we have said. But what would illustrate the case of the release from the levirate bond in the case of one levir and one deceased childless brother's widow? [If a levir] bespoke his deceased childless brother's widow and [then] gave her a writ of divorce, she [nonetheless] requires a rite of removing the shoe from him.*

III.1 A. [If] he bespoke her and then had sexual relations, lo, this has been done in accord with its requirement:

- B. *May we say that this rule supports the position of R. Huna, for said R. Huna, "The religious duty of the levirate connection is best done when the levir betroths and then has sexual relations with her" [Slotki: and the act of bespeaking and betrothal are the same form of effecting acquisition].*
- C. *Say : this also has been done in accord with its requirement.*
- D. *Big deal! What else is new!*
- E. *Well, what might you otherwise have thought? That since a master has said, "He who performs an act of bespeaking with his deceased childless brother's widow —*

the levirate relationship at that point has been removed, and the relationship of betrothal and marriage has taken effect,” *because of performing the act of bespeaking, he has not carried out the religious duty of the levirate marriage at all. So we are informed that he does.*

- III.2.** A. *Reverting to the body of the prior text:* said R. Huna, “The religious duty of the levirate connection is best done when the levir betroths and then has sexual relations with her. But if he had sexual relations and then effected an act of bespeaking, he has acquired possession of her:”
- B. *Well, that second point is obvious! For lo, he has acquired possession of her through the act of sexual relations alone. Rather, say it as follows:* “But if he had sexual relations without performing an act of bespeaking, he has acquired possession of her.”
- C. *But has it not been taught on Tannaite authority:* he is flogged?
- D. That is a flogging on account of disobedience, which derives from the authority of rabbis.
- E. *For Rab would flog someone who betrothed through an act of sexual relations, and one whom betrothed in the market place, and one who betrothed without prior negotiation, one who nullified a writ of divorce, one who called into question the validity of a divorce, one who offends an agent of the rabbis, one who permitted a rabbinical ban of ostracism to remain upon him for thirty days without coming to the court to ask for its removal, and a son-in-law who lives in his father-in-law’s house [prior to the consummation of the marriage].*
- F. *If he actually lives there but not if he merely goes by there? And lo, there was someone who merely passed by the door way of his father-in-law’s house, and R. Sheshet ordered him flogged!*
- G. *That man was suspect of illicit relations with his mother-in-law.*
- H. *The Nehardeans said, “In none of these cases did Rab order a flogging except in the case of the ones who betrothed through an act of sexual relations or did so without prior negotiations.”*
- I. *There are those who say, “Even in the case of preliminary negotiation, on account of the possibility of licentiousness.”*

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

- B. How is the duty of bespeaking carried out? If he gave her money or what is worth money [the bespeaking is done].
- C. How with a writ?
- D. *How with a writ? It is as we have said:* writ: how so? if the seller wrote on a parchment or on a potsherd, themselves of no intrinsic value, “Lo, you are betrothed to me,” [that suffices].
- E. *Said Abbaye, “This is the sense of the statement:* As to the deed of a marriage-settlement in the case of a levirate marriage, how is it to be written out? He wrote to her, ‘I, so-and-so, son of so-and-so, undertake to feed and properly maintain my deceased childless brother’s widow, such-and-such, on the condition that the payment of her marriage settlement remains a charge on the estate of her first

husband.” *But if the estate does not suffice, sages have ordained that it is collected from the second, so that it will not be easy for him to divorce her.*

- III.4.** A. Abbayye asked Rabbah, “If he gave her a writ of divorce and said to her, ‘Lo, you are divorced from me, but you are not permitted to any other man,’ what is the law? *Is the requirement of a writ of divorce for a deceased childless brother’s widow merely on the authority of the rabbis, so that only a writ of divorce valid in the case of a married woman would be valid in the case of a deceased childless brother’s widow, but one that would not be valid in the case of a married woman would not be valid in the case of a deceased childless brother’s widow [and this writ is therefore null]? Or perhaps the consideration for which the writ is issued, namely, so that people will not mistake the writ for an ordinary, unqualified divorce, and this divorce is a valid one?*”
- B. *He said to him, “This is required as a precautionary decree, so that people will not mistake the writ for an ordinary, unqualified divorce, and this divorce is a valid one.”*
- C. *Objected Rabbah bar Hanan, “Then what about the following: if he handed her just a piece of parchment, would this too invalidate her [from marrying the levir]?”*
- D. *He said to him, “In that case, he would not have made her unfit for marriage to a priest [as would be a woman who has been divorced], but here, the divorce does disqualify her from marrying a priest, since it has been taught on Tannaite authority: ‘neither shall they take a woman put away from her husband’ (Lev. 21: 7) — even if she has been divorced only from her husband [but not permitted to marry any other man], the priests may not marry her [Slotki: since such a divorce has the validity of causing the woman’s prohibition to her husband who is a priest, it might be mistaken for a valid divorce], for this is the sense of the statement, ‘even the very whiff of a divorce causes a woman to be unfit for marriage to the priest.’”*
- III.5.** A. Said Rammi bar Hamma, “Lo, they have said, ‘If someone said to a scribe, “Write a writ of divorce to my betrothed, when I marry her, I shall divorce her,” lo, this is a valid writ of divorce, since in any event he has the power to divorce her.’ **[52B]** But if he made that statement in connection with any other woman, the writ is null, because he does not have the power to divorce her [not being married or bound to him in any way].”
- B. *Rammi bar Hamma raised this question: “If he made such a statement with reference to his deceased childless brother’s widow, what is the law? Is she deemed bound to him, and so regarded as betrothed, or perhaps, since he has not yet carried out the act of bespeaking, she is not regarded as bound to him [so such a statement would be invalid]?”*
- C. *The question stands.*
- III.6.** A. R. Hananiah raised this question: “If one wrote a writ of divorce to a woman in respect to the levirate bond but not in regard to his act of bespeaking, or in respect to his act of bespeaking but not in regard to the levirate bond, what is the law? *Is the act of bespeaking an add-on to the levirate bond, so that the action of the*

levir is as though he had divorced half a woman, and if one divorces a woman by halves, his action is null, or are these two matters autonomous of one another?"

- B. *Settle the question on the basis of Raba's position, for said Raba, "If one handed over a writ of divorce covering his act of bespeaking [nullifying his statement of intent], the co-wife has been permitted [to marry the third surviving brother if the second died without issue; the two widows are no longer co-wives, since the writ of divorce has annulled the act of bespeaking, and the widows are of two different brothers deriving from two different houses (Slotki).]"*
- C. *What is clear to Raba was doubtful to R. Hananiah.*
- D. *So what's the upshot?*
- E. *Who knows?*

- IV.1** A. **[If] he performed the rite of removing the shoe and [then] bespoke [the deceased childless brother's widow], [or] (2) gave a writ of divorce, or had sexual relations [with her], Or [if] he (1) had sexual relations, [then] bespoke [the woman], [or] (2) gave a writ of divorce or performed the rite of removing the shoe, nothing whatsoever follows the rite of removing the shoe:**
- B. *Said R. Judah said Rab, "This represents the view of R. Aqiba, who has said, 'A valid betrothal does not take effect in a situation in which there is a violation of a negative commandment.' But sages say, 'There is validity in acts carried out after the rite of removing the shoe.'"*
 - C. *But can you interpret this rule to accord with R. Aqiba? And lo, it is stated as the Tannaite formulation at the outset: **[If] one gave a writ of divorce and [then] bespoke [the deceased childless brother's widow], she requires a writ of divorce and a rite of removing the shoe. But if this stood for the position of R. Aqiba, then, once he has given her a writ of divorce, does the act of bespeaking take effect for her at all? And has it not been taught on Tannaite authority: 'R. Aqiba says, "How on the basis of Scripture do we know that one who gives a writ of divorce to his deceased childless brother's widow — she is forbidden to him forever? As it is said, 'Her former husband, who sent her away, may not again take her to be his wife' (Deu. 24: 4) [so how could an act of bespeaking addressed to her after divorce be valid in any way at all?]"**?"*
 - D. *Said R. Ashi, "The requirement of a writ of divorce in the case of levirate marriage is merely on the strength of rabbinic ruling, and the verse of Scripture provides a mere pretext." [Slotki: since the prohibition is not Pentateuchal, the act of bespeaking is valid.]*
 - E. *So too it has been taught on Tannaite authority: Rabbi says, "These statements are made only in accord with the position of R. Aqiba, who would treat the woman with whom one has performed the rite of removing the shoe as tantamount to a consanguineous relation, but sages say, 'There is some validity in acts done after the rite of removing the shoe.' I say, 'When is the betrothal performed after the rite of removing the shoe? Only if he betrothed her as an ordinary act of betrothal, but if he betrothed her within the framework of the levirate connection, then nothing whatsoever follows the rite of removing the shoe.'"*
 - F. *It has further been taught on Tannaite authority: He who performs the rite of removing the shoe with his deceased childless brother's widow and then went and*

betrothed her — Rabbi says, “If he betrothed her as an ordinary act of betrothal, she has to get a writ of divorce from him; but if he betrothed her within the framework of the levirate connection, then she does not have to get a writ of divorce from him.”

- G. And sages say, “Whether he betrothed her as an ordinary act of betrothal, or he betrothed her within the framework of the levirate connection, she has to get a writ of divorce from him.”
- H. *Said R. Joseph, “What is the operative consideration behind the ruling of Rabbi? [Why is the levirate union invalid, but an ordinary betrothal with the same woman is valid?] He treats the case as equivalent to one who rummages around the property of a proselyte, assuming that it belongs to him. He does not acquire title to the property [not having the correct intentionality, since his assumption was false.]” [Slotki: betrothal through an ordinary action is invalid, because the levir’s intention was not to make an ordinary betrothal but a levirate one, after which an act of removing the shoe is null.]*
- I. *Said to him Abbaye, “Are the cases all that parallel? There the rummager does not have the correct intentionality to effect acquisition of the property, but here, he does have the intentionality of acquiring possession of the woman! The correct comparison could only be to a case in which someone is rummaging about the estate of a proselyte assuming it to belong to a third party, in which case he does effect possession.” [Slotki: since his intention was to execute a legal act of acquiring title, the mistake he made as to the owner is null. Here, the mistake in the nature of the union he was contracting should not affect the legality of the possession that he intended to effect.]*
- J. *Rather, said Abbaye, “With what sort of a case do we deal here? It is one in which he said to her, ‘Be betrothed to me by the act of bespeaking carried out in the context of the levirate relationship.’ Rabbi takes the view that the act of bespeaking takes effect only where there is a levirate bond, but the act of the rite of removing the shoe has come along and abrogated the levirate bond. Rabbis maintain that each stands entirely autonomous of the other. But if to begin with the levir had said to me, ‘Be betrothed to me through this act of bespeaking performed in the context of levirate marriage,’ would this act of acquisition not have been entirely effective? Here too it is entirely effective.”*
- K. *Raba said, “If he had said to her, ‘Be betrothed to me through this act of bespeaking performed in the context of levirate marriage,’ all parties would have concurred that this was an effective act. But here, what is at issue? It is a case in which he said to her, ‘Be betrothed to me in the context of levirate marriage.’ Rabbi maintains [53A] that the levirate bond exists, but the rite of removing the shoe has abrogated it. Sages hold that there is no levirate bond. If to begin with, he had said to her, ‘Be betrothed to me in the context of levirate marriage,’ would this statement not have been entirely effective? Here too it is entirely effective.”*

- L. *R. Sherabayya said, "In the case of a valid rite of removing the shoe, all concur that, if he said to her, 'Be betrothed to me under the levirate bond,' there would be no validity to such a statement. But here the dispute involves the case of an invalid rite of removing the shoe. One authority [Rabbi] maintains that an invalidly performed rite of removing the shoe exempts, and the other authority maintains that an invalid rite of removing the shoe does not exempt [her from the original bond; the rite of removing the shoe is null, and the formula pronounced after the improper rite is valid]."*
- M. *R. Ashi said, "All parties concur that an invalid rite of removing the shoe does not provide an exempt. Here we deal with a dispute on whether there is the possibility of a stipulation made by the levir, for example, the widow would pay him for the rite or do a service for him] that affects the validity of the rite of removing the shoe. Rabbis take the position that a stipulation that affects the validity of the rite of removing the shoe, and the master [Rabbi] maintains that a stipulation [that has not been fulfilled still] that does not affect the validity of the rite of removing the shoe."*
- N. *Rabina said, "All parties concur that a stipulation does affect the validity of a rite of removing the shoe. Here what is at issue? It is the case of a stipulation and its opposite {if this, then that, if not this then not that}. The master [Rabbi] takes the position that the formulation of a stipulation that is valid requires the statement also of its opposite, and the other masters maintain that a stipulation is valid even if not doubled."*

IV.2. A. (1) [If] he performed the rite of removing the shoe and [then] bespoke [the deceased childless brother's widow], [or] (2) gave a writ of divorce, or had sexual relations [with her], Or [if] he (1) had sexual relations, [then] bespoke [the woman], [or] (2) gave a writ of divorce or performed the rite of removing the shoe:

- B. *Well, why not formulate the Tannaite rule in this language too: **nothing whatsoever follows** the act of sexual relations [as in the earlier cases]?*
- C. *Both Abbaye and Raba state, "Formulate the Tannaite rule: **nothing whatsoever follows** the act of sexual relations."*
- D. *But our Tannaite [who omits the phrase]?*
- E. *He prefers the statement that the deceased childless brother's widow is free to marry anyone.*

V.1 A. All the same are the cases of a single deceased childless brother's widow with a single levir, and two deceased childless brothers' widows with a single levir:

- B. *The formulation of our Mishnah [concurring that there can be a valid act of bespeaking after another such act when there are two widows and one levir] does not accord with the position of Ben Azzai, for it has been taught on Tannaite authority: Ben Azzai says, "There can be a valid act of bespeaking after another act of bespeaking, in the case of two levirs and one deceased childless brother's*

widow, but there cannot be a valid act of bespeaking after another such act where there are two deceased childless brother's widows and one levir."

VI.1 A. **How so [M. 5:3G]? [If] he bespoke this one and bespoke that one, they require two writs of divorce and [one] rite of removing the shoe. [If] he bespoke this one and [gave] a writ of divorce to that one, she [the bespoken widow] requires a writ of divorce and the rite of removing the shoe. [If] he bespoke this one and had sexual relations with that one, they require two writs of divorce and [one] rite of removing the shoe. [If] he bespoke this one and performed the rite of removing the shoe with that one, the first one requires a writ of divorce:**

- B. *The statement supports the view of Samuel, for said Samuel, "If the levir entered the rite of removing the shoe with her to whom he performed the act of bespeaking, her co-wife is not exempt," and this would represent a refutation of R. Joseph.*
- C. *But is the language, he performs the rite of removing the shoe? What is said is, if he has performed the rite of removing the shoe — already.*

VII.1 A. **[If he gave a] writ of divorce to this one and a writ of divorce to that one, they both require from him a rite of removing the shoe. [If he gave] a writ of divorce to this one and had sexual relations with that one, she [the latter] requires a writ of divorce and a rite of removing the shoe. [If he gave] a writ of divorce to this one and bespoke that one, she [the latter] requires a writ of divorce and removing the shoe:**

- B. *[Since both require the rite of removing the shoe], does this not support the position of Rabbah b. R. Huna? For said Rabbah b. R. Huna, "'In the case of an invalid rite of removing the shoe, the deceased childless brother's widow has to make the rounds of all the brothers."*
- C. *The meaning of the language encompassing both refers to widows in general [but in every case the rite of removing the shoe is done by one widow only, and the other is exempt (Slotki)].*

VIII.1 A. **[If he gavel a writ of divorce to this one and performed removing the shoe with that one, nothing whatsoever follows the rite of removing the shoe:**

- B. *May one suppose that the statement supports the view of Samuel and represents a refutation of R. Joseph.*
- C. *But is the language, he performs the rite of removing the shoe? What is said is, if he has performed the rite of removing the shoe — already.*

IX.1 A. **(1) [If] he performed the rite of removing the shoe [with this one] and performed the rite of removing the shoe [with that one], or (2) if he performed the rite of removing the shoe with this one and bespoke that one, or (3) if he gave a writ of divorce to this one and had sexual relations with that one, (4) if he had sexual relations with this one and had sexual relations with that one, or (5) if he had sexual relations with this one and bespoke that one, or (6) if he gave a writ of divorce to this one and performed the rite of removing the shoe with that one, nothing whatsoever follows the rite of removing the shoe:**

- B. *Well, why not formulate the Tannaite rule in this language too: **nothing whatsoever follows** the act of sexual relations [as in the earlier cases]?*
- C. *Both Abbaye and Raba state, "Formulate the Tannaite rule: **nothing whatsoever follows** the act of sexual relations."*
- D. *But our Tannaite [who omits the phrase]?*
- E. *He prefers the statement that the deceased childless brother's widow is free to marry anyone.*

X.1 A. [And this is the rule] whether in the case of a single levir and two deceased childless brother's widows, or two levirs and a single deceased childless brother's widow:

- B. *Now from the perspective of R. Yohanan, who has said, "The entire household of surviving brothers stand under the prohibition of a negative religious requirement," it is necessary to tell us that betrothal with those with whom intercourse involves a negative commandment is invalid. [Slotki: had this not been indicated, it might have been assumed that betrothing a woman forbidden only by a negative commandment is legally valid.] But from the perspective of R. Simeon b. Laqish, who has said, "The entire household of surviving brothers are subject to the penalty of extirpation [if any of them married the cop-wife of a woman subject to the rite of removing the shoe], is there any need to tell us that betrothal is invalid if it involves someone with whom marriage is penalized by extirpation? [That is a well-known fact.]*
- C. *R. Simeon b. Laqish will say to you, "Well, according to your reasoning, is the concluding clause, which teaches, **if he had sexual relations with this one and bespoke that one**, required to tell us that a betrothal is invalid if it pertains to an already-married woman? But, as a matter of fact, since, in connection with permitting the case of one levir and on deceased childless brother's widow, he taught also the rule concerning two deceased childless brother's widows and one levir; and since he included two deceased childless brother's widows and one levir, he went on to balance it with two levirs and one deceased childless brother's widow."*

XI.1 A. [53B] [If] he performed a rite of removing the shoe with one and bespoke one, gave a writ of divorce to one and had sexual relations with one [= M. 5:3D] , or had sexual relations and bespoke, and gave a writ of divorce and performed removing the shoe [= M. 5:3E], nothing whatsoever follows the rite of removing the shoe [= M. 5:3F] whether this comes at the outset, or in the middle, or at the end:

- B. *Now there is no problem in understanding why it was necessary to include the case, [If] he performed a rite of removing the shoe with one and bespoke one, for it might have entered your mind to supposed that we might make a precautionary decree in the case of an act of bespeaking followed by the rite of removing the shoe as a measure against the case of an act of bespeaking that preceded the rite of removing the shoe. So it was necessary to let us know that no such precautionary measure is adopted. But why tell us [that a divorce is invalid where there is only one levir and one deceased childless brother's widow], where*

[If] he performed the rite of removing the shoe and [then] ... gave a writ of divorce?

- C. *And in accord with your reasoning, look what then follows: [if] he (1) had sexual relations, [then] bespoke [the woman], if he had sexual relations with her and then (2) gave a writ of divorce! You might argue that it was necessary to deal with a case in which the levir had sexual relations and then gave her a writ of divorce, since otherwise one might suppose that a precautionary decree was made for divorce after sexual relations as to deal with the possibility of a writ of divorce that preceded sexual relations [Slotki: it might be supposed that as a writ of divorce alone is valid in this case, it is valid in the other, and the divorce might supersede the rite of removing the shoe]. So it was necessary to let us know that no such precautionary decree is required. But what need is there to specify, [if] he had sexual relations, [then] bespoke [the woman]? But the point is, since the framer of the passage formulated the rule, (1) [If] he performed the rite of removing the shoe and [then] bespoke [the deceased childless brother's widow], he also included the language, Or [if] he (1) had sexual relations, [then] bespoke [the woman]. And since he wanted to include the rule in which [if] he (1) had sexual relations, [then] ...gave a writ of divorce..., he also taught the rule for the case, if] he (1) had sexual relations, [then] ...gave a writ of divorce.*

XII.1 A. As to sexual relations: when this is at the outset, nothing whatsoever follows. If this comes in the middle or at the end, there is something which follows:

- B. *Our Mishnah-passage does not accord with the Tannaite authority represented in that which has been taught on Tannaite authority: Abba Yosé b. Yohanan of Jerusalem says in the name of R. Meir, "In both the case of sexual relations or of the rite of removing the shoe, if these took place first, no valid act can follow; if it occurred in the middle or at the end there can be a valid act."*
- C. *There are three disputes contained in this matter.*
- D. *The initial Tannaite authority takes the view that in regard to sexual relations, where there is a need for a precautionary decree [something of the levirate bond remaining after a somehow impaired act of sexual relations], a precautionary decree was made [so only when sexual relations took place at the outset, but not in the middle or the end, does the levirate connection end], but in the case of the rite of removing the shoe, there was no requirement for a precautionary decree [because even an invalid rite is effective in every way], so there is no precautionary decree.*
- E. *R. Nehemiah maintains that in the case of sexual relations, there is no requirement for a precautionary decree [nothing valid remains after the rite of removing the shoe or after sexual relations]. And as to that which you have said, that there should be a precautionary decree in the matter of an act of sexual relations following a writ of divorce, as a precautionary measure against a case in which there is an act of sexual relations after a rite of removing the shoe, since the rite of removing the shoe is required by the Torah, it is well known, and no such decree is called for. And as to that which you have said, that there should be a precautionary decree in the case of sexual relations followed by an act of*

bespeaking, as a preventive measure against sexual relations followed by another act of sexual relations, here too, since the acquisition of a wife through sexual relations derives from the Torah, it is well known.

- F. *And as to Abba Yosé b. Hanan, he concurs with rabbis, who maintain that there is a precautionary decree in the case of sexual relations, and he makes a precautionary decree in the case of the rite of removing the shoe on account of the consideration of sexual relations.*