

BAVLI BESAḤ

CHAPTER FIVE

FOLIOS 35B-40B

5:1

- A. They let down produce [from a roof] through a hatchway on a festival,
- B. but not on the Sabbath.
- C. And [on a festival] they cover up pieces of produce with utensils [in order to protect them] against dripping liquid.
- D. And so [may they cover up] jugs of wine or oil.
- E. And they place a utensil under a drip [to catch the water] on the Sabbath.
- I.1** A. [They let down produce [from a roof] through a hatchway on a festival, but not on the Sabbath:] *It is stated on Amoraic authority:*
 - B. R. Judah and R. Nathan —
 - C. *One teaches the Tannaite rule [of M. Bes. 5:1A using the language], “They let down [produce] [masillin]...”*
 - D. *And one teaches the Tannaite rule [of M. Bes. 5:1A], “They let [produce] slide down [mashillin]...”*
 - E. *Said Mar Zutra, “The one who teaches, “They let down [produce] [masillin]...” has not erred.*
 - F. *“And the one who teaches, “They let [produce] slide down [mashillin]...” has not erred.*
 - G. [Examples now are given to show that the word each authority uses indeed has the general meaning “to let fall” or “to lower”.] *“The one who teaches, “They let down [produce] [masillin]...” has not erred, for it is written [Deu. 28:40], “[You shall have olive trees throughout all your territory, but you shall not anoint yourself with oil]; for your olives shall drop off [yisal].”*
 - H. *“And the one who teaches, “They let [produce] slide down [mashillin]...” has not erred, as we have learned in the Mishnah [M. Bek. 6:7]: [On account of the following blemishes a firstling may be slaughtered]: a dislocated [sahul] or*

deformed [hip]. ‘Dislocated’ [means] that its hip has slipped down [out of its socket]; ‘deformed’ [means] that one of its hips is higher than the other.”

- I. [Several further examples of possible word-choices are suggested and shown to have the appropriate meaning.] *Said R. Nahman b. Isaac, “The one who teaches, ‘They let [produce] fall out [masirin]...’ has not erred.*
- J. *“And the one who teaches, ‘They let [produce] fall down [mashirin]...’ has not erred.*
- K. *“And the one who teaches, ‘They let [produce] drop [mansirin]...’ has not erred.*
- L. *“One who teaches, ‘They let [produce] fall out [masirin]...’ has not erred, as we have learned in the Mishnah [M. Naz. 6:3]: R. Ishmael says, ‘A Nazirite may not shampoo his head with earth, since this makes his hair fall out [masir].’*
- M. *“And the one who teaches, ‘They let [produce] fall down [mashirin]...’ has not erred, as we have learned in the Mishnah [M. Kel. 13:1]: The clipper [sahor] and the scissors, even though [their parts] have separated are susceptible to uncleanness. [The point is that the root SHR has the sense of “to cause to fall,” since the “clipper” cuts hair and makes it fall.]*
- N. *“And the one who teaches, ‘They let [produce] drop [mansirin]...’ has not erred, as we have learned in the Mishnah [M. Shab. 22:4]: One whose clothes drop [nasru] in water [on the Sabbath] may walk around in them and need not scruple, [lest people think he washed them on the holy day].*
- O. *“In the same way [the fact that he has not erred is proven] from this, which we have learned in the Mishnah [M. Pe. 4:10]: What is meant by ‘Gleanings’? It is that which drops [noser] during the harvest.”*

I.2. A. *We have learned in the Mishnah [M. Bes. 5:1A]:*

- B. **They let down produce [from a roof] through a hatchway on a festival.**
- C. How much [produce may be removed through the hatchway, without this being deemed forbidden labor]?
- D. *Said R. Zira said R. Assi, and some say, said R. Assi said R. Yohanan, “The same quantity about which we have learned in the Mishnah [M. Shab. 18:1]:*
- E. **“[On the Sabbath] they may move out of the way [as much as] four or five baskets of straw or grain [to make room] for guests or [to prevent] disruption in the house of study.”** [Comparably, on a festival day, one is permitted to remove from the roof four or five baskets of produce. Doing so is not deemed forbidden work.]
- F. [The Talmud suggests that the case of M. Shab. 18:1 is not comparable to that of M. Bes. 5:1A, such that the figure of four or five baskets of produce is either too large, F-I, or too small, J-K.] *But perhaps there, [at M. Shab. 18:1, the rule] is different [permitting much produce to be moved], since [doing so prevents] disruption in the house of study.*
- G. *But here [in the case of M. Bes. 5:1A], where [the produce is] not [being moved to prevent] disruption in the house of study, [as much produce may] not [be moved]!*
- H. *Another [argument against the analogy proposed by E] is that there [at M. Shab. 18:1] the reason he may move [as many as] four or five bundles is that the [rules*

for the] Sabbath [generally] are stringent, such that [even if they are permitted to move four or five bins], people will not wind up treating [the Sabbath] lightly [by transgressing and moving more].

- I. *But [perhaps since the rules for] a festival day are [generally] lenient, such that [if they are permitted to move four or five bins] people will wind up treating [the festival] lightly [and moving even more, perhaps for this reason they are] not [permitted to move any produce] at all!*
- J. *[Having argued that the figure given at M. **Shab. 18:1** may be too large for the case of M. **Bes. 5:1A**, the Talmud turns to argue the opposite.] Another argument, looking at the other side [of this matter, would reason that] there, [in the case of M. **Shab. 18:1**, the individual is permitted to move only four or five bins] because there is no possibility of monetary loss.*
- K. *But here, [M. **Bes. 5:1A**, in the case of produce being moved off the roof, out of the rain], since there is a possibility of monetary loss, he should even be permitted [to move] more [produce than the four or five bins permitted by M. **Shab. 18:1**]. [Which approach is correct, F-I or J-K, is not indicated.]*

I.3. A. *[The question of the preceding unit is asked anew. Again no final answer is given.] **[36A]** There we have learned in the Mishnah [M. **Shab. 18:1**]:*

- B. **[On the Sabbath they may move out of the way as many as four or five baskets of straw or grain...] But [they may] not [move these things] out of the store-room.**
- C. *And said Samuel, “What [is the meaning of], **But not out of the store-room?***
- D. *“[It means], ‘But [they may] not completely [empty] the store-room [even if it contains fewer than four or five baskets], lest one wind up leveling depressions [in the empty floor].’“*
- E. *Here [in the case of M. **Bes. 5:1A**, which permits lowering produce from a roof on a festival day], what [is the law]? [May one remove from the roof all of the produce?]*
- F. *[Is it so that] there, [M. **Shab. 18:1**, emptying the store-room] is forbidden on the Sabbath [simply] because [on the Sabbath] a strict rule applies?*
- G. *[If F is true], then [here, at M. **Bes. 5:1A**, since it is] a festival day, to which leniency applies, it is permitted [to empty the roof completely]!*
- H. *Or perhaps [we should take note of the fact that] there, [in the case of M. **Shab. 5:1**, even though emptying the room] would prevent disruption in the house of study, [even so] you said that one may not do so.*
- I. *[Therefore] here [in the case of M. **Bes. 5:1A**, where there is no consideration of] preventing disruption in the house of study, all the more so, one may not [totally empty the roof]! [Which evaluation is correct, F-G or H-I, is not indicated. We turn instead to a new issue.]*

I.4. A. *And here we have learned in the Mishnah [M. **Bes. 5:1A**]:*

- B. **They let down produce [from the roof] through a hatchway on a festival day.**
- C. *And said R. Nahman, “They taught [this rule so as to permit one to lower the produce through a hatchway] in the same roof [on which the produce already is located].*

- D. “But [lowering the produce] from one roof to another is not [permitted].”
- E. *And that which is taught on Tannaite authority makes the same point:*
- F. [On a festival day] they may not carry [produce] from one roof to another, even if they are level with each other.
- G. *What [is the law] there, [M. **Shab. 18:1**, for the case of the Sabbath]?*
- H. *[Perhaps] here [in the case of a festival day] alone it is forbidden, because a lenient rule normally applies to the festival, such that [if it were permitted to move produce from roof to roof] people would wind up treating [the festival] lightly [by performing other, forbidden, actions].*
- I. *But [if matters are as H states] since, in the case of the Sabbath, a stringent rule normally applies, such that [in any event] individuals will not come to treat it lightly, it is permitted [to move produce from roof to roof]!*
- J. *[A different evaluation is suggested.] Or perhaps since here [at M. **Bes. 5:1A**], even where there is a potential for damage to produce, it is forbidden [to move it from roof to roof],*
- K. *all the more so there [at M. **Shab. 18:1**], where there is no possibility of damage to produce, it should be forbidden [to move the produce from roof to roof]! [Which evaluation is correct, H-I or J-K, is not indicated. We turn instead to a new, though related, question.]*

I.5. A. Here [for the case of a festival day] it was taught on Tannaite authority:

- B. One may not lower [baskets of produce] through windows with ropes and may not bring them down by means of ladders.
- C. *There [for the case of the Sabbath, on which one wishes to move produce for the sake of guests or study], what [is the law whether or not using a ladder or rope is permitted]?*
- D. *[Should we reason that] here for the case of a festival day [using ladders or ropes] is forbidden because [moving the produce is not necessary to prevent] disruption in the house of study,*
- E. *but [by contrast, in the case of] the Sabbath,¹⁴ when [moving the produce is necessary to prevent] disruption in the house of study [doing so should be] permitted?*
- F. *Or perhaps [contrary to D-E, since] here [in the case of the festival], even though there is [a potential for] damage to produce [if the produce is not removed from the roof], you [anyway] said [that moving it by means of ropes or a ladder is] not [permitted],*
- G. *all the more so there [in the case of the Sabbath], when there is no [consideration of] damage to produce, [moving the produce with ropes or ladders should be] forbidden?*
- H. *[This question, as well as those of the preceding units], stands [unanswered].*

II.1 A. And [on a festival] they cover up [pieces of produce with utensils, in order to protect them against dripping liquid] [M. **Bes. 5:1C**]:

- B. *Said Ulla, “[On a festival day] even a stack of bricks, [which may not be moved on the festival, may be covered, just as the produce, A].”*

- C. [Disagreeing with B], R. Isaac said, “[Only] produce that is fit [for eating on the festival may be covered].”
- D. *Now [in saying this] R. Isaac followed his [usual] reasoning.*
- E. For said R. Isaac, “[On the Sabbath] a utensil may be handled only for the benefit of a thing that [itself] may be handled on the Sabbath.” [Since the bricks, B, may not themselves be handled on a holy day, nothing else may be moved to protect them, for instance, from rain.]

II.2. A. [The question of whether or not, on a festival day, one may cover up a pile of bricks is discussed again.] *We have learned in the Mishnah [M. Bes. 5:1C]:*

- B. **[On a festival day] they cover up pieces of produce with utensils.**
- C. *[This means:] Yes, [they may cover] produce; no, [they may not cover] a stack of bricks!*
- D. *[C’s conclusion is rejected.] [M. Bes. 5:1C in fact means] that even a stack of bricks [may be covered on a festival].*
- E. *[To prove D’s contention, the Talmud specifies why M. Bes. 5:1C refers in particular to covering produce.] But since in the beginning of the passage they taught on Tannaite authority, “On a festival day they let down produce...” in the final clause, [M. Bes. 5:1C], they taught as well, “[On a festival day] they cover up produce.” [The final clause’s reference to produce is not to be taken as exclusive. The phrasing of that clause, rather, is simply on the model of the first clause.]*

II.3. A. *We have learned in the Mishnah [M. Bes. 5:1D]:*

- B. **And so [they may cover up] jugs of wine or oil.**
- C. *With what [sort of produce] are we dealing here?*
- D. *It is produce the processing of which is completed but which is not as yet tithed. [Even though this untithed food may not be eaten on a festival day, still, it may be covered up. Note that this rule is parallel to the one given for bricks, unit II:2. While they may not be used on the festival, they may be covered.]*
- E. *This [reasoning, D, that it is untithed produce], makes sense.*
- F. *For if you were to argue that [reference is to] jugs of wine and oil [from which tithes have already been separated, such that the food] is permitted [for consumption on the festival — this argument would be unacceptable], since the same [rule] has been taught in the first clause, [M. Bes. 5:1C, which states: **On a festival day they cover up] pieces of fruit!** [M. Bes. 5:1C makes clear that produce that is available for consumption may be covered on a festival day. M. Bes. 5:1D therefore must make a further point, that even foods that are not tithed and may not be consumed may be covered.]*
- G. *[F’s argument is rejected. There is good reason to mention explicitly that jugs of already tithed wine and oil may be covered on a festival day.] [The rule for] jugs of wine and oil was needed [explicitly to be taught]!*
- H. *[For if it were not taught] you may have believed that [the authorities behind M. Bes. 5:1C] were concerned to prevent a large monetary loss, [such that they permitted covering the produce referred to at M. Bes. 5:1C], but that they were*

not concerned with the small monetary loss [that would result from leaving jugs of wine or oil in the rain].

- I. *So [the explicit appearance of M. **Bes. 5:1D**] teaches us, [that even in the case of only a small monetary loss, one may on a festival day cover up foods left out in the rain]. [M. **Bes. 5:1D** thus does not refer to untithed produce, contrary to what C-F argued.]*

II.4. A. *We have learned in the Mishnah [M. **Bes. 5:1E**]:*

B. **They place a utensil under a drip [to catch the water] on the Sabbath.**

C. *[This applies in the case of a] drip [of water] that is fit [to drink].*

D. *[The Talmud presents a separate, but parallel, rule.] Come and hear:*

E. **They spread a mat over bricks on the Sabbath.**

F. *[This refers to] bricks that were left over from building, which are fit for sitting on.*

G. *[Another parallel rule is presented.] Come and hear:*

H. **They spread a mat over stones on the Sabbath.**

I. *[This applies in the case of] rounded stones, which are fit for a toilet.*

J. *[The point in each of the three cases at B-C, E-F and H-I is that, on a Sabbath, one only may cover that which has some permitted use. In the long discussion that follows, this perspective is challenged.] Come and hear:*

K. **They spread a mat over a beehive on the Sabbath.**

L. **When it is sunny, [this is to protect the hive] from sun; when it is rainy, [it is to protect the hive] from rain.**

M. **But [in either case] it is on the condition that the individual does not intend [the mat] to catch [the bees].**

N. *[The issue now is why one is permitted to cover the hive in the first place. Is it only because of the edible honey it contains, or does the law pertain even when there is no food in the hive?] Here too [one is permitted to cover the hive only] if it contains honey. [As in the above case, one may only cover that which has a use permitted on the Sabbath.]*

O. *[N's conclusion is challenged.] Said R. Uqba of Meshan to R. Ashi, "This [explanation, N] makes sense for when it is sunny, at which time there is honey [in the hive].*

P. *"But when it is rainy, [e.g., in winter, at which time there is no honey in the hive], what can one say [to explain L's rule, which permits one to cover the hive]?"*

Q. *[An explanation is as follows:] It is necessary [to teach that the hive may be covered even when it is rainy] for the case of those two honeycombs [that the hive's owner places in the hive during the winter, as food for the bees]. [Even in the winter the hive thus contains food, such that, under the rule of N, it may be covered.]*

R. *[Q's explanation is challenged. The honey in the hives in the winter is not set aside for human consumption.] But he has not designated those two honeycombs [for consumption on the Sabbath]! [They therefore are not in the status of food, and the hive should not be covered by reason of their presence.]*

S. *[R's challenge is answered.] With what [sort of case] are we dealing?*

- T. [This is a case in which] he had [at one point] considered [using] them [himself]. [These honeycombs therefore are in the status of food and, by reason of their presence, the hive may be covered, as N explains.]
- U. *But if he had not considered them [for his own use], what [is the law]?*
- V. *[In this case] it is forbidden [for him to cover the hive, even though it contains honey].*
- W. [T-V's explanation of L-M is challenged, on the grounds now indicated.] *[If matters are as T-V claims, then] rather than teach, [M, that L's rule applies simply], 'On the condition that he does not intend [the mat] to catch [the bees],'* he should draw a distinction [within the rule for when it is rainy, cited at L] and should teach for its case:
- X. Under what condition does this pertain, [that one may cover the hive when it is rainy]?
- Y. When he considered [i.e., designated, the honeycombs in the hive for his own use].
- Z. But if he did not consider them [for himself], it is forbidden [to cover the hive with a mat, since it contains no food that the person may eat on the Sabbath].
- AA. *Here is what [the authority behind L-M] means to say [by phrasing matters as they stand]:*
- BB. Even though he has considered them [for his own use, he may cover them] so long as he does not intend [the mat for the purpose of] catching [bees].
- CC. [The Talmud turns to a new issue. Which authority stands behind L-M? Then this question is tied in with that of the interpretation of L-M.] *How have you explained [the law that permits covering the beehive]?*
- DD. *[You have explained it] in accordance with [the opinion of] R. Judah, who deems forbidden for Sabbath use that which, prior to the Sabbath, was not set aside for the holy day.* [In accordance with the opinion of Simeon, who does not require prior designation, the considerations raised at U-BB would not be a concern at all.]
- EE. [DD's conclusion is problematic. For other aspects of the present argument conform to the legal theory of Simeon.] *Recite the concluding clause, [found above at M]:* [One may cover the hive] on the condition that he does not intend [the mat] to catch [the bees].
- FF. *This accords with [the perspective of] R. Simeon, who said, "A permitted act remains permitted [despite its having forbidden, secondary consequences], so long as one does not intend [those secondary consequences to occur]."* [Judah has the opposite view. An act that has forbidden consequences may not be carried out, even if the individual does not intend those consequences to occur. It thus appears that, contrary to DD, L-M is phrased according to the view of Simeon.]
- GG. [FF's conclusion is rejected on the grounds that, in the particular case of L-M, Simeon would take account of the secondary consequences of the individual's actions, so as to deem it forbidden to cover the beehive.] *Can you [really] reason that the concluding clause represents [the opinion of] R. Simeon?*

- HH. *But [to the contrary] Abbaye and Raba, the two of them, say, “In [the case of a secondary consequence comparable to one’s saying], ‘Cut off its head but let it not die,’ [i.e., in a case in which the forbidden act is an inevitable consequence of the permitted action], R. Simeon concurs [that the action is forbidden].”*
- II. *[Insofar as covering the hive with the mat inevitably will trap the bees, it appears that HH proves that neither Simeon nor Judah can stand behind the rule at L-M. For neither of them will allow the permitted act — covering the hive to protect the honey — in light of that act’s forbidden consequence, the trapping of the bees. In the continuation of the argument, the Talmud shows that — contrary to the present conclusion — L-M and its explanation, U-BB, follow the perspective of Judah, just as DD originally argued.] In fact, all aspects [of the rule at L-M] accord with [the position of] R. Judah.*
- JJ. *And here [in this rule], with what [sort of case] are we dealing, [such that the unintended result of the individual’s actions, the trapping of the bees, is not a concern]?*
- KK. *[It is a case] in which there is in [the hive] a window [through which the bees can escape even when the mat is placed over the hive].*
- LL. *And do not say [above, M] that, according to R. Judah, [L’s rule, permitting use of the mat] applies ‘on the condition that he does not intend to catch [the bees].’*
- MM. **[36B]** *Rather say [that L’s rule applies] “on the condition that he does not make [the hive] into a trap, [by closing the window].”*
- NN. *[HH-MM’s solution to the problem raised at HH is problematic, for the conclusion reached at LL-MM seems obvious.] But it is obvious [that one may not cover a hive on the Sabbath with the intention of making a trap]! [Since an obvious rule would not be transmitted, it does not seem possible that M means simply what LL-MM says it does.]*
- OO. *[NN is rejected. Even as interpreted at LL-MM, M makes a point that otherwise would not be known.] What does [M] teach?*
- PP. *[Had M not been taught, one might have thought that, on the Sabbath, creating a trap for] a kind [of animal] that normally is trapped is forbidden,*
- QQ. *but that [creating a trap for] a kind [of animal, e.g., bees], that normally is not trapped is permitted.*
- RR. *So [M] teaches us, [that in either case, on the Sabbath one may not make a trap].*
- SS. *[The following returns to the original question of P: Why should one be permitted to cover the hive when it is rainy, that is, in winter, when the hive does not contain honey. Ashi here explains that the Tannaite rule at L in fact does not permit covering the hive in winter — when it contains no honey — at all.] R. Ashi said, “Does [this rule] teach, ‘[One may cover a beehive on the Sabbath] in the sunny season [that is, summer] and in the rainy season [that is, winter]’?*

- TT. “[No! Rather, it teaches that one may cover it] ‘When it is sunny because of the sun and when it is rainy because of the rain.’
- UU. “[The rule thus refers not to summer and winter, but to] the days of the months of Nissan and Tishre, [roughly March and September], when there is sun and rain and there is honey [in the hive].” [In Ashi’s view, the whole discussion of Q-BB is unnecessary, since it is based upon the wrong assumption that L permits one to cover a beehive in the winter, when there is no honey present.]

III.1. A. And they place a utensil under a drip [to catch the water] on the Sabbath [M. Bes. 5:1E].

- B. *It was taught on Tannaite authority:*
- C. If the utensil [placed under the drip] filled up, one may pour it out and replace it and need not refrain [from doing this as often as is necessary].

III.2. A. In Abbaye’s mill-room there was a drip. [Rashi: The millstone was made of clay, such that the dripping water would ruin it.]

- B. [Abbaye] came before Rabbah [to ask whether or not he could remove the millstone, even though it was the Sabbath].
- C. [Rabbah] said to him, “Go, bring your bed there [into the mill-room], so that [the foul, dissolving millstone] will be comparable to a chamber pot, which you can remove.” [In this way, it would become permitted for Abbaye to bring the millstone into a dry area, even though, on the Sabbath, it normally could not be carried at all.]
- D. Abbaye sat and asked himself, “But may one [on the Sabbath] purposely make [something into] a chamber pot [simply so as to be permitted to move it]?”
- E. *In the meantime, Abbaye’s mill-room collapsed.*
- F. [Abbaye] said, “This came upon me because I transgressed [the instructions of my] master, [questioning his advise]!”

III.3. A. [Discussion of the rules for a chamber pot continues, autonomous of the foregoing.] Said Samuel, “[As for] a chamber pot and a bed pan — [on the Sabbath] it is permitted to take them out to the dung-heap [for emptying]. [On account of their vileness, these items may be removed from the house on the Sabbath.]

- B. “But in order to bring them back — he first puts water in them and then brings them back.” [By themselves, the empty vessels may not be moved, for they are unbefitting the honor of the Sabbath.]
- C. *On the basis [of A-B] they reasoned: By means of the vessel indeed [one may remove excrement or other vile things]; but [the vile thing] by itself [one may] not [remove].*
- D. *Come and learn [the contrary]:*
- E. *For a [dead] mouse was found in the spice-box of R. Ashi.*
- F. *Said to them R. Ashi, “Grab it by the tail and remove it!”*

Two secondary problems are resolved, units I:1 and I:2-5, before the Talmud turns to a major theoretical issue. Unit I:1 questions the Hebrew term to be used for “let down,” M. **Bes. 5:1A**. The different word choices have no bearing upon the

meaning of the passage, such that the discussion is simply an academic exercise. The point, that is to say, is not correctly to preserve the wording of the Mishnaic text but, rather, to locate and list as many similar sounding and meaning words as possible. The second preliminary problem, units I:2-5, concerns the conditions under which M. **Bes. 5:1A-B**'s rule may be applied. The discussion comprises an extended comparison of Sabbath and festival law, based upon an evaluation of the basis for M. **Bes. 5:1A** and M. Shab. 18:1. Placement of the discussion is equally appropriate in either topical context. II:1-3 raise and resolve a major legal issue. M. **Bes. 5:1C-D** states that, on a festival, one may cover up produce or jugs so as to protect them from rain. The Talmud asks whether or not the objects to be covered must themselves have some permitted use on the festival day. The final statement on the matter comes in unit II:4, which concludes that the object to be covered must indeed have a use on the festival day. This is in line with the weight of the law in this tractate, which holds (following the opinion of Judah) that on a holy day, one only may handle that which has been set aside for a particular festival use. Units III:1-3 develop the theme of M. **Bes. 5:1E**. One may empty and replace the jug under a drip as necessary. Chamber pots too may be taken out and emptied, since they are vile.

5:2

- A. For any act [the performance of] which on the Sabbath renders people culpable 1) on grounds of [transgressing the requirement of] Sabbath rest, 2) on grounds of carrying out an optional [religious rite that could be put off until after the Sabbath], or 3) on grounds of carrying out a mandatory religious duty [that, like the optional one, should be performed after the conclusion of the Sabbath],
- B. they [also] are culpable in regard to the festival day.
- C. These are the acts [for which people are culpable] by reason for their transgressing the requirement of Sabbath rest:
- D. They do not climb a tree, ride a beast, swim in water, clap hands, slap the thigh or stamp the feet.
- E. And these are the acts [for which people are culpable] by reason of [their being] optional [rites, that should be put off until after the holy day]:
- F. They do not sit in judgment, effect a betrothal, carry out a rite of halisah or enter into Levirate marriage.
- G. And these are the acts [for which people are culpable] by virtue of [their being] a religious duty [that should be performed after the conclusion of the Sabbath or festival]:
- H. They do not declare objects to be sanctified, make a vow of valuation, declare something to be herem, or raise up heave-offering or tithe.
- I. All these actions on a festival they have declared [to be culpable]; all the more so [when they are done] on the Sabbath.
- J. The sole difference between the festival and Sabbath is the preparation of food alone, [which is permitted on the festival but forbidden on the Sabbath].
- I.1** A. [On a festival or Sabbath] they do not climb a tree [M. **Bes. 5:2D**].

- B. This is a preventative measure, lest [they climb up and] pick fruit, [which is forbidden on the Sabbath or festival].

II.1 A. And they do not ride a beast [M. Bes. 5:2D].

- B. This is a preventative measure, lest, [being permitted to ride], one leave the boundaries [that restrict travel on the Sabbath or festival].
- C. *Learn from this [explanation, B] that the law of [Sabbath and festival] boundaries is biblical! [This is on the theory that preventative measures only are enacted to protect biblical law, but not rabbinic legislation.]*
- D. [C's conclusion is rejected.] Rather, [the prohibition against riding] is a preventative measure lest one cut [a piece of wood for use as] a switch. [B is wrong and no conclusion can be drawn concerning the law of boundaries.]

III.1 A. And they may not swim in water [M. Bes. 5:2D].

- B. This is a preventative measure, lest, [being permitted to swim, one go ahead and] make a swimmer's jug, [that is, a flotation device].

IV.1 A. And they may not clap hands, slap the thigh or stamp the feet [M. Bes. 5:2D].

- B. This is a preventative measure, lest, [being permitted to do these things, one comes as well to] repair a musical instrument.

V.1 A. And these are the acts [for which people are culpable] by reason of [their being] optional [rites, that should be put off until after the holy day]: They do not sit in judgment [M. Bes. 5:2E-F].

- B. *But [sitting in judgment should not be in this category at all, since by judging] one performs a religious obligation! [Judging thus belongs in the following category, M. Bes. 5:2G-H.]*
- C. *No! This [placement] is needed for the case in which there is someone more capable than he. [In such a case, the less competent person's judging would be optional, not a duty. Placement within M. Bes. 5:2's list of restrictions therefore is appropriate.]*

VI.1 A. And they do not effect a betrothal [M. Bes. 5:2F].

- B. *But [this item too appears to belong in the following category, since, in effecting a betrothal], one performs a religious obligation!*
- C. *No! [Placement in the category of optional matters] is necessary [37A] for the case of someone who already has a wife and children. [Once the individual has children, he has fulfilled the requirement to be fruitful and multiply. The further marriage is optional. The number of children one must have is under dispute, M. Yeb. 6:6.]*

VII.1 A. And they do not carry out a rite of halisah or enter into Levirate marriage [M. Bes. 5:2F].

- B. *But [this item belongs in the following category, since in doing these things] one performs a religious obligation!*
- C. *No! [Placement in the category of optional matters] is necessary for the case in which there is an older brother,*

- D. since it is the religious duty of the older brother to enter into Levirate marriage. [The younger brother's actions, by contrast, are optional.]
- E. *And as for all of these [restrictions listed at M. Bes. 5:2F] — what is their reason? They are preventative measures, lest [in performing these activities] one writes.*

VIII.1. A. And these are the acts [for which people are culpable] by virtue of [their being] a religious duty [that should be performed after the conclusion of the Sabbath or festival]: They do not declare objects to be sanctified, make a vow of valuation or declare something to be herem [M. Bes. 5:2G-H].

- B. This is a preventative measure, lest, [being permitted to do these things], one transact business [on a holy day].

IX.1 A. And they do not raise up heave-offering or tithe [M. Bes. 5:2H].

- B. *This is obvious [and goes without saying]!*
- C. *[Explaining that M. Bes. 5:2H is not obvious], taught R. Joseph on Tannaite authority, "This rule is needed only to [indicate that] on that same [festival] day [one may not] give [an agricultural offering] to a priest.*
- D. *"And this applies in the case of produce that became subject to tithes on the preceding day, [prior to the start of the festival]. [Since the householder could have separated tithes before the festival began, he may not do so on the festival itself.]*
- E. *"But in the case of produce that became subject to tithes now, [on the festival itself],*
- F. *"such as dough from which one needs to separate dough offering [on the festival, since that is the day on which the dough is made and becomes subject to the offering] —*
- G. *"one may separate [the required offering] and give it to the priest [on the festival day itself]."*

IX.2. A. Now are these [acts — judging, effecting a betrothal, carrying out a rite of halisah and entering into Levirate marriage, M. Bes. 5:2F — indeed forbidden] on grounds of [their being] optional [rites, that one should wait to perform after the festival or Sabbath], but not on grounds of [the requirement that one maintain] Sabbath rest?

- B. *And are these [acts — declaring objects to be sanctified, making a vow of valuation, declaring something herem and raising up heave-offering or tithes, M. Bes. 5:2H — forbidden] on grounds of [their being] a religious duty [that should be carried out after the conclusion of the holy day], but not on grounds of [the requirement that one maintain] Sabbath rest?*
- C. *[Isaac explains why the acts listed at M. Bes. 5:2F and H, which are in fact prohibited as inappropriate to the maintenance of Sabbath rest, are listed in special categories, as subject to other restrictions.] Said R. Isaac, "[M. Bes. 5:2] is phrased in order to say, 'Not only [is such-and-so category of activity forbidden, but even this-and-that type of action is forbidden].'*
- D. *[This is as follows.] "Not only is an act that falls into the category of that which is not appropriate to the maintenance of Sabbath rest forbidden,*

- E. *“but even an act that, while it is not appropriate to Sabbath rest, is an optional [religious rite] is forbidden [on the holy day]. [Were they not listed separately, one might have thought that such optional religious rites are permitted, even though they are not appropriate to Sabbath rest.]”*
- F. *“And not only is an act that, while it is not appropriate to the maintenance of Sabbath rest, is an optional [religious rite] forbidden,*
- G. *“but even an act that, while it is not appropriate to the maintenance of Sabbath rest, is a religious duty is forbidden.” [Were we not told specifically that such religious duties may not be performed on the Sabbath, we might have believed that, even though they are contrary to maintenance of Sabbath rest, they are permitted.]”*

X.1 A. All these actions on the festival have they declared [to be culpable; all the more so when they are done on the Sabbath are they culpable] [M. Bes. 5:2I].

- B. [A’s rule is assumed to mean that any action forbidden on the Sabbath as inappropriate to Sabbath rest is forbidden as well on the festival day. This is the case even if refraining from the act on the festival will lead to monetary loss.] *But [M. Bes. 5:1A-B] contradicts [the idea cited at A]:*
- C. **They let down produce [from the roof] through a hatchway on a festival, but not on the Sabbath.**
- D. *Said R. Joseph, “There is no contradiction.”*
- E. *“This [statement cited at A] is the opinion of R. Eliezer.*
- F. *“But this [statement, C] is the opinion of R. Joshua. [Unlike Eliezer, Joshua holds that an action forbidden on the Sabbath may be carried out on a festival in order to prevent monetary loss.]”*
- G. *“As it is taught on Tannaite authority [T. Y.T. 3:2]:*
- H. [The following depends upon the fact that a dam and its young may not both be slaughtered on the same day, Lev. 22:28.] **“A dam and its offspring which fell into a pit —**
- I. **“R. Eliezer says, ‘One raises up the first with the intention of slaughtering it and does slaughter it, and, for the second, one provides food while it is in its present location, so that it not die.’ [On the Sabbath no animal may be raised up; on a festival an animal may be raised up only to be slaughtered. In the case at hand, Eliezer applies to the second animal the usual rule for the Sabbath. Since it may not be slaughtered, it may not be raised up.]”**
- J. **“R. Joshua says, ‘One raises up the first one with the intention of slaughtering it but does not slaughter it, and, practicing deception, one then raises up the second, [claiming he wishes to slaughter it instead].”**
- K. **“‘If he wants one, he slaughters it. If he wants the other, he slaughters it.’”**
[To prevent monetary loss, Joshua permits the individual to raise up an animal that will not be slaughtered. This special festival leniency is contrary to Sabbath law, according to which such an animal could not be raised. Joshua thus stands behind C, which distinguishes between the festival and Sabbath.]

- L. *[Rejecting Joseph's conclusion] said Abbaye to him, "On what grounds [can you claim that Eliezer holds that what is prohibited on the Sabbath is prohibited on the festival as well]?"*
- M. *"Perhaps R. Eliezer stated this view, [I], only for a case [such as that at T. Y.T. 3:2] in which [it is possible to avoid monetary loss] by feeding [the animal in the pit]."*
- N. *"But [it may be the case that], if it were impossible to feed [the animal so as to avoid monetary loss, that Eliezer would] not [hold the view attributed to him at I]. [In the case described at T. Y.T. 3:2, no monetary loss will occur. If there would be monetary loss, Eliezer may well allow one to raise up the second animal on a festival, unlike what would be permitted on the Sabbath.]"*
- O. *"In the same way, perhaps R. Joshua holds [the position assigned to him, J, only in a case in which it is possible to use deception, [so as to make it seem that the second animal is being raised for a permitted purpose]."*
- P. *"But here [in a different case], in which it is impossible to use deception [so as to make it seem that the action is permitted, Joshua would] not [permit performing on the festival day an action that is forbidden on the Sabbath.]"*
- Q. *[Joseph's resolution of the contradiction posed at A-C proves to be unacceptable. A new solution is suggested.] Rather, said R. Pappa. "There is no contradiction.*
- R. *"This [statement, A] is the opinion of the House of Shammai.*
- S. *"This [statement, C] is the opinion of the House of Hillel.*
- T. *"As we have learned in the Mishnah [M. Bes. 1:5]:*
- U. **"The House of Shammai say, '[On a festival day] they do not take out into public domain a minor, a lulab or a scroll of the Torah.'**
- V. **"And the House of Hillel permit."** [The assumption is that, just as the Shammaites prohibit carrying into public domain items not needed for the preparation of food, so they would prohibit handling these things on a festival simply to prevent monetary loss. This accords with the rule at A, but is contrary to C. The Hillelites by contrast permit handling non-food items on a festival. They presumably permit carrying these things for purposes of avoiding monetary loss. But such handling is not permitted on the Sabbath. In distinguishing between those two holy days, the Hillelites accord with the rule at C.]
- W. *[The conclusion drawn from U-V is rejected.] Perhaps that [which is proposed at V] is not the case!*
- X. *[Perhaps] the House of Shammai forbids [this] only here, with regard to taking out [of one's house objects not associated with the preparation of food].*
- Y. *But they would not [forbid] handling [such objects within the house]. [On this reasoning, contrary to V, on a festival day, though not on the Sabbath, the Shammaites would permit handling items within the house so as to prevent monetary loss, e.g., in the case of produce on the roof. Like the Hillelites, they thus concur with the rule at C.]*
- Z. *[X-Y's evaluation of the Shammaite position is shown to be unacceptable. Contrary to what X-Y proposes, the Shammaites would not distinguish between "taking out" and "handling," so as to deem the former forbidden and the latter permitted. As explained at V, then, the Shammaites concur with the rule at A but*

not with that of C. On a festival they forbid all handling of objects not specifically set aside as food.] *Is not handling a prerequisite to carrying out?* [Rashi: The implication of this statement is that in any case in which “carrying out” is forbidden, so is the prior act, “handling.” This is a preventative measure. As explained above, the Shammaites thus would not distinguish between the permissibility of the two actions. They forbid both and thus stand behind the rule at A. The Hillelites, as we have seen, V, stand behind the rule at C. The contradiction suggested at A-C thus is resolved.]

The restrictions listed at M. **Bes. 5:2D**, F and H all are preventative measures, to keep the individual from engaging in some further, forbidden activity. With explanations of each of M. Bes. 5:2’s specific items in hand, we proceed to evaluate the Mishnaic pericope as a whole. None of the listed actions are in keeping with the maintenance of Sabbath rest. This being the case, why are some of these deeds listed in separate categories, e.g., as religious duties that should be performed after the holy day? It seemingly would be sufficient to indicate that they are not appropriate to the spirit of rest on the holy day. The reason for the special categories, the Talmud answers, is to prevent misunderstanding. Were such religious obligations not listed separately, we may have believed that such duties may be performed on a holy day, even though they are not in keeping with the general festival prohibition against all forms of work. The final unit refers to M. **Bes. 5:2I**, which states that all prohibitions that apply on the Sabbath apply on a festival as well (except, of course, for the prohibition against cooking). The problem is that elsewhere, M. **Bes. 5:1A-B**, different rules apply on the Sabbath and festival. The Talmud explains the apparent contradiction, showing that one rule derives from the House of Shammai, the other from the Hillelites.

5:3-4

5:3

- A. Domestic cattle and utensils are in the status of their owner [and on the festival or Sabbath are restricted to travel within the same limits as he is].
- B. He who hands over his domestic beast to his son or to a shepherd — lo, they are in the status of the owner.
- C. Utensils set aside for use of one of the brothers in a household — lo, they are in his same status.
- D. And those not set aside [for use of a particular person], lo, they are in the status of [the brothers as a group], and they may go [to the place to which all of the brothers may go].

5:4

- A. He who borrows a utensil from his fellow on the eve of the festival — it is in the status of the one who borrows it.
- B. [If he borrows it] on the festival day, it is in the status of the one who lends it.
- C. And so too, a woman who borrowed from her friend spice, water or salt for her dough — lo, they are in the status of the two of them [and go only to a place where both of them may go].

- D. **R. Judah declares exempt in the case of water,**
- E. **for it is of no substance.**

- I.1 A. **[Domestic cattle and utensils are in the status of their owner and on the festival or Sabbath are restricted to travel within the same limits as he is. He who hands over his domestic beast to his son or to a shepherd — lo, they are in the status of the owner:]** *Our Mishnaic passage, [M. Bes. 5:3A-B], [37B] does not accord with [the perspective of] R. Dosa.*
- B. *For it is taught on Tannaite authority:*
- C. R. Dosa says, *and some say* Abba Shaul says, “[As for] one who purchases a domestic animal from his friend on the eve of a festival day—even though he does not deliver it to him until the festival day itself lo, it is in the status of the buyer [and goes only where he may go].
- D. “And one who delivers a domestic animal to a shepherd — even though he did not deliver it until the festival day itself — lo, it is in the status of the shepherd.” [Contrary to M. Bes. 5:3A-B, Dosa holds that the status of the animal follows the one who takes it on the festival itself.]
- E. *You can even argue that [M. Bes. 5:3A-B] accords with [the opinion of] R. Dosa!*
- F. *And there is no contradiction [between M. Bes. 5:3A-B and the view assigned to him above, D].*
- G. *This [rule, D] applies when there is only one shepherd [in the town]. [It is clear from the beginning that this herdsman will take the animal. The beast therefore follows his status.]*
- H. *[But] this [other rule, M. Bes. 5:3B] applies when there are two shepherds [in the area]. [In this case the owner does not know until the last minute who will take the animal. The beast therefore remains in the status of the owner.]*
- I. *A close reading of the relevant Mishnah-passage will prove [that the point of M. Bes. 5:3A-B is as H states] from [the fact] that [M. Bes. 5:3B] teaches: [He who hands over his domestic beast] to his son or to a shepherd — [lo, they are in the status of the owner].*
- J. *Learn from this [that M. Bes. 5:3A-B’s rule applies in a case in which the individual has a choice of to whom to give the animal, just as G suggests].*
- K. [We turn to a new problem: which statement is authoritative, C or M. Bes. 5:3A-B? As we already should expect, since these statements apply in different circumstances, neither alone reflects the decided law.] Said Rabbah b. bar Hana said R. Yohanan, “The decided law accords with [the view of] R. Dosa, [C].”
- L. *But did R. Yohanan really say this?*
- M. For, [to the contrary], thus said R. Yohanan, “The decided law accords with an anonymous Mishnaic statement [when such a statement is in dispute with the opinion of a named authority].”
- N. *And [at M. Bes. 5:3A] we have learned in the Mishnah [just such an anonymous statement]:*

- O. **Domestic cattle and utensils are in the status of their owner [such that, on a Sabbath or festival, they are restricted to movement within the same limits as he].**
- P. [The solution to the problem raised by L-M is to recognize that Dosa and the anonymous statement, M. **Bes. 5:3A-B**, actually are in agreement, just as we already have seen, E-J.] *But have we not already explained that this [law, M. **Bes. 5:3A-B**] applies when there is only one shepherd, [while] this [law, cited in the name of Dosa, C-D] applies when there are two shepherds?* [We certainly have shown this. Yohanan's point, K, thus is that the decided law follows Dosa's view, explained at E-J, which distinguishes between cases in which there are one and two shepherds.]

- II.1 A. [And those not set aside [for use of a particular person], lo, they are in the status of [the brothers as a group], and they may go [to the place to which all of the brothers may go]:]** [This unit's discussion makes use of the law that restricts travel on the Sabbath or festival day. Travel on those days is restricted to a range of 2000 cubits in all directions from the town in which one lives. If, prior to the holy day, the individual sets up an *erub* within his boundary of travel outside of the city, he may, on the Sabbath or festival, travel an additional 2000 cubits from the point of the *erub* in that same direction. An *erub* set up 1000 cubits from the town, for instance, allows the individual to travel 3000 cubits outside of the town in that same direction. Establishing his desire to travel outside of the usual limits in this particular direction, however, limits the individual's right to travel the full 2000 cubits in other directions. In the example given, for instance, while the person may travel 3000 cubits outside of the city in the direction of the *erub*, he may only travel 1000 cubits in all other directions. And, accordingly, if he set the *erub* at a distance of 2000 cubits from the city, he may travel 4000 cubits in that direction, but may not leave the boundaries of the city at all in other directions. The case that follows makes use of these facts to illustrate M. **Bes. 5:3D**. That which is shared commonly is restricted to movement within an area permitted jointly to all of the common owners. It may not be taken to an area to which one person may go but from which the others are restricted.] *Our rabbis have taught on Tannaite authority:*
- B. [As for] two [individuals] who together borrowed a [single] garment [to be used on a festival or Sabbath], this one [intending to wear it] to go in the morning to the house of study and this one [intending to wear it] to go in the evening to the dining hall, with this one having set an *erub* to the north [of the town, at a distance, for instance, of 1000 cubits] and this one having set an *erub* to the south, [also at a distance of 1000 cubits] —
- C. The one who set his *erub* to the north may only go [with the garment] as far [to the north] as the one who set his *erub* to the south [is permitted to go to the north]. [The *erub* permits person "A" to travel 3000 cubits to the north. But the garment is restricted by the limit imposed upon the co-user, individual "B". Having set his *erub* to the south, 1000 cubits from the town, individual "B" may only go outside of the city 1000 cubits to the north and in all other directions. This limitation effects person "A" as well. The same point is made at D.]

- D. And the one who set his *erub* to the south [only] may go [with the garment] as far [to the south] as the one who set his *erub* to the north [is permitted to go to the south].
- E. And if they [each] had exactly measured the boundary, [setting the *erub* exactly 2000 cubits from the town, so as to restrict any travel outside of the town in other directions], neither of them may take [the garment] from its place. [Neither may remove it from the town in the one direction permitted him, since doing so would cross the boundary to which the other is limited.]

II.2. A. [The theory of the preceding is developed for a new case.] *It is taught on Amoraic authority:*

- B. Two individuals who, [prior to the holy day], purchased a jug [of produce] and a domestic animal as partners, [intending to divide these things between themselves on the holy day itself] —
- C. Rab said, “[The contents of] the jug are permitted [to be taken to the limits of each individual’s area of travel, even to an area to which the other cannot go].
- D. “But the animal is forbidden.” [When it is slaughtered and divided on the holy day, the meat only may be taken within the area of travel shared by both men.]
- E. But Samuel said, “[The contents of] the jug too are forbidden.” [Like the animal, they may not be taken to an area not shared by both people.]
- F. *What is Rab’s reasoning?*
- G. *If he reasons that retrospective designation applies, [such that the produce each individual ultimately takes is deemed already to have been his prior to the festival], then even [pieces of the slaughtered] animal should be permitted [to be taken anywhere within the area the individual may travel, without regard for the limits imposed upon the other person].*
- H. *And if he reasons that retrospective designation does not apply, then even [the contents of] the jug should be forbidden [and not permitted to be brought anywhere that both individuals may not travel].*
- I. *Indeed, [Rab] reasons that retrospective designation applies!*
- J. *But the case of the animal is different, since [each of its] parts nurtures all the others.* [Prior to being slaughtered, the animal was an indivisible whole. After it is slaughtered and divided on the festival, Rab therefore does not say in retrospect that each individual already owned his particular share prior to the onset of the holy day. For, prior to the festival, the individual could not take that share. This is not the case for the produce in the jug, which could have been divided at any time.]
- K. [The following argues that, even in light of the explanation at J, Rab should not prohibit each individual from taking his own share of the meat to any place that he is permitted to go, without regard for the limits of travel imposed upon his fellow.] *Said R. Kahana and R. Assi to Rab, “[In your theory, each partner] is not concerned with transgressing the restriction against using on the festival that which, prior to the holy day, was not set aside for his particular use.* [Rashi: According to J, prior to the festival, neither partner owned a specific share of the animal, which could thereby be designated for festival use. Even so, they slaughter the animal for consumption on the festival day.]

- L. *[Yet, in not taking his share wherever he is permitted to go, we see that each partner] is concerned for the festival boundaries [imposed upon the meat by the partner]. [Rab's position is inconsistent. The partners do not take each other into account for purposes of the prohibition against eating that which was not set aside for the festival day. But they do take each other into account in determining where the meat may be brought.]*
- M. *Rab was silent, [unable to answer this criticism].*
- N. *[While the following continues the foregoing discussion, its concern is generalized and does not pertain simply to the issue raised at B-E. The question concerns whether the principle of retrospective designation is, in general, to be applied.] What, then, is the law?*
- O. R. Hoshaia said, "Retrospective designation applies." *[What is chosen on the festival day to be each individual's share is held to have been his share all along, such that it is not affected by the limits of travel that pertain to the partner.]*
- P. But R. Yohanan said, "Retrospective designation does not apply." *[Even after the produce or meat is divided between the partners on the festival day, it may be carried only within areas permitted to both individuals.]*
- Q. *But does R. Hoshaia really reason that retrospective designation applies?*
- R. *But [indicating the contrary] thus we have learned in the Mishnah [M. Oh. 7:3]:*
- S. **[If there is] a corpse in a house that has many entrances, they are all deemed unclean.**
- T. **[If] one of them was opened, it alone is unclean and all of the rest are clean.**
- U. **[If] one intended to remove [the corpse] through one of [the entrances] or through a window that measures four-by-four handbreadths — this affords protection to all of the other entrances, [causing them to remain in a state of cleanness].**
- V. **The House of Shammai say, "[U] is the case [only] if the intention was formed to remove the corpse [through one specific entrance] before the individual actually died."**
- W. **But the House of Hillel say, [U applies] even [if the intention to use a particular entrance was formulated] after the individual died."**
- X. *And concerning this [Mishnaic passage] it was taught on Amoraic authority:*
- Y. Said R. Hoshaia, "[The Hillelites claim] that the entrances are clean from this point onwards."
- Z. From this point [when the individual determines through which entrance to remove the corpse] indeed [the other entrances are clean]; but [the other entrances are] not [deemed] retroactively [clean]. *[Contrary to O, it is clear that Hoshaia does not abide by the principle of retrospective designation. He holds that a designation has legal weight only from the point at which it is made.]*
- AA. *[In light of what is proven at R-Z, to make sense of O-P, you must] reverse the authorities:*
- BB. R. Hoshaia said, "Retrospective designation does not apply."
- CC. But R. Yohanan said, "Retrospective designation does apply."

- DD. [We now carry out an exercise similar to that of Q-Z.] *But does R. Yohanan really accept [the principle of] retrospective designation?*
- EE. But [to the contrary] thus said R. Assi said R. Yohanan, “Brothers who divided [an inheritance among themselves] are [in the status of] purchasers, such that they must return to each other [their share] in the Jubilee year.” [The share taken by each brother is not assumed in retrospect to have been given to him by the now-dead father. The brothers, rather, each received a certain value in the estate, with which they “purchased” the specific items they took. In accordance with Lev. 25:13-17, in the Jubilee this “purchased” property returns to its original owner. Contrary to CC, it thus appears as though Yohanan does not recognize retrospective designation.]
- FF. [A possible criticism of DD-EE is raised and then rejected.] *And if you argue that, in the case of a Biblical restriction, [such as that of the Jubilee year, EE], R. Yohanan does not apply retrospective designation, but that, in the case of rabbinic law, [such as that of Sabbath and festival boundaries, as above, B], he does —*
- GG. *[I would respond by asking], Does [Yohanan indeed] apply [retrospective designation in the case of] rabbinic law?*
- HH. *For [to the contrary] thus Ayyo taught on Tannaite authority:*
- II. [The following depends upon M. **Erub. 3:5**, which holds that, prior to the Sabbath, an individual may set an *erub* both on the east and west side of the town. He stipulates that if, on the Sabbath, a sage comes from the west, the western *erub* is valid. And if the sage comes from the east, the eastern one is in effect. M. **Erub. 3:5** further holds that the individual may stipulate that should scholars come simultaneously from both directions, he may treat as valid and walk to whichever *erub* he chooses on the festival day itself. The *erub* he decides to depend upon, that is, is deemed retrospectively to be the valid one. Judah, cited here, II-KK, holds that this latter stipulation is not valid. Yohanan’s explanation of Judah’s opinion, OO, shows that even in the case of a rabbinic matter, Yohanan does not apply the principle of retrospective designation.] “R. Judah says, ‘A person cannot stipulate concerning two contingencies simultaneously, [saying, for instance, that on the holy day itself he will choose which *erub* is valid].
- JJ. ““Rather [he validly may stipulate that] if a sage comes from the east, his *erub* is at the east; [if he comes] from the west, his *erub* is at the west.
- KK. ““But if [sages come] from both directions [simultaneously he may] not [stipulate that whichever direction he shall choose to go shall have the valid *erub*].”“
- LL. **[38A]** *And we questioned this [as follows]:*
- MM. *What is particular [to the case of sages coming] from both directions such that [Judah rules that one may] not [stipulate that he will go to whichever one he chooses]?*
- NN. *If retrospective designation does not apply, then even in the case of a [single sage coming] from the east or west there should be no retrospective designation, [such that the individual here as well cannot on the holy day itself deem the *erub* on the side from which the sage comes to be retroactively valid]!*

OO. [Yohanan answers MM-NN's problem by insisting that, in the case of the single scholar, retrospective designation is not needed at all. We thus see that, as FF-GG suggested, even in the case of a rabbinic rule, Yohanan does not apply retrospective designation.] Now, said R. Yohanan, "[In the situation described at JJ, the single] sage already had arrived [prior to the start of the holy day]." [The individual who set the two *erubs* simply was not aware of which direction he would need to travel on the holy day itself. But insofar as that fact already was determined by the arrival of the scholar, which of his *erubs* is valid is not decided by the individual on the festival day. All that happens on the festival is that the individual finds out which of his *erubs* already is valid.]

PP. *On the basis [of OO we see] that R. Yohanan does not accept [the principle of] retrospective designation!*

QQ. *[In light of what we have seen at DD-PP, it is clear that] in reality [the positions assigned to Yohanan and Hoshai, O-P] should not be reversed! [Just as P states, Yohanan does not accept the principle of retrospective designation. The problem is that, contrary to O, Q-Z seems to prove that Hoshai too rejects this principle. We now find out that Q-Z does not correctly portray Hoshai's view.]*

RR. *For only in the case of a biblical prohibition, [such as that of corpse uncleanness, R-Y], does R. Hoshai not apply retrospective designation.*

SS. *But in the case of a rabbinic ordinance, he does apply it. [As O-P originally said, then, Hoshai applies the principle of retrospective designation (in cases of rabbinic law). Yohanan never applies it.]*

TT. Expounded Mar Zutra, "The decided law follows [the opinion of] R. Hoshai."

II.3. A. Said Samuel, "An ox belonging to a cattle dealer, lo, it is in the status of any person. [Since the dealer sells to people of all districts, anyone who takes the ox on the festival day may travel with it within his own area of permitted movement. The area to which the dealer is restricted does not affect the ox.]

B. "[By contrast] an ox belonging to a shepherd, lo, it is in the status of [the residents of] his same town." [Since the shepherd sells to people in the town, the ox may go within 2000 cubits of all sides of the town. This is the case even if the shepherd, for instance, sets for himself an *erub* on one side of the town, restricting himself from traveling outside of its boundaries in other directions.]

III.1 A. **He who borrows a utensil from his fellow on the eve of the festival — [it is in the status of the one who borrows it] [M. Bes. 5:4A].**

B. *This is obvious [and goes without saying]!*

C. *No! It is necessary [to teach this rule] for a case in which, [while the individual indicated his intention to borrow the utensil prior to the festival, the lender] did not give it to him until the festival day itself.*

D. *What might you have thought [were M. Bes. 5:4A not taught explicitly]?*

E. *[Since] it is not in [the borrower's] possession [prior to the festival, it remains in the status of the lender].*

F. *So [M. Bes. 5:4A] informs us, [that even in such a case, the object is in the status of the borrower].*

G. *This supports [the position of] R. Yohanan.*

- H. For said R. Yohanan, “[As for] one who borrows a utensil from his friend before the eve of the festival, even though [the friend] did not give it to him until the festival day [itself], lo, it is in the status of the borrower.”

IV.1 A. [If he borrows it] on the festival day [itself], it is in the status of the one who lends it [M. Bes. 5:4B].

- B. *This is obvious [and goes without saying].*
- C. *No! It is necessary [to teach this rule] for the case of someone who borrows from him frequently.*
- D. *What might you have thought [had M. Bes. 5:4B not been explicitly taught]?*
- E. *[We treat this as a case] in which [the object] already was in [the borrower's] possession, [such that it is in his status, not that of the lender].*
- F. *So [M. Bes. 5:4B] informs us, [that even in the case of a frequent borrower, that which is borrowed on the festival itself is in the status of the lender].*
- G. *[The reason the status of the item is not controlled by the the individual who frequently borrows it is made explicit.] [Since the object was not taken prior to the festival, the owner] will certainly say, “Perhaps he found someone else [from whom to borrow] and went and borrowed from him.” [The lender does not consider the utensil set aside for the frequent borrower. That utensil therefore stays in the owner's own status.]*

V.1 A. And so too: A woman who borrowed from her friend [spice, water or salt for her dough — lo, they are in the status of the two of them] [M. Bes. 5:4C].

- B. *When R. Abba went [to the Land of Israel] he said, “May it be the will [of God] that I make a legal statement that is acceptable!”*
- C. *When he arrived he met R. Yohanan, R. Hanina b. Pappi and R. Zira — but some say [he met] R. Abbahu, R. Simeon b. Pazzi and R. Isaac the smith.*
- D. *Now they were sitting [in session] and saying, “Why [should borrowed water or salt be in the status of the two women, such that the dough be restricted to be taken only to an area where both of them can go]?”*
- E. *“[Rather] the water or salt should be deemed null in relationship to [the much greater quantity of] the dough!”*
- F. *[Abba responds by arguing that it would not be fair to consider the water and salt null.] Said to them R. Abba, [38B] “Lo, if one person's qab of wheat is mixed with ten qabs of wheat belonging to his friend, should [the friend] eat [the whole mixture] and be happy [at having gained the qab belonging to the other]?” [Certainly not! In the same way, the salt and water should not be ignored within the dough, even if they have little value.]*
- G. *They laughed at him.*
- H. *[Abba] said to them, “Have I taken away your cloaks [that is, done or said something absurd, such that you laugh]?”*
- I. *They laughed at him again.*
- J. *Said R. Hoshaia, “They acted correctly in laughing at him. [As we shall see, Abba's claim, E, is unacceptable. For while one kind mixed with the same kind indeed never is deemed null, F, in mixtures of different kinds — as in the case of*

water or salt in bread dough — the minority element *is* deemed null. The question of D-E therefore stands.]

- K. *“What is special about [a mixture of] wheat mixed with barley such that [Abba] did not refer to it?”*
- L. *“For that is a case of one kind mixed with a different kind, [which is comparable to the case of salt or water in bread dough].”*
- M. *“And in the case of one kind [mixed] with a different kind, [the minority element] is deemed null! [Abba’s example is therefore not to the point at all. For the rule for a mixture of wheat in wheat, which he cites, F, is different from the rule for other mixtures, such as water or salt in bread dough.]”*
- N. [N-P is irrelevant to the argument at hand. It concerns the claim that a mixture containing only one kind likewise is nullified.] *“[If you argue that, in a mixture] of wheat and wheat [the smaller amount] also should be nullified —*
- O. *[This question is subject to a Tannaite dispute (see b. Men. 22a)]: R. Judah does not deem it nullified.*
- P. *“Rabbis [however] deem it nullified.”*
- Q. [Abba’s explanation of M. **Bes. 5:4C** appears unacceptable. He argues that the salt or water should not be nullified. But Hoshaia has shown that such different kinds indeed are nullified. Safra now disagrees with Hoshaia and supports Abba’s position. He suggests that the water or salt in fact should not be nullified, just as M. **Bes. 5:4C** says.] *Said to him [i.e., to Hoshaia] R. Safra, “Moses! Have you spoken correctly?”*
- R. *“For did they [that is, the authorities at D-E] not hear this which R. Hiyya of Ctesifon said in the name of Rab: ‘One who picks stones from [the wheat on] the threshing floor of his friend is obligated to pay [in exchange for the stones] the value [they would have were they] wheat.’ [Had they not been taken, the stones would have been weighed with the wheat, and the owner would have received their value. The one who takes them therefore must compensate the owner.]”*
- S. *“Thus [it is clear that the individual must pay for the stones] because they lessen the weight [of the wheat].”*
- T. *“Here too [in the case of the water in the bread, removing it] would lessen the weight [of the dough].”* [Since the stones increase the weight of the wheat, they cannot be disregarded. Comparably, in the case of the water or salt in the dough, these borrowed items cannot be deemed null. Abba’s original explanation, F, was correct, such that the others should not have laughed at him.]
- U. [Abbayye rejects Safra’s reasoning, S-T, claiming that the case of the dough is not comparable to that of stones in wheat on the threshing floor.] *Abbayye said to him, “But does the master, [Safra], not distinguish between a case [such as that of the pebbles], in which restitution is being claimed, and one [such as that of the water or salt in dough], in which there is no claim for restitution?”* [The pebbles cannot be disregarded because the owner of the wheat claims their value. In the case of the dough, by contrast, no claim is made for the value of the water or salt. We therefore should deem the water or salt nullified. But this is not how M. **Bes. 5:4C** rules on the matter. The question of D-E stands. Abba’s response was not appropriate.]

- V. [Safra rejects Abbayye's claim, arguing that the absence of an owner's claim does not necessarily lead to something's being deemed null.] *[Safra] said to him, "In light of your reasoning [let us evaluate] that which R. Hisda said:*
- W. *"Meat from an improperly slaughtered animal, [which is forbidden for consumption], is nullified in properly slaughtered meat, since the properly slaughtered meat cannot take on the status of improperly slaughtered meat.*
- X. *"Properly slaughtered meat is not nullified in improperly slaughtered meat, because the improperly slaughtered meat can take on the status of properly slaughtered meat." [This is the case, for instance, if the improperly slaughtered meat putrefies. Then it no longer is deemed a food at all and, like properly slaughtered meat, does not impart cultic uncleanness (b. Men. 23a).]*
- Y. *"[In line with your reasoning at U, would you say that] here too, [W], if [the improperly slaughtered meat] has an owner [who wished to recover it], it would not be nullified?"*
- Z. *"And if you say that [indeed], here too [the presence of the owner prevents the item from being nullified],*
- AA. *"the contrary is taught on Tannaite authority:*
- BB. *"Said R. Yohanan b. Nuri, 'Abandoned articles [that one picks up] acquire their [permitted area of] Sabbath [travel]. [Such articles may be carried outside of the town, 2000 cubits in any direction.]*
- CC. *"Even though [such articles] have no owner, they are in the same status as ones that do have owners." [We thus see that the presence or absence of a claim by an owner does not affect the range of travel to which an object is permitted on a Sabbath or festival. Nor does it affect its being nullified, W-Y. The distinction Abbayye draws at U thus is unacceptable. As at T, we see that Abba, F, has correctly answered D-E's question. The water or salt is not nullified, because of its weight within the dough.]*
- DD. [Abbayye responds by clarifying the grounds on which the water or salt should be deemed nullified. The problem with M. **Bes. 5:4C**, raised at D-E, therefore stands.] *[Abbayye] said to him, "Can you compare a restriction [imposed for ritual purposes, such as that of Sabbath boundaries or improperly slaughtered meat], with a restriction imposed for monetary reasons?"*
- EE. *"A restriction [imposed for ritual purposes] is nullified. [This accounts for the rules at X and BB-CC. It also shows that the water or salt in the dough should be nullified, contrary to what M. **Bes. 5:4C** says. The problem raised by D-E therefore stands.]*
- FF. *"That which is restricted for monetary reasons is not nullified." [We see from EE that an Abba does not correctly explain M. **Bes. 5:4C**. The following, which is separate from the foregoing, goes ahead to explain directly the law in question.]*
- GG. *What then is the reason [for M. **Bes. 5:4C**'s rule, that the water, spices and salt are restricted to movement in areas both women can enter]?"*
- HH. Abbayye said, "It is a preventative measure, lest dough be made in partnership." [Each partner may wish to carry his share to his own Sabbath limits, even if these are different from those of the other individual. This is strictly forbidden. M. **Bes.**

5:4C's law makes clear that, in any case of such collaboration, the dough is restricted to the limits shared by all partners.]

- II. *Raba said, "Spices are used for seasoning, and whatever is used for seasoning is [by definition] not nullified."*
- JJ. [39A] R. Ashi said, "[The water, salt and spices are not nullified] because they are objects that, through other means, can become permitted.
- KK. "And [as for] anything that, through other means, may become permitted, even in a mixture of one part to two thousand, it is not nullified." [After the conclusion of the festival, the dough can be brought anywhere. Insofar as the limitation upon the dough in all events is not permanent, leniencies are not applied so as to nullify that restriction.]

VI.1 A. R. Judah declares exempt in the case of water, [for it is of no substance [M. Bes. 5:4D-E];

- B. *[How can Mishnah report that Judah believes] water is [exempt] but salt is not?*
- C. *For [to the contrary] it is taught on Tannaite authority:*
- D. R. Judah says, "Water and salt are nullified both in dough and in a cooked dish."
- E. *There is no contradiction [between A, which implies that salt is not nullified, and D, which says that it is].*
- F. This [rule, M. Bes. 5:4D-E, which considers salt to be a food of substance] refers to salt of Sodom.
- G. This [other rule, D, where Judah does not deem salt a food] refers to salt of Ostracine.
- H. *[We now turn to a new problem.] But [contrary to D] it is taught on Tannaite authority:*
- I. R. Judah says, "Water and salt are nullified in dough but not in a cooked dish,
- J. "because of the gravy." [Gravy is a food unto itself, composed, in part, of water and salt. When water and salt are made into such a commodity, they are not nullified. But this contradicts Judah's statement at D, where he says that water and salt are nullified even in a cooked dish.]
- K. *There is no contradiction! This [rule, D, which deems the water and salt null in a cooked dish] refers to [a dish in which the gravy is] thick. [Such gravy is not at all like the original water and salt put in the dish. The water and salt therefore is deemed null.] [By contrast] this [rule, I, which says that the water and salt are nullified in a cooked dish] refers to [a dish in which the gravy is] watery.*

M. Bes. 5:3 proposes that whoever owns or controls an object prior to the start of the Sabbath or festival determines the boundaries within which that object may be taken on the holy day. The four Talmudic discussions pertinent to that rule agree with its theory but indicate circumstances under which an object even will follow the status of the individual to whom it is given on the holy day itself. This occurs in cases in which, prior to the start of the festival or Sabbath, it already is clear that the object will be turned over to some particular person, units I:1, II:1-3. Unit II:2 presents a complication within this approach. What if, on a holy day, joint owners divide commonly owned goods? Now we must decide whether or not to hold that

the share each party receives is deemed retroactively to have been his prior to the start of the festival or Sabbath. Different authorities' views on this are discussed in detail in this unit.

Units II:1, IV:1, V:1, VI:1 discuss in turn each of M. Bes. 5:4's rules. III:1, IV:1 first, explain M. **Bes. 5:4A-B**'s rules for objects borrowed for use on the festival. The point is the same as is made above,. The borrower's explicit indication of his intention to take the object places that object in his status, even if the item is not actually delivered to him until the festival day itself. Unit V:1, next, discusses M. **Bes. 5:4C**'s rule for water and salt borrowed on a festival day and used in the preparation of dough. The ownership of the water and salt is taken into account because these things are essential components of the dough. Therefore these minimal amounts of food are not deemed null. Unit VI:1, finally, discusses an apparent contradiction within Judah's view. At M. **Bes. 5:4D-E** he holds that borrowed water can be ignored. Since he elsewhere holds that salt too is not a food of substance, the Talmud must explain why he does not apply that opinion at M. **Bes. 5:4D-E**.

5:5a

- A. A burning coal is in the status of its owners.
 - B. But the flame [may go] anywhere.
 - C. A burning coal belonging to the sanctuary is subject to the laws of sacrilege.
 - D. But its flame is neither available for common use nor subject to the laws of sacrilege [if, contrary to the law, it is put to secular use].
 - E. [On the Sabbath] he who takes out a burning coal to the public domain is liable.
 - F. [But if he takes out] a flame, he is exempt.
- I.1** A. *Our rabbis have taught on Tannaite authority* [T. Y.T. 4:7]:
- B. Five rules did they state concerning a burning coal:
 - C. (1) A burning coal is in the status of its owner, but the flame [may go] anywhere [M. **Bes. 5:5A-B**].
 - D. (2) A burning coal belonging to the sanctuary is subject to the laws of sacrilege. But a flame [belonging to the sanctuary] is neither available for common use nor subject to the laws of sacrilege [if it is put to common use] [M. **Bes. 5:5C-D**].
 - E. (3) A burning coal used in idol worship is prohibited, but a flame is permitted.
 - F. (4) He who takes out a burning coal to the public domain [on the Sabbath] is liable; [but if he takes out] a flame, he is exempt [M. **Bes. 5:5E-F**].
 - G. (5) He who is prohibited by vow from deriving benefit from his fellow is prohibited from using his burning coal but permitted to make use of a flame belonging to him.
 - H. [The Talmud now contrasts the rules at D and E.] What particular trait pertains to a flame used in idol worship, such that it is permitted [for use by Israelites, E]?

- I. *And what particular trait pertains to a flame belonging to the [Israelite] sanctuary, such that it is forbidden [for common use, M. Bes. 5:5D, cited above, D]?*
- J. *[In the case of] idol worship, which is repugnant, such that people keep away from it, the rabbis did not enact a preventative measure. [Since people anyway stay away from objects used in idol worship, rabbis did not legislate against use of the flame. They had no fear that, by using the flame, Israelites will come to use other, forbidden, implements of idol worship.]*
- K. *[But in the case of] the sanctuary, which is not repugnant, such that people do not keep away from it, the rabbis enacted a preventative measure. [Rabbis prevented people from using the flame to ensure that they would not come wrongly to use other objects that derive from the sanctuary and that should not be put to common purposes.]*

II.1 A. [On the Sabbath] he who takes a burning coal to the public domain is liable. [But if he takes out] a flame, he is exempt [M. Bes. 5:5E-F].

- B. *But [to the contrary] thus it is taught on Tannaite authority [T. Shab. 10:4 (Erfurt: 9: 4)]:*
- C. **[On the Sabbath] he who takes out a flame in any measure at all — lo, this one is liable.** [This contradicts M. Bes. 5:5F, which permits one to take out a flame on the Sabbath.]
- D. [Explaining why the rule at C deems the individual culpable] said R. Sheshet, “[T. Shab. 10:4 refers to a case] for instance in which he brought out [the flame] on a wood-chip.” [Sheshet’s point is that the individual is culpable for carrying the chip not the flame.]
- E. [D is unacceptable.] *[For, if D is the case] he should be liable on account of [carrying out] the chip!* [But there still is no reason to deem him culpable on account of the flame, contrary to what C says.]
- F. [Responding to the claim made at E:] *This is a case in which the chip does not comprise the [minimum] quantity [for which carrying out on the Sabbath normally is forbidden],*
- G. *as we have learned in the Mishnah [M. Shab. 9:5]:*
- H. **He who [on the Sabbath] takes out wood [is culpable only if it is enough] to [use as fuel for] cooking a small egg.** [In the case at C, the individual is not culpable for the small wood chip. He therefore must be culpable for the flame itself. Rashi: The point of C thus is that the individual is culpable for carrying out a flame if that flame is fueled by any piece of wood or other flammable substance (see below, I-O). The rule cited at A, by contrast, applies when the flame alone is brought out into public domain.]
- I. *[Abbaye gives a similar explanation for the rule at C.] Abbaye said, “It is for instance [a case] in which he had smeared a vessel with oil and brought a flame out in it.”*
- J. *[The criticism of E is repeated.] Then he should be culpable on account of [carrying out] the vessel!*
- K. *[The case] concerns [not a vessel but] a potsherd!*
- L. *Then he should be culpable on account of [carrying out] the potsherd!*

- M. *It is [a case] in which [the sherd] is smaller than [the minimum] size [that renders the individual culpable],*
- N. *as we have learned in the Mishnah [M. Shab. 8:7]:*
- O. **“[On the Sabbath one is culpable for bringing out] a potsherd big enough to place between two boards” — the words of R. Judah.** [Again we see that C applies when the flame is carried out on a fuel source. The rule cited at A, by contrast, applies when no fuel is carried out into public domain, as P-S now explains.]
- P. *Rather [as for] that which is taught on Tannaite authority [M. Bes. 5:5F, cited above, A]:*
- Q. **One who brings out a flame is exempt —**
- R. *under what circumstances can this [law apply]?*
- S. [It is a case] for instance, in which he holds out [the object that is burning, so that the flame, but not the object itself, enters] the public domain.

Unit I:1 cites the Tosefta and resolves an apparent discrepancy between M. Bes. 5:5D's law, which prohibits common use of a flame belonging to the Israelite sanctuary, and T. Y.T. 4:7, which permits use of a flame used in idol worship. The Talmud explains that, by law, use of the flame from the sanctuary should be permitted. Rabbis declared it forbidden in order to prevent people from becoming accustomed to using for secular purposes objects belonging to the Temple. Unit II:1 points out a contradiction between M. Bes. 5:5E-F, which permits taking a flame into public domain on the Sabbath, and T. Shab. 10:4, which prohibits that same action. The Talmud resolves the contradiction by indicating that carrying a burning object into public domain is forbidden. The individual is not culpable, however, if, while standing inside his own private domain, he makes a flame extend into the public area.

5:5b

- G. **A cistern belonging to an individual — [its water] is in the status of that individual.**
- H. **But if it belongs to the residents of that town — [its water] is in the status of the residents of that town.**
- I. **And one belonging to those who came up from Babylonia is in the status of the person who draws water from it.**
- I.1 A. *Raba pointed out to R. Nahman a contradiction:*
- B. *“We have learned in the Mishnah [M. Bes. 5:5G]:*
- C. **“A cistern belonging to an individual — [its water] is in the status of that individual.**
- D. *“But [the following] contradicts this [T. Y.T. 4:8]:*
- E. **“Streams and springs that flow out — lo, they are in the status of whomever [takes their water].”** [Contrary to M. Bes. 5:5G, this rule implies that, even in the case of a privately owned spring or stream, the water is in the status of whomever draws it.]

- F. *[Resolving the contradiction, Nahman] said to him [i.e., to Raba], “Here [in the rule of M. Bes. 5:5G], with what [sort of water] are we dealing?”*
- G. *“With that which is gathered [in a cistern].” [Gathered water is deemed to have the status of the one who owns it. This is not the case with flowing water, which takes on the status of whomever draws it on the festival.]*
- H. *And the same point was made on Amoraic authority:*
- I. Said R. Hiyya b. Abin said Samuel, “[M. Bes. 5:5G deals] with gathered [water].”

II.1 A. And [a cistern] belonging to those who came up from Babylonia is in the status of the person who draws from it [M. Bes. 5:5I]:

- B. *It is taught on Amoraic authority:*
- C. *[If] one draws [water from such a cistern] and gives it to a friend, [in whose status is the water]?*
- D. R. Nahman said, “It is in the status of the one for whom it was drawn.”
- E. R. Sheshet said, “It is in the status of the one who draws it.”
- F. *Concerning what do they differ?*
- G. *One authority [that is, Sheshet] holds that the cistern [belonging to those who came up from Babylonia] is in the status of abandoned property. [An agent cannot acquire abandoned property for a different person. The water therefore belongs to the one who draws it and, accordingly, is in his status.]*
- H. *But the other authority [that is, Nahman] reasons that the cistern is commonly owned [by all Israelites]. [The one who draws the water does so as an agent for the other, who, like all Israelites, is an owner of the cistern. The water is in the status of the person for whom it was drawn.]*
- I. *[Raba now argues that what belonged to those who came up from Babylonia is indeed in the status of ownerless property, contrary to what Nahman says. Sheshet therefore is correct. The water is in the status of the one who draws it.] Responded Raba to R. Nahman, “[If someone says], ‘Lo, I am herem [that is, a forbidden thing] to you’ — the one against whom the vow is made is forbidden [from benefitting from the vower or from any of his possessions].*
- J. **[39B]** *“[If he said], ‘Lo, you are herem to me’ — the one who makes the vow is forbidden [from benefitting from the other individual or from any of his property].*
- K. *“[And if he said], ‘I am [herem] to you and you are [herem] to me’ — the two of them are forbidden [from benefitting in any way] from each other.*
- L. *“And they are permitted to use that which belonged to those who came up from Babylonia,*
- M. *“but are forbidden from using [things jointly owned by citizens of their] same city.*
- N. *“Now these are the things that belonged to those who came up from Babylonia, [referred to at L]: the Temple-mount, precincts, courts and cisterns in the middle of the road.*
- O. *“And these [are things that belong] to [the citizens of] the city, [referred to at M]: the town-square, the synagogue and the bath house. [The point is made by the contrast between L and M. Since each has a share in all that belongs to the city, neither may use such things. This would constitute benefitting from the property of the other. That which belongs to those who came up from Babylonia, including*

cisterns (N), by contrast, is ownerless property. Since neither has a share in such objects, either can make use of them without benefitting from the other. Nahman's view, D+H, therefore is unacceptable. It depends upon the claim that the cisterns in question are common property. But as Raba now has shown, they are not.]

- P. [Raba explains his claim, along the lines just indicated.] *“Now if you should claim [contrary to what is explained at O] that a cistern [belonging to those who came up from Babylonia] is jointly owned, why would [its water] be permitted [for use by the parties subject to the vow not to benefit from each other's possessions, K]?”*
- Q. *“For [indicating that, in such a circumstance, joint owners may not use the commonly held property], thus we have learned in the Mishnah [M. Ned. 5:1]:*
- R. **“Joint owners who vowed not to benefit from each other are forbidden from entering a [jointly owned] courtyard [to make use of the cistern there].”** [Since M. Ned. 5:1 seems to make clear that joint owners sworn not to benefit from each other may not make use of a commonly owned cistern, the point of L+O must be as Raba has stated: The cistern belonging to those who came up from Babylonia is deemed ownerless, not jointly owned by all Israelites. Again, this supports Raba's contention, I, that Nahman's view, which holds that the cistern is commonly owned by all Israelites, D+H, is unacceptable.]
- S. [A response Nahman can offer is suggested. Nahman can argue that the facts of the case cited at R do not prove that joint owners sworn not to benefit from each other may not make any use of a commonly owned cistern. They may in fact both draw water from it. This means that Raba's contention, that the cistern belonging to those who came up from Babylonia is considered abandoned property, is unproven.] [Nahman can respond]: *“[The partners who vowed not to benefit from each other] indeed [are forbidden from] bathing [in the commonly owned cistern]. [RH: In bathing one makes use of all of the water in the cistern, including that which belongs to the partner.]*
- T. *“But here [in the case of K+L, concerning use of the cistern belonging to those who came up from Babylonia], with what are we dealing?”*
- U. *“[The individuals are permitted] to draw [water from the cistern]!”*
- V. *“[Drawing is permitted even in the case of a commonly owned cistern, since] this individual draws his own [share of water, without taking anything that belongs to the partner],*
- W. *“and this [other] individual [likewise] draws from his own [share, without taking water that belongs to his partner].”* [Nahman thus can argue that, contrary to Raba's claim, even if cisterns belonging to those who came up from Babylonia are deemed jointly owned by all Israelites, still, individuals sworn not to benefit from each other can make use of those cisterns. Nahman's original contention, D+H, that the cisterns in question are common property, remains unshaken.]
- X. [The argument at S-W depends upon the principle of retrospective designation, that is, the claim that the water each partner draws comprises the share he personally owned all along. The following, however, claims that Nahman himself does not accept the principle of retrospective designation. He would not suggest the argument given in his name at S-W. The implication is that he must agree with Raba's evaluation of matters, P-R, so as to recognize that his own position, D+H,

is unacceptable.] *But does R. Nahman accept the principle of retrospective designation?*

Y. *But [to the contrary] we have learned in the Mishnah [M. Sheq. 1:7, M. Hul. 1:7, M. Bekh. 1:7]:*

Z. [The following case depends upon a complex of facts, explained clearly by Ginsberg, p. 198, note 11, and p. 199, note 1: “Partners are exempt from cattle-tithe (cf., Bek. 56b); brothers, on the other hand, who have come into the inheritance of their father, are liable to tithe those cattle that were born when their goods were still undivided.” “Every Israelite had to give half a *sheqel* annually to the Temple for the communal sacrifices; this was augmented by an agio, i.e., a kind of premium or surcharge to cover possible deficiency in the value of the half *sheqel*, since the value of coins depended on their weight. If two partners combine to pay a whole *sheqel*, they still each have to pay the extra agio. On the other hand, a father can give a whole *sheqel* for his two sons without any extra agio. If two brothers have come into the inheritance of their father, they are regarded as brothers, i.e., as successors of a property belonging to one individual, so that they would be liable for cattle-tithe and exempt from the agio, as their father would have been. If they divide the inheritance and afterwards become partners, they are regarded as partners both in respect of the cattle-tithe, [which they will not have to pay], and the agio, [which they will have to pay].” **[As for] brothers who are also partners [who inherited their father’s estate] —**

AA. **When [they have divided the goods such that] they are liable for the agio [required when each pays his individual half sheqel] they are exempt from [paying a] tithe of the cattle [that were born when the inheritance was as yet undivided].** [At this point, the brothers are deemed partners. And, as Ginsberg explained, partners do not pay tithe of cattle.]

BB. **But when [they have not yet divided the inheritance, such that, as brothers], they are liable to tithe of cattle, they are exempt from the agio.** [In this case, they are deemed brothers and successors to the father’s estate. Just as did the father, they pay together a full *sheqel*, which does not require payment of the surcharge that, in the case of individuals, assures that the Temple receives a full half *sheqel* in value.]

CC. [The important implication for the present context derives from AA: By dividing the estate, the brothers no longer are subject to tithe of cattle. This means that they no longer are deemed heirs and successors in the fathers estate, but only are business partners.] But said R. Anan, “They taught [that this is the case, that the brothers are no longer treated as heirs], only if [they dealt with each other in a purely businesslike manner], assigning [to each brother] goats for [their value in] lambs and lambs for [their value in] goats.

DD. “But if they assigned goats for goats and lambs for lambs [without taking into account that the one who took only goats received a much greater value] —

EE. “[in such a circumstance, in which normal business practice is not followed, I] say, ‘This is the portion that was due to him [as an inheritance] from the beginning.’” [Anan thus applies the principle of retrospective designation. Unless we have good evidence to the contrary, we deem the share taken by each brother to be that

which his father assigned him as a portion of the inheritance. That share is subject to title of cattle.]

- FF. [We now find that Nahman, by contrast, in no event applies the principle of retrospective designation.] But R. Nahman says, “Even if they divided goats for goats and lambs for lambs, I do not say, ‘This is the portion that was due him [as his inheritance] from the beginning.’” [Nahman still deems them business partners and applies the rule of AA, in effect rejecting the principle of retrospective designation. It thus is clear that Nahman cannot accept the explanation given at S-W, which depends upon the principle of retrospective designation. He should, therefore, accept Raba’s argument, that the cistern belonging to those who came up from Babylonia is not commonly owned. Nahman therefore cannot sustain his position, D+H.]
- GG. [The preceding has depended upon the assumption that Nahman’s original premise, D+H, cannot stand should it be proven that cisterns belonging to those who came up from Babylonia are deemed ownerless. The end of this discussion, by contrast, accepts the fact that such cisterns are deemed ownerless. But it argues that even so, Nahman can legitimately claim that the individual who draws water can do so on behalf of the person to whom he intends to give that water. The water therefore is in the status of that other person, just as Nahman originally claimed, D.] *Rather, all agree that a cistern [belonging to those who came up from Babylonia] is in the status of abandoned property!*
- HH. *But here [at D vs. E] the dispute concerns [whether or not an individual may] pick up an abandoned article for his friend.*
- II. *One authority [that is, Nahman] reasons that [the person for whom the article is picked up has] acquired [valid title to it]. [The water was validly drawn for the other person. It follows his status, not that of the one who draws it.]*
- JJ. *But the other authority [that is, Sheshet] reasons that [the person for whom the article was picked up has] not acquired [title to it]. [The object, rather, belongs to whomever picks it up. In the case of the cistern, accordingly, the water is in the status of the one who draws (and thereby owns) it. It is not in the status of the person to whom it is given.]*

By citing a superficially contradictory passage, unit I:1 indicates the point of M. **Bes. 5:5G**. Water in a cistern is in the status of the cistern’s owner. This is because the individual owned the specific water prior to the start of the holy day. This does not apply in the case of a stream, the water of which is constantly changing and which therefore is in the status of whomever draws it. The facts illustrated in unit I provide the basis for the secondary case described in unit II:1. Since water in cisterns belonging to those who came up from Babylonia is not owned by some particular individual, then, just as unit I:1 suggests, that water should be in the status of whomever draws it. What happens if that person draws the water for someone else? Now we must determine whether the cistern is common property of all Israelites, such that the one who drew the water did so as an agent, or abandoned property, and the possession of whomever first takes it. Determination that the wells indeed are abandoned property introduces a further problem, unanswered in the materials before us. Nahman holds that abandoned

property can be acquired through an agent, such that the water is in the status of the one for whom it is drawn. Sheshet, by contrast, holds that abandoned property only is acquired by the one who picks it up. This means that, no matter what subsequently is done with it, the water follows the status of the one who draws it. The unit thus explains the dispute between Sheshet and Nahman, with which it opens, but does not, finally, indicate what is the decided law.

5:6-7A-C

5:6

- A. **He whose pieces of produce were located in another town,**
- B. **and the residents of that town prepared an erub so as to bring him some of his produce —**
- C. **[nonetheless] they should not bring it to him, [since the produce is in his status].**
- D. **But if he made the erub [in his own behalf],**
- E. **his pieces of produce are in his own status [and they may be brought to him].**

5:7A-C

- A. **[40a] He who invited guests to his house —**
- B. **they should not take away portions of food in their hand, [since as to location, the food shares in the householder's status],**
- C. **unless he had given them possession of their portions on the eve of the festival day, [in which case the food is in their status].**

I.1 A. *It is taught on Amoraic authority:*

- B. [As for] one who deposits his produce with his friend [over a Sabbath or festival] —
- C. Said Rab, “[It is in the status] of the one with whom it is deposited.”
- D. But Samuel said, “[It is in the status] of the one who deposits it.”
- E. *Should one say that [in taking these particular views] Rab and Samuel follow their own perspectives [expressed elsewhere]?*
- F. *For we have learned in the Mishnah [M. B.Q. 5:3]:*
- G. [The beginning of the cited passage states that if a person brings his ox into someone else's courtyard without permission, he is liable for any damage it does to the property of the courtyard's owner.] **[But] if he brought [the ox] with permission, the courtyard's owner is himself liable.**
- H. **Rabbi says, “In any event, the [courtyard's owner, the householder], is not liable, unless the householder takes it upon himself to watch over [the other individual's ox].”**
- I. Now, said R. Huna said Rab, “The decided law accords with [the opinion of] sages, [cited at G]. [Sages, G, say that the trustee is responsible for the ox. This is the same perspective that Rab has at B+C, that the produce is in the status of the one with whom it is deposited.]
- J. But Samuel said, “The decided law accords with [the opinion of] Rabbi, [H]. [Rabbi holds that the owner normally remains responsible for the ox, even while it

is in someone else's yard. This is the same view Samuel has above, B+D, where he holds that the produce is in the status of the one who deposits it, not of the trustee.]

- K. [The claim of E-J, that Samuel's perspective, D, is comparable to his view at J, and that Rab's opinion, C, accords with his view at I, is challenged.] *Should one [really] reason [as does E-J] that Rab, [C], followed [the opinion of] sages, [G], and that Samuel, [B], followed [the perspective of] Rabbi, [H]?*
- L. *[For, to the contrary] Rab can say to you: "I even accord with [the opinion of] Rabbi!*
- M. *"[For] there [in the case of the ox in the neighbor's courtyard], Rabbi stated [his opinion, that the courtyard's owner is responsible for damage done by the ox], only for a case in which there is no explicit [declaration on the part of the courtyard's owner], such that he did not accept the responsibility of looking after [the ox].*
- N. *"But here [in the case at B, the one who takes the fruit] accepts the responsibility to watch over it." [In such a circumstance, even Rabbi will hold that the produce is in the status of the one with whom it is deposited. Rab thus accords with Rabbi's opinion.]*
- O. *And Samuel [can] say [to you], "I even accord with [the opinion of] sages!*
- P. *"There [in the case of the ox in the neighbor's courtyard], sages stated their opinion only for a case in which it is desirable for the man [who owns the ox] to place that ox in the care of the owner of the courtyard, so that, if it does damage, [the owner] will not be liable.*
- Q. *"But here [in the case at B], is it desirable [to the owner] to leave produce in the care of his friend [over the holy day, such that the produce is prohibited to him]?" [In such a case, the owner clearly does not want the produce to be in the status of the one with whom it is deposited. Even sages, G, therefore will agree that, in such a case, the produce remains in the status of the owner, not that of the trustee. This is the same perspective that Samuel has at D.]*
- R. [The preceding discussion completed, the Talmud argues that Samuel must be correct. The produce remains in the status of its owner.] *We have learned in the Mishnah [M. Bes. 5:6D-E]:*
- S. **But if [the one who had deposited his produce elsewhere] made the erub [in his own behalf], the pieces of produce are in his own status [such that the owner may take them].**
- T. *Now, if you say [as does Rab, C] that [the produce is in the status of] the one with whom it is deposited,*
- U. *when [the owner] himself sets up an erub, what effect can it have? [If the produce is in the status of the one with whom it is deposited, the owner's erub will not affect that produce and will not allow him to take it on the holy day, contrary to M. Bes. 5:6D-E. It therefore appears clear that, as Samuel said, D, the produce remains in the status of the owner.]*
- V. [T-V's perspective is not the only way to explain M. Bes. 5:6D-E. Perhaps, as Rab, C, said, the produce normally is in the status of the one with whom it is deposited. M. Bes. 5:6D-E deals with a special case, in which the owner has

taken special steps to assure that the produce he leaves elsewhere remains in his own status.] *Said R. Huna, "They say in the academy of Rab: '[M. Bes. 5:6D-E deals with a case], for instance, in which [the one who has the produce over the holy day] assigned [the owner] a corner [of the dwelling in which the produce is being kept]. [In this circumstance, the owner of the produce retains control over it, and the rule of M. Bes. 5:6D-E applies. Otherwise, just as Rab said, C, the produce would be in the status of the one with whom it is deposited. It remains unclear whether Samuel, D, or Rab, C, is correct.]*

W. *Come and learn [another proof that Samuel is correct, D, that food follows the status of its owner, not the trustee] [M. Bes. 5:7A-C]:*

X. **He who invited guests to his house —**

Y. **they should not take away portions of food in their hand,**

Z. **unless he had given them possession of their portions on the eve of the festival day.**

AA. *Now if you say [as does Rab, C] that [the food] is in the status of the one with whom it is deposited —*

BB. *even if [prior to the festival the guests] had taken possession through another person [in the host's home, who acted as their agent],*

CC. *what effect would that have?* [The food would have the status of the one with whom it is deposited, such that the rule of M. Bes. 5:7C, cited at Z, could not apply. We again see, therefore, that food has the status of its owner, not of the one with whom it is deposited.]

DD. [Rab can respond just as at V. This is a special case in which the food, stored at another person's house, remains in the status of its owner.] *Here too, since [the guests] took possession [of the food] through another, it is as though he set aside [for the guests] a corner [of the house]. [In this circumstance, the food deposited with a trustee remains in the status of the owner. Otherwise, just as Rab says, C, the food would have the status of the trustee.]*

EE. *And if you wish I can offer [a different explanation of the case of M. Bes. 5:7C, supporting Rab's view, C]:*

FF. *Taking possession is different* [from a case in which food was left with a trustee]. [The whole point of the individual's taking possession, M. Bes. 5:7D-E, was to allow him to carry away his portion on the holy day. In this particular instance we therefore do not apply the rule that the item follows the status of the one with whom it is deposited. But as Rab says, C, that rule is applied in other circumstances, such as in the case described at B.]

I.2. A. [The issue is as in the preceding: On a holy day, does an object have the status of the individual who owns it or of the person with whom it is stored?] *R. Hana b. Hanilai hung meat [given to him by butchers in a town to which he had come to lecture on a holy day] on a door-bolt [of the home of his host].*

B. *He came before R. Huna [to ask whether or not, on the holy day itself, he may take the meat within his own area of permitted travel].*

C. *[Huna] said to him, "If you hung [the meat yourself], go and take it!*

D. *"But if they hung [it for you], go [and return to your own home on the holy day], but do not take [the meat with you, since it is in the status of the host]."*

- E. *[The Talmud questions whether or not C is acceptable.] Now, [even] if [Hana] himself hung the meat, may he [indeed] take it?*
- F. *For [contrary to what his opinion would indicate] R. Huna was a student of Rab,*
- G. *and said Rab, “[An object] follows the status of the one with whom it is deposited”! [In all events the meat therefore should follow the status of Hana’s host, with whom it was deposited.]*
- H. *[The contradiction between Huna’s opinion, C, and that of his teacher, Rab, G, is resolved.] [The case of food hung on] a door-bolt is different,*
- I. *for this is like [a case in which] one assigned [to the food’s owner] a corner, [such that he retains control over his food]. [This accounts for the particular ruling at C. In other cases, however, the law follows the position of Rab, unit I.C.]*
- J. *[Huna’s statement at D is challenged.] Said R. Hillel to R. Ashi, “And if they hung [the meat, can Hana really] not take [it with him on a festival day]?”*
- K. *“But [to the contrary] thus said Samuel, ‘An ox belonging to a cattle dealer, lo, it is in the status of anyone [who takes it on the festival day]!’” [The meat, too, should be in the status of anyone, since the butchers from whom it derived knew that, on the festival, it would be given to some other person. Ashi does not here respond.]*
- L. *[Huna’s statement, D, again is challenged, just as at J.] Said Rabina to R. Ashi, “And if they hung [the meat, can Hana really] not take [it with him on the festival day]?”*
- M. *“But [to the contrary] thus said Rabbah b. bar Hana said R. Yohanan, ‘The decided law accords with [the opinion of] R. Dosa, [that if a domestic animal purchased on the eve of the festival is not delivered until the festival itself, it still follows the status of the buyer, not the seller].’” [Just as in the case described by Dosa, so in that concerning Hana, meat purchased before the festival but delivered on the holy day itself should be in the status of the buyer, contrary to what Huna’s ruling, D, states.]*
- N. *[The same question raised at J-K and L-M is phrased again, this time in Ashi’s name.] Said R. Ashi to R. Kahana, “And if they hung [the meat, can Hana really] not take [it with him on the festival day]?”*
- O. *But [indicating the contrary] thus we have learned in the Mishnah [M. Bes. 5:3A]:*
- P. **“Domestic cattle and utensils are in the status of their owner [himself and, on the Sabbath or festival, are permitted for travel within the same limits imposed upon him].”** *[The meat thus should follow Hana’s status, no matter who hung it up. This is contrary to what Huna, D, ruled.]*
- Q. *[Kahana responds]: “[The challenge suggested to Huna’s ruling would be correct] except that a case involving R. Hana b. Hanilai is different.*
- R. *“For he was a great man and deeply involved in his study.*
- S. *“[Therefore] thus [Huna] instructed him: ‘If you hung [the meat yourself], then you have [your own] identification mark on it, and [as a result the meat] is never out of your mind. [In this circumstance], go and take [the meat with you].*

- T. *“But if they hung [the meat] for you, [having no way of identifying that meat], you have let it out of your mind such that [as in the case of any meat hidden from sight and not identified by a mark, it is forbidden to you and] you may not take it [with you].”*

In unit I:1 Rab and Samuel dispute what is taken for granted at M. Bes. 5:3, 5:6 and 5:7, that food deposited with a trustee over a holy day retains the status of its owner. To resolve the contradiction between M. Bes. and Rab's view, which claims that the food has the status of the trustee, the Talmud argues that Mishnah's perspective applies only in a narrowly defined case. This is when the food's owner has maintained control of his food by having an area within the trustee's house assigned to him. While the Talmud's conclusion is not expected on the basis of previous materials, the issue discussed here is, of course, in line with the problem covered in the preceding units. This concerns the status of food or objects lent by one person to another on a holy day. Unit I:2 concerns the same issue as unit I. Now the problem is phrased for the case of a particular rabbinic authority who visits a neighboring town on a festival day.

5:7b

- D. **They do not give drink to field-animals or slaughter them [on a festival day, since they are not deemed set aside as food].**
- E. **But they give drink to and slaughter household-animals, [which are deemed set aside for festival use].**
- F. **What are household-animals?**
- G. **Those that spend the night in town.**
- H. **Field-animals?**
- I. **Those that spend the night in [distant] pastures.**
- I.1** A. *Why should [M. Bes. 5:7E] say: [They do not give] drink [to field-animals] or slaughter [them]? [The fact of the matter is that, on a festival day, one may water such animals. Contrary to what M. Bes. 5:7E seems to say, only slaughtering them is forbidden.]*
- B. *[In saying “give drink and slaughter”] the text teaches us an incidental matter,*
- C. *that one should give his animal drink and afterwards slaughter it,*
- D. *in order to [prevent] the skin from adhering [to the flesh]. [Watering the animal before slaughtering it, renders the skin more easily flayed.]*
- I.2.** A. **Our rabbis have taught on Tannaite authority [T. Y.T. 4:11, with variations]:**
- B. **What are the field-animals and what are the household-animals?**
- C. **Field-animals are those that go out to pasture at Passover and come back in the first quarter, [that is, in the rainy season].**
- D. **And what are the household-animals? Those that go out and pasture outside the Sabbath boundary but come back and spend the night within the Sabbath boundary.**
- E. **Rabbi says, “Both of these [types of animals, described at C and D], are household-animals.**

- F. **“Rather, what are field-animals? Those that go out and graze in [the distant] pastures and do not return to town either in the sunny season or the rainy season.”**
- G. [Field animals, M. **Bes. 5:7E**, may not be slaughtered on a festival day, since they are not deemed set aside as food. Insofar as Rabbi, E, troubles to define field-animals, we must assume that he agrees with the rule of M. **Bes. 5:7E**, holding that on the festival one only may use that which, prior to the holy day, was set aside for festival use. The notion that Rabbi actually holds this position now is challenged.] *But does Rabbi indeed hold that what is to be used on the festival must be set aside and designated prior to the festival?*
- H. *For [indicating that he does not] surely R. Simeon b. Rabbi asked Rabbi, “According to R. Simeon, what [is the law whether or not on a festival day one may eat] burst figs?*
- I. [And, indicating that Rabbi does not require prior designation, Rabbi] said to [Simeon b. Rabbi], “R. Simeon requires that food be set aside for festival use **[40B]** only in the case of dried figs and raisins.” [Rashi: These foods were edible but now have been set aside for drying. The owner himself purposely imposed upon them the status of a non-edible. If he wishes to make them available for festival use, accordingly, prior to the holy day, he must indicate his intention to eat them. But in most other cases, Simeon does not require designation of food for festival use. The assumption is that Rabbi reports this perspective because it is his own opinion, not simply that of Simeon.]
- J. [The apparent contradiction between Rabbi’s opinion at F, in which he requires prior designation, and his understanding of Simeon’s position, I, which states that in most cases no designation is required, is resolved.] *If you wish I can say that these [field-animals] too are comparable to dried figs and raisins, [such that even Rabbi holds that they require prior designation if they are to be used on a festival day].* [Like the figs and raisins, the animals should automatically be ready and available as food. But they have been removed from the person’s home, such that they no longer are deemed ready for consumption. They are a special case in which designation is required.]
- K. *And if you wish I can reason that [Rabbi] made his statement, [I], according to the opinion of R. Simeon, even though this is not his own [view].* [Unlike Simeon, whose opinion he reports, I, Rabbi always requires food to be set aside for use on a festival day, just as F indicates.]
- L. *And if you wish I can explain that [Rabbi does not require prior designation, as I indicates, but that he] reported the law [at F] according to the view of rabbis, [C-D].*
- M. *[That is: at E-F Rabbi said to the authorities who stand behind C-D], “In my opinion food to be used on a holy day need not be set aside prior to the start of that day.*
- N. *“But even you, [who require prior setting aside], should agree with me that [animals that] go out to pasture at Passover and come back in the first quarter [= C] are household-animals!”*
- O. *But the rabbis [of C-D] said to him, “No! These are field-animals!”*

Unit I:1 explains the point of M. **Bes. 5:7D**. Unit I:2 cites the Tosefta and argues that, contrary to first appearances, the opinion of Rabbi found there is consistent with Rabbi's view as recorded elsewhere.