

BAVLI BABA MESIA

CHAPTER FIVE

FOLIOS 60B-75B

5:1

- A. What is interest, and what is increase [which is tantamount to taking interest]?
- B. What is interest?
- C. He who lends a sela [which is four denars] for [a return of] five denars,
- D. two seahs of wheat for [a return of] three — because he bites [off too much].
- E. And what is increase?
- F. He who increases [profits] [in commerce] in kind.
- G. How so?
- H. [If] one purchases from another wheat at a price of a golden denar [25 denars] for a kor, which [was then] the prevailing price, and [then wheat] went up to thirty denars.
- I. [If] he said to him, “Give me my wheat, for I want to sell it and buy wine with the proceeds”-
- J. [and] he said to him, “Lo, your wheat is reckoned against me for thirty denars, and lo, you have [a claim of] wine on me” —
- K. but he has no wine.

- I.1** A. *Since, as a matter of fact, the Tannaite authority of our Mishnah neglects the matter of interest, which is the Torah's [namely, usury on a transaction of a loan] and defines it only in its rabbinical sense [the illustration of increase in the Mishnah involves a rabbinical extension of the law (Freedman)], it follows that in the law of the Torah, interest and increase are essentially the same thing. But Scripture, for its part, speaks of interest in the context of money, and increase in the context of food! [So why not differentiate them here?]*
- B. *But do you imagine that there can be interest without increase or increase without interest?*
 - C. *What might be a case of interest without increase? If one lent another a hundred for a hundred and twenty, when to begin with the dankah-coin was worth a hundred, but in the end it was worth a hundred and twenty [when the loan was repaid], so there is interest [a bite into the borrower], for the lender bites the*

borrower by taking from him something when the lender never gave, but there is no increase to the lender, for there is no obvious profit, since he lent him a danka and got back a danka-coin! [So there really can be interest without increase!]

- D. *[Not at all!] In the end, if we follow the condition of matters as they existed at the outset of the transaction, then lo, there is both interest and increase, and if you follow the condition of matters at the end of the transaction [when the debt is repaid], there is neither interest nor increase!*
- E. *And further, what might be a case of increase without interest? If he lent a hundred for a hundred at the outset of the transaction, with a hundred kor of wheat being worth a danka at the outset but is now worth a fifth of a denar, then, if we follow the state of affairs as they prevailed at the outset of the transaction, there is no interest nor increase, and if we follow the state of affairs at the end of the transaction, then lo, there is both interest and increase!*
- F. *Rather, said Raba, "You do not find interest without increase or increase without interest, and Scripture's purpose in distinguishing the one from the other is to indicate that one can violate two negative commandments [if he takes interest]."*

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

- B. *"You shall not give him any money upon interest (neshekh) nor lend him your food for increase (marbit)" (Lev. 25:37) —*
- C. *I know only that interest pertains to liquid capital, and increase to produce. How do I know that the prohibition of interest pertains to produce?*
- D. *Scripture states, "You shall not lend upon usury to your brother interest of money, interest of food" (Deu. 23:20).*
- E. *And how do we know that the prohibition of increase pertains to liquid capital?*
- F. *Scripture states, "'interest of money" (Deu. 23:20) [and that goes over ground already covered at Lev. 25:37]. [61A] If the matter cannot pertain to interest in money, for which it is redundant on account of the verse, "You shall not give him any money upon interest," then interpret it to speak of the prohibition of increase in money.*
- G. *Now I know only that the prohibition applies to the debtor [who is not to borrow at interest]. How do I know that it pertains do the creditor as well [who is not to lend at interest]?*
- H. *The matter of interest is stated with regard to the debtor and also with regard to the creditor [at Lev. 25:37). Just as with regard to interest with regard to the borrower, we do not distinguish between money and produce, interest and increase, so also with respect to interest when it speaks of the creditor, there should be no distinction between money and produce, interest or increase.*
- I. *And how do we know that the law applies to everything?*
- J. *"the interest of anything that is lent upon usury" (Deu. 23:20).*

I.3. A. *Rabina said, "It is not necessary to derive proof from verses of Scripture to prohibit either interest in produce or increase with liquid capital.*

- B. *"Now, if Scripture had actually said something like, 'your money you will not give to him at interest, and your food at increase,' then matters would have been as you have maintained. But since it is written, 'your money you shall not give*

him at interest and upon increase you shall not lend your produce' (Deu. 23:20), *this is how to read the passage*: 'you are not to give your money to him at interest or at increase, and at interest or at increase you are not to give him your produce.'

- C. *But does the Tannaite authority cited above not say, "it is said...it is said..."?* [Freedman: since the Tannaite authority deduces the applicability to the lender by appeal to a *gezerah shaveh*, how can Rabina maintain that it is inherent in the verse itself?]
- D. "This is the sense of what he said: if the verse were not stated in the way that it is, I should have been able to invoke the argument of the *gezerah shaveh* [involving "it is said...it is said..."]. But not that the verse reads as it does, it is not necessary to invoke that argument."
- E. Then for what use is the argument of "it is said...it is said..."?
- F. It pertains to the prohibition of interest "of anything for which usury may be given," which is not made explicit in connection with the lender [and the argument teachers that the lender violates these commandments whenever he lends upon usury].
- I.4.** A. *Said Raba, "Why did the All-Merciful make explicit reference to the prohibition against increase, robbery, and overreaching [since all three involve taking something to which one is not entitled. Prohibiting one would have yielded the same rule for all three.]"*
- B. [The reply:] *As a matter of fact, all three had to be stated explicitly. For had the All-Merciful stated the prohibition against increase, it would have been interpreted as required by reason of the fresh point that was involved, specifically: even the lender has been forbidden by the All-Merciful to get involved in a transaction of increase. And had the All-Merciful stated the prohibition against robbery, I should have interpreted it as based upon the fact that it involves violence, while overreaching, I might say, is not prohibited. And if the All-Merciful had stated the prohibition of overreaching, here too I should have interpreted it as a special case, since the defrauded party does not know of his loss, so as to be able to forgive it [but in the case of robbery and usury, the victim's forgiveness may wipe it out (Freedman)].*
- C. "True enough, one of the items cannot have been deduced from any other of the items. But can one item not be derived from the other two [so that all three still need not have been specified by Scripture]?"
- D. [The reply:] *Well, which of the two [can have yielded the third]? If the All-Merciful had not made explicit the prohibition against increase, so that it might have been derived from the other two, one might have argued that the distinguishing trait of the other two is that these are not accomplished with the knowledge and consent of the victim [robbery and fraud by definition violating the victim's wishes], but will you say the same rule applies to the matter of increase, which involves the knowledge and consent of the victim? And if the All-Merciful had not made explicit the prohibition of overreaching, so that it might have been derived from the other two, [one might have argued to the contrary that] the distinguishing trait of the other two [robbery, increase] is that this is not the ordinary way of doing business [while overreaching is commonplace in commercial transactions and so forms a special classification of its own].*

- E. *“But, then, let the All-Merciful not have made explicit the prohibition of robbery, and the matter can then have been derived from the other two [overreaching, increase]! For what objections can you now present? As for interest, is your argument that it is anomalous? Then overreaching will prove that that consideration is not operative, since it bears the anomalous traits that the victim does not know about it so as to be able to renounce the injury. Then increase will prove the contrary, [since the victim has agreed]. The argument then revolves endlessly, yielding the simple fact that all of the definitive traits of the one classification do not apply to the next, and all of the next classification’s definitive traits do not pertain to the third. But the aspect common to them all is that every one of them involves an act of robbery, in which case, I shall introduce the case of robbery [and therefore Scripture need not have made it explicit]!”*
- F. *I shall reply: true enough. Then why has it been necessary to make explicit the prohibition against robbery? It is to cover the case of one who holds back the salary of a hired hand.*
- G. *“[But that is not covered by the prohibition against robbery, since, as a matter of fact,] it is explicitly stated: “You will not oppress a hired hand who is poor and need...on his day you shall give him his wages” (Deu. 24:14-15).”*
- H. *The reason it is made explicit here but also covered by the general prohibition against robbery [which is made explicit only to cover this same matter] is to indicate that one who does such a thing violates two negative commandments.*
- I. *“Then interpret it to apply also to increase or overreaching so that in those cases as well two negative commandments would be transgressed?”*
- J. *[Freedman, copied verbatim:] it is a matter deduced from its context, [61B] and [the injunction against robbery] it is stated in connection with the hired worker. [“You shall not oppress your neighbor nor rob him; the wages of the hired hand will not abide with you all night until the morning” (Lev. 19:13)].*

I.5. A. As to “you shall not steal” (Lev. 19:11), for what purpose did the All-Merciful write that commandment?

- B. *It is in accord with that which is taught on Tannaite authority:*
- C. *“You shall not steal:” even so as to harass the other.*
- D. *“You shall not steal:” even so as to be required to repay double [which is to the advantage of the victim].*

I.6. A. *Said R. Yemar to R. Ashi, “As to the explicit prohibition of false weights that the All-Merciful has stated in writing, what need do I have for it [since this is just another form of robbery]?”*

- B. *He said to him, “It is to prohibit steeping weights in salt [which makes them heavier, so that when making purchases, the buyer gains].”*
- C. *“But that is nothing other than pure robbery!”*
- D. *“It is made explicit that one’s transgression begins at the very moment that he does such a thing [even before actually using the weights].”*

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

- B. *“You shall do no unrighteousness in judgment, in lineal measure, in weight, or in liquid measure (Lev. 19:35):*

- C. “lineal measure:” this refers to surveying land, indicating that one should not survey for one party in the summer and for the other in the rainy season [when the measuring cord is longer].
- D. “weight:” this means that one should not salt his weights.
- E. “liquid measure:” this means that one should not cause the liquid to form [which will yield a short measure].
- F. And does this not yield an argument *a fortiori*?
- G. Specifically, If the liquid measure, which is only one thirty-sixth of a *log*, is subject to the meticulous concern of the Torah, all the more so the *hin*, half-*hin*, third-*hin*, quarter-*hin*, and *log*, half-*log*, and quarter-*log*!

- I.8.** A. *Said Raba, “Why did the All-Merciful make mention of the exodus of Egypt when speaking of the matters of increase, fringes, and weights? [“You shall take no usury from him nor increase...I am the Lord your God who brought you out of the Land of Egypt” (Lev. 25:36, 38); fringes: “Speak to the children of Israel and command them to make fringes on the borders of their garments...I am the Lord your God who brought you out of the land of Egypt” (Num. 15:38, 41); weights: “Just balances, just weights, a just ephah, and a just hin shall you have, I am the Lord your God who brought you out of the land of Egypt” (Lev. 19:36)]?”*
- B. “Said the Holy One, blessed be he, ‘I am the one who in Egypt could tell the difference between the first-born and the one who was not first-born. I too am the one who will exact vengeance from him who as a legal fiction assigns ownership of his capital to a gentile and lends them to an Israelite on interest, from the one who salts his weights, and from the one who attaches to his garment threads dyed with vegetable blue and calls it genuine.’”
- I.9.** A. *Rabina came to Sura on the Euphrates. Said to him R. Hanina of Sura on the Euphrates to Rabina, “Why is it that the All-Merciful mentioned the exodus from Egypt when speaking of forbidden creeping things [‘You shall not make yourselves unclean with any sort of creeping thing that creeps on the earth, for I am the Lord who brings you up out of the land of Egypt’ (Lev. 11:44,45)]?”*
- B. He said to him, “Said the Holy One, blessed be he, ‘I am the one who in Egypt could tell the difference between the first-born and the one who was not first-born. I too am the one who will exact vengeance from him who mixes the innards of unclean fish with those of clean fish and sells them to Israelites.’”
 - C. *He said to him, “What bothers me is the language, ‘who brings you up’? Why did the All-Merciful write that language, ‘who brings you up,’ in this particular context?”*
 - D. *He said to him, “It is in accord with that which the Tannaite authority of the house of R. Ishmael taught.”*
 - E. *“For the Tannaite authority of the house of R. Ishmael taught: ‘Said the Holy One, blessed be he, “Had I brought Israel up from Egypt only on account of this one matter, that they are not to contract uncleanness from dead creeping things, it would have been enough for me.””*
 - F. *He said to him, “And is the reward for observing that rule greater than the one for observing the prohibition of increase or that concerning the fringes or the one concerning the matter of just weights?”*

- G. *He said to him “Even though the reward for this item is not greater, eating these things is more disgusting [than doing some of those other things].”*

II.1 A. And what is increase? He who increases [profits] in commerce in produce. How so? If one purchases from another wheat at a price of a golden denar — 25 denars — for a kor, which was then the prevailing price, and then wheat went up to thirty denars. If he said to him, “Give me my wheat, for I want to sell it and buy wine with the proceeds” — and he said to him, “Lo, your wheat is reckoned against me for thirty denars, and lo, you have a claim of wine on me” — but he has no wine|:

- B. *But then is the prior example [He who lends a sela which is four denars for a return of five denars, two seahs of wheat for a return of three] not a case of increase?*
- C. Said R. Abbahu, “The first instance involves the prohibition on the strength of the law of the Torah, the second, what is prohibited by their [sages’] authority.”
- D. And so said Raba, “The first instance involves the prohibition on the strength of the law of the Torah, the second, what is prohibited by their [sages’] authority.
- E. “[Usury as defined in the first instance] is covered by, ‘[The wicked] shall prepare it and the just shall put it on’ (Job. 27:17) [if a man received interest, his heirs, who are just, are under no obligation to return it]. Thus far and no further? [Freedman: Surely not. If interest that is biblically forbidden is not returnable by the heirs, surely that which is only forbidden by the rabbis need not be returned.] But rather, even thus far, ‘[The wicked] shall prepare it and the just shall put it on’ (Job. 27:17) — that is direct interest, and from that point it is indirect interest.”

II.2. A. [As to the distinction between direct interest and indirect interest,] said R. Eleazar, “Direct interest may be reclaimed in court, while indirect interest may not be recovered in court.”

- B. R. Yohanan said, “Even direct interest also may not be recovered in court.”
- C. *Said R. Isaac, “What is the scriptural basis for the position of R. Yohanan?*
- D. “Scripture has said, ‘He has given forth upon usury and has taken increase, shall he then live? He shall not live, he has done all these abominations’ (Eze. 18:13). For this transgression death is prescribed, return of the money is not prescribed.”
- E. R. Ada bar Ahba said, “Said Scripture, ‘Take no usury from him or increase, but fear your God’ (Lev. 25:36) — fear is prescribed, refund of the money is not.”
- F. *Raba said, “From the language of the pertinent verse the matter is to be inferred: ‘he shall surely die, his blood shall be upon him’ (Eze. 18:13) — those who lend upon usury are in the same classification as those who shed blood. Just as those who shed blood cannot make restitution, so those who lend on usury cannot make restitution.”*
- G. *Said R. Nahman bar Isaac, “What is the scriptural basis for the position of R. Eleazar [that direct interest may be recovered in court]? It is because Scripture has said, [62A] ‘You shall take no usury of him or*

increase, but fear your God, that your brother may live with you' (Lev. 25:36) — *return it to him so that he may live.*"

H. *And as to R. Yohanan, how does he interpret the clause, "that your brother may live with you"?*

I. *He requires it in connection with that which is taught on Tannaite authority:*

J. *If two were making a trip, and one of them had a jug of water, such that, if both were to drink, both would die, while if one should drink, he will reach civilization —*

K. *Ben Patora expounded, "It is better that both should drink and die, but let one of them not witness the death of the other."*

L. *Until R. Aqiba came along and taught, "'...that your brother may live with you' — your life takes precedence over the life of your fellow."*

M. *[Reverting to A-B:] an objection was raised: If their father left them money deriving from usury, even though they know as fact that the money has derived from usury, they are not obligated to return the money. Lo, their father, then, is obligated to return the money!*

N. *As a matter of law, their father also is not required to return the money. But since the Tannaite authority wished to teach in the next clause, if their father left them a cow or cloak or some specific object, they are required to return it on account of the honor owing to their father, he formulated matters in the opening clause with respect to the heirs as well [even though the rule pertained as much to the father as to the heirs].*

O. *And are these obligated on account of the honor owing to their father? Why not invoke the verse, "You shall not curse a ruler of your people" (Exo. 22:27), meaning, one who carries out deeds that are fitting for your people [and there is no honor owing to the father in this case, since he has not behaved honorably, having taken usury]!*

P. *The answer accords with the position of R. Phineas in the name of Raba, "It deals with a case in which he has repented." Here too, we deal with a case in which the father has repented.*

Q. *If the father has repented, then how come the money is still in his domain at all?*

R. *It is because he did not have time to return the money before he died.*

S. *An objection was raised: Robbers and those who lend money on interest, even though they have collected the money, must make restitution." Now as to robbers, what relevance can there be to the clause, "even though they have collected the money"? [That can only pertain to the usurer.] [And that proves that the court will permit recovery of funds paid out in interest.] If the money is stolen, it is stolen, and if not, how can you call them robbers anyhow?*

T. *Frame matters in this way: Robbers — and who are they? they are those who lend money on interest — even though they have collected the money, must make restitution.*

- U. *In point of fact, the dispute on this matter represents a conflict of opinions among Tannaite authorities [so there is no fixed position to which appeal can now be made], as we have learned on Tannaite authority:*
- V. R. Nehemiah and R. Eliezer b. Jacob exempt the one who lends and the surety [from punishment of flogging for having taken interest] because both of them are subject to a commandment involving affirmative action [while the penalty of flogging pertains only to a negative one. But if a positive action can be taken to remedy the wrong, then there is no flogging. Then these parties assume one restores the usuriously-gained funds.] *What is the affirmative action that is involved? Is it not that we instruct them, "Go and return the money"? And it must follow that the contrary authority takes the view that they are not subject to the requirement of returning the money.*
- W. *No, what is the meaning of the affirmative action that is involved here? It is that they are to tear up the bond.*
- X. *Then what is the position [of Nehemiah and Eliezer here]? If it is that a deed that is supposed to be collected is treated as though it were already paid off, then the transgression has already been collected, and if their position is that the deed is not treated as already paid off, then they have committed no wrong at all!*
- Y. *No, in point of fact, it is their position that a bond that is awaiting collection is not treated as though it were already collected, and in this ruling they inform us that the mere application of usury [even if it is not collected at all] is a matter worthy of consideration [and the anonymous authority maintains that on that account, punishment is inflicted, while Eliezer and Nehemiah exempt the violator from punishment, because he may still correct his violation of the law].*
- Z. *That is certainly a reasonable inference, for lo, we have learned in the Mishnah: **These [who participate in a loan on interest] violate a negative commandment: (1) the lender, (2) borrower, (3) guarantor, and (4) witnesses.***
- AA. *Now all of them have carried out some sort of deed, but what deed have the witnesses done? But does that not yield the fact that usury [even if it is not collected at all] is a matter worthy of consideration.*
- BB. *That proves it.*

II.3. A. Said R. Safra, "In any case in which, according to their [gentile] law, one will exact what is owing from the debtor to the creditor, in accord with our law, we make restitution from the creditor to the debtor, and in any case in which, by gentile law, we do not exact payment from the debtor to the creditor, in accord with our law, we do not make restitution from the creditor to the debtor."

B. *Said Abbayye to R. Joseph, "Does this rule hold throughout? Lo, there is the case of a loan of a seah of grain for the return of a seah of grain, in which, by their law, the debtor is forced to repay the creditor, while, by our law, the creditor is not forced to make restitution to the debtor."*

- C. *He said to him, "They deem it as having come into his possession merely as a matter of trust. [In the gentile law this is not interest at all; the lender has entrusted a seah of grain to the borrower, and the borrower returns it. Safra, by contrast, referred to what gentiles deem interest, which they permit and we prohibit.]"*
- D. *Said Rabina to R. Ashi, "And lo, there is the case of mortgages without deduction [by which the debtor mortgages a field, the creditor takes possession of the field and enjoys the usufruct of the field without deducting the value of the principal from the debt, a prohibited arrangement in Jewish law], which, in accord with their law, is permitted so that the court will exact payment from the lender to the borrower, [62B] while, in accord with our law, the court will not exact the sum from the creditor and return it to the debtor [since this is not deemed direct interest, for the crop may fail]?"*
- E. *He said to them, "They treat this as having come into the lender's hand by the law of purchase [the mortgaged field is treated as though it has been sold to the creditor, and the debtor is redeeming the field by repaying the loan; if the debtor uses the produce, he has taken it as something that belongs to the creditor by right of purchase, and this is not interest]."*
- F. *Then what is the point of R. Safra's statement, "In any case in which, according to gentile law, one will exact what is owing from the debtor to the creditor, in accord with our law, we make restitution from the creditor to the debtor, and in any case in which, by gentile law, we do not exact payment from the debtor to the creditor, in accord with our law, we do not make restitution from the creditor to the debtor"?*
- G. *This is what he proposes to tell us: "In any case in which, according to gentile law, one will exact what is owing from the debtor to the creditor, in accord with our law, we make restitution from the creditor to the debtor" — this refers to direct interest, in accord with the position of R. Eleazar.*
- H. *And "in any case in which, by gentile law, we do not exact payment from the debtor to the creditor, in accord with our law, we do not make restitution from the creditor to the debtor" — this refers to this refers to prepaid interest or postpaid interest.*

- III.1 A. How so? If one purchases from another wheat at a price of a golden denar [25 denars] for a kor, which [was then] the prevailing price, and [then wheat] went up to thirty denars. [If] he said to him, "Give me my wheat, for I want to sell it and buy wine with the proceeds" — [and] he said to him, "Lo, your wheat is reckoned against me for thirty denars, and lo, you have [a claim of] wine on me" — but he has no wine:**
- B. *So if he does not have any wine, what difference does it make? Have we not learned on Tannaite authority the following: They do not strike a bargain for the price of produce before the market price is announced. [Once] the market price is announced, they strike a bargain, for even though this one does not have [the produce for delivery], another one will have it?*
 - C. *Said Rabbah, "Our Mishnah speaks of a case in which one has created a debt to cover the value thereof, in line with the following Tannaite teaching: Lo, if one was a creditor for his fellow for a maneh and went and stood at the borrower's*

granary and said, "Give me my money, since I want to buy grain with it," — the other said to him, "I have grain, which I shall give you, go and reckon the amount at the current price, and I'll pay you with the grain throughout the coming year over a twelve-month period" — that is forbidden, *because it is not as though an issar had passed from hand to hand* [there having been no payment for the wheat; had the man actually received money, it would not be forbidden as interest, despite the possible rise in price, but the man has received no money, so, if he has to pay more later on, the excess is usury, and that is the case to which the Mishnah refers as well (Freedman)]."

- D. *Said Abbaye to him, "If the consideration is simply, 'because it is not as though an issar had passed from hand to hand,' then why specify the operative clause, **but he has none?** Even if he did have some, the same rule should pertain!"*
- E. *Rather, said Abbaye, "Our Mishnah accords with what R. Saфра taught on Tannaite authority in connection with the rules governing increase as were laid out in the house of R. Hiyya."*
- F. *"For R. Saфра taught on Tannaite authority in connection with the rules governing increase as were laid out in the house of R. Hiyya: **There are matters that, while technically permitted, are forbidden on the grounds that they form a legal fiction that permits one to evade the prohibition of usury. How so? If one said to the other, 'Lend me a maneh,' and the other said to him, 'I don't have a maneh, but I have grain worth a maneh, which I am handing over to you' — if he handed them over to him for a maneh and then went and bought them from him for twenty-four selas, it is permitted but still forbidden on grounds that it represents an action involving the possibility of deception for the practice of usury [Tosefta's version: take twenty seahs of grain,' even though the other went and purchased twenty-four — this does not constitute usury. But such a practice is prohibited because of the possibility of deception for the practice of usury] [T. B.M. 4:3D-J]. Here too [in our Mishnah's case], it would be for example a case in which the following took place: one said to the other, 'Lend me thirty denars,' and the other said, 'I don't have thirty denars, but I have wheat worth thirty denars which I am handing over to you,' and he handed over to him the wheat worth thirty denars and went and bought them back from him for a golden denar [twenty-five denars, so that the debtor has to make a return not only for the golden denar he has received in cash but five more denars, thirty in all]. Now if the debtor had wine, which he handed over against the thirty denars, the creditor is merely receiving provisions from him, and there is no objection to such a procedure, but if not, since the man has no wine, to receive money in such a case certainly smacks of usury. [Freedman: For the debtor actually received only 25 denars, which the creditor paid him in cash for the wheat, while he repaid him 30 denars. So 'if a man purchased wheat at a gold denar per kor' refers to the creditor as purchaser, the debtor as vendor.]"***
- G. *Said Raba to him, "If that were the case, then the language should be, 'Give me the money for my wheat,' rather than, **"Give me my wheat, [for I want to sell it and buy wine with the proceeds]."***
- H. *"Then repeat it as, 'Give me the money for my wheat.'"*

- I. *"Instead of, for I want to sell it and buy wine with the proceeds, what it should say is, 'for I have sold to you.'"*
- J. *"Then repeat it as, 'for I have sold to you.'"*
- K. *"**“Lo, your wheat is reckoned against me for thirty denars’ — but to begin with, had it not already been reckoned against him in precisely these terms?!”***
- L. *"This is the sense of the statement: 'For the value of the grain, which you have made over to me for thirty denars, **you have [a claim of] wine on me’ — but he has no wine.**"*
- M. *"But lo, it has been stated in the Mishnah, **If one purchases from another wheat at a price of a golden denar [25 denars] for a kor, which [was then] the prevailing price!**"*
- N. *Rather, said Raba, "When I die, R. Oshaia will come out to meet me, **[63A]** for I interpret the Mishnah's in accord with his view."*
- O. *For it has been taught on Tannaite authority by R. Oshaia: Lo, if one was owed a maneh by his neighbor and went and stood at his granary and said, "Pay me back my money, since I want to purchase wheat with it," and the debtor said, "I have wheat, which I will hand over to you, so go and charge me with it against my debt at the current price," and then the time came to sell the wheat [and that was ordinarily when the wheat had gained in value], and he said to him, "Give me the wheat [which had not yet been paid] so I can go and sell it and buy wine with the proceeds," and the other said, "I have wine, go and assess it for me at the market price," and the time came for selling wine came, and he said to him, "Give me my wine, for I want to sell it and buy oil for it," and the other replied, "I have oil to give you, go and charge it for me at the current price" — in all of these cases, if he has the commodities in hand, it is a permitted transaction, and if not, it is a forbidden one.*
- P. [Now Raba continues,] *"So too in the Mishnah-paragraph, what is the sense of **If one purchases?** If one has purchased against his debt. [Freedman: A owing a gold denar to B credited him with a kor of wheat for it, which was the current price; then the kor appreciated to 30 denars, and A credited B with wine to the value of 30 denars.]*

III.2. *A. Raba said, "There are three points to be deduced from what R. Oshaia has said: [1] it is to be inferred that a debt may be offset against produce, and we do not say, it is not as if the money had come into his hand; [2] but that is the case only if the debtor actually has the commodities; and [3] R. Yannai's view is correct concerning the difference between the produce itself and the value thereof."*

- B. For R. Yannai said, "What difference does it matter whether he has them or their value?"
- C. *For it was stated:*
- D. Rab said, "One may buy on trust against future delivery of crops but not against repayment of money at future prices. [Freedman: One may buy crops at present prices, paying now for future delivery, even though the crops may appreciate. But he may not arrange to receive the future value of the crops, for he may then receive in actual money more than he gave, and this appears to be usury.]"

- E. And R. Yannai said, "What difference does it matter whether he has them or merely their value?"
- F. *An objection [to Rab's position] was raised from the following:* in all of these cases, if he has the commodities in hand, it is a permitted transaction, and if not, it is a forbidden one.
- G. Said R. Huna said Rab, "We deal with a case in which he drew the produce into his possession [so it actually belongs to the lender, and is not merely a debt, and all subsequent transactions are therefore permitted]."
- H. *If we deal with a case in which he drew the produce into his possession, then does it actually have to be made explicit? [It is obvious that this transaction is acceptable.]*
- I. Rather, we deal with a case in which he assigned the grain in a corner of the granary to him [so that the wheat in that corner is assigned to the creditor in payment of the debt. The mere assignment is legally valid, and there is no longer a debt.]
- J. *But Samuel said, "Who is the authority of this teaching? It is the position of R. Judah, who said, 'One sided usury is permitted.' [What may produce the appearance of usury, as in this case, is allowed; the debtor may give him the crops, so there is no consideration of usury; only if he gives money instead of the crop does there appear to be usury (Freedman)]."*
- K. *For it has been taught on Tannaite authority:*
- L. Lo, if one had lent to his neighbor a maneh, for which he had sold his field unconditionally [with the language, "If I do not repay by a certain day, as of this day the field is sold to you"], when the seller retains the usufruct, such an arrangement is permitted, but if the purchaser has the usufruct, it is now forbidden.
- M. R. Judah says, "Even when the purchase has the usufruct, it is permitted [even though such an arrangement appears to yield a usury to the purchaser, since it is not clear just now that he will ultimately own the field; hence any usufruct he enjoys now may turn out to be payment for waiting on the return of his money, which is usury]."
- N. Said R. Judah, "There is the case of Boethus b. Zeno, who made over his field as a sale upon the instructions of R. Eleazar b. Azariah, and the purchaser had the usufruct."
- O. They said to him, "Can any proof derive from that case? It was the seller who had the usufruct, not the purchaser."
- P. *What was at issue?*
- Q. *Said Abbaye, "At issue was a case in which there was a case of one-sided usury."*
- R. Raba said, *"At issue was the principle of usury that was received on condition that it be returned."* [Freedman: Even Judah admits that if the purchaser retains the crops after repayment, it is forbidden. They differ where it is stipulated that if the loan is repaid, the creditor must return the value of the crops he has taken. Judah permits this arrangement, since it

precludes usury. Rabbis forbid it, for when he enjoys the usufruct, it is actually interest on money lent.]

- S. *Said Raba, "Now that R. Yannai has ruled, [63B] "What difference does it matter whether he has them or their value,' we may also argue, 'What is the difference between their value and them themselves,' and we may therefore contract to supply provision at the current market price, even though one does not have the produce in hand."*
- T. *R. Pappa and R. Huna b. R. Joshua objected to Raba, "...in all of these cases, if he has the commodities in hand, it is a permitted transaction, and if not, it is a forbidden one."*
- U. *He said to them, "There we speak of a loan, here of a sale."*

III.3. A. *Rabbah and R. Joseph both say, "What is the reason that rabbis have said, 'One may contract to supply produce at the current market price, even if he does not have any at that moment'? Because the other can say to him, 'Take your favor and toss it into a bush! How do you do me any good? If I had the money, I could have bought the produce cheaply in Hini or Shili.' [Freedman: The purchaser derives no benefit by advancing money to the seller. The question of usury does not arise.]"*

- B. *Said Abbaye to R. Joseph, "Then should it not be permitted to lend a seah of wheat for the return of a seah of wheat [which we know is forbidden], since, after all, he other can say to him, 'Take your favor and toss it into a bush! How do you do me any good? Would my wheat have been ruined in my own granary?'"*
- C. *He said to him, "There we speak of a loan, here of a sale."*
- D. *Said Ada bar Abba to Raba, "But lo, he would have to pay money to a broker [by paying for the wheat in advance, the buyer saves the broker's fee, which eh would have had to pay each time he wanted to make a purchase; this saving is interest (Freedman)]!"*
- E. *He said to him, "The purchase has to give that to him as well."*
- F. *R. Ashi said, "People's money is their broker [since you don't need an intermediary if you can pay cash]."*

III.4. A. *Both Rabbah and R. Joseph said, "One who hands over money in advance at the early market price [after harvest but before trade has gotten under way and yielded a fixed price, thus at a low price; that is permitted if the seller has the grain in hand] has to put in an appearance at the granary."*

- B. *For what reason? If it is to make acquisition of the grain, lo, he does not acquire it [merely by putting in an appearance; he has to perform an act of effecting acquisition, e.g., drawing]. If it is because the seller may have to submit to the curse, "He who punished..." [to show that he is morally bound to make delivery], even though the buyer does not put in an appearance, the seller still has to submit to the curse, "He who punished..."*
- C. *In point of fact it is indeed to see to it that the seller submits to the curse, "He who punished," but someone who advances money in the early market ordinarily does so to two or three farmers, so if he then makes an appearance, he demonstrates that he is relying upon this particular farmer for grain, but if not, the seller can make the plea, "I supposed that you found better produce than*

mine, so you made your purchase [expecting that I would give you back your money].”

- D. *Said R. Ashi, “Now that you have reached the position that it is because by putting in an appearance the buyer shows that he is depending upon that particular farmer, then even if he should come upon him in the market and made a statement to that effect, it shows that he is relying on that particular farmer.”*

III.5. A. *Said R. Nahman, “The generative principle of interest is this: any fee paid for waiting [on the return of one’s money] is deemed forbidden.”*

- B. *And said R. Nahman, “He who hands over money to a wax merchant when the wax is at four measures per zuz, and the seller says, “I’ll give you five measures per zuz,” if the seller has the wax in hand, — that is a permitted arrangement, but if not, it is forbidden.”*

C. *That is a perfectly self-evident statement [so why bother to make it]?)*

- D. *But it was necessary to make the matter explicit to show that only when he has stock in the locale [is such an arrangement permitted]. What might you have otherwise thought? Since he has the stock in the locale, it is as though he had said, “lend me the money until my son comes,” or “until I find the key” [in which case that is as though the money were already in hand]. In making the statement that he has made, he indicates that if the stocks have not yet been collected and have to be gathered in, it is as though they were not in being [so only if the wax is in hand is it permitted to make such an arrangement, but not if the wax is owing to the wax merchant].”*

III.6. A. *And said R. Nahman, “One who borrows money from his neighbor and found a surplus in the money received, if it is a sum about which one can have made an error, he must return it; if not, then it is deemed a gift that he has given him.”*

- B. *What is a sum about which one can have made an error?*

C. *Said R. Aha b. R. Joseph [64A], “Tens or fives.” [Freedman: If the amount should have been fifty and it was fifty-five or sixty, the lender may have mistakenly counted eleven fives instead of ten, or six tens instead of five. But if it were fifty-two or three, it is impossible that it should have been an error.”]*

- D. *Said R. Aha b. Raba to R. Ashi, “But if [the lender] is a tough man, who never gives presents?”*

E. *He said to him, “It is possible that at some time in the past, such a man has stolen from this one, and now he has concealed the money [to return it] in the total sum.*

F. *“For it has been taught on Tannaite authority:*

G. *“He who steals from his fellow and thereafter conceals the stolen money within the sum of money he pays over to him has carried out his obligation to return the funds.”*

H. *“But if the lender had come from elsewhere and had never had any business with the other, what is the rule?”*

I. *He said to him, “Perhaps some other person might have stolen money from him, who will have said to the lender, ‘When so and so borrows money from you, conceal this in the sum.’”*

- III.7.** A. Said R. Kahana, *“I was in session, toward the end of what Rab was saying, and I heard him say several time the word ‘gourds’ but I did not know what he had in mind [in using the letters of that word in Hebrew, QRY, as a mnemonic].*
- B. *“After Rab arose, I asked the others, ‘What is the meaning of this mnemonic, ‘gourds’ that Rab was saying?’*
- C. *“They said to me, ‘This is what Rab was saying: ‘If someone gives money to a gardener for gourds, at the rate of ten gourds of a span’s length for a zuz, and says to him, ‘I will give you gourds a span’s length,’ if he has them, it is a permitted transaction, but if not, it is a forbidden one [since he may give him larger gourds in return for waiting for the gourds, and that looks like usury].’*
- D. *“[I said to them,] ‘That is obvious.’*
- E. *“[They replied to me,] ‘But what might you have thought? Since in any event the gourds will grow to the specified length, such a transaction is permitted.’ Thus you have learned that that is not the case.’”*
- F. *[And] in accord with what authority is this ruling made? It is in accord with the following Tannaite authority, who has taught: “He who is going along to milk his goats and to shear his ewes or remove the honey from his honeycombs and meets his neighbor and says to him, ‘The milk that my goats will give is sold to you, the wool that my sheep will yield is sold to you, the honey that will be removed from my combs is sold to you’ — such a transaction is permitted. But if he said to him, ‘So much of the milk my goats will yield is sold to you,’ ‘so much of the shearings of my sheep is sold to you,’ ‘so much of the honey that will be removed from my honeycombs is sold to you,’ [in each case giving a low price in exchange for payment in advance], that transaction is forbidden.”*
- G. *Now that is so, even though the produce comes on its own, but it is not in existence when the agreement is made, so it is a forbidden relationship.*
- H. *Some say, said Raba, “Since these things grow on their own, it is well and good.”*
- I. *But has it not been taught on Tannaite authority, “Thus and so is forbidden”?*
- J. *In that case, the increase is not in the product itself, for what is there now is taken away, and other produce replaces it; but here, the produce he has in the garden itself is what increases in size, and if that is harvested, nothing will grow in its place.*

- III.8.** A. Said Abbaye, *“It is permitted for someone to say to his fellow, ‘Here are four zuz for a barrel of wine; if the wine turns sour, it is subject to your ownership [and you have to provide a replacement] but if it goes down or goes up in value, it is in my domain.’”*
- B. Said R. Sharbayya to Abbaye, **[64B]** *“But that places the man close as to profit but distant as to loss [since he is protected should the wine turn sour, a forbidden relationship in commerce].”*
- C. *He said to him, “Since, as to the matter of depreciation, he has accepted the risks, it is a relationship in which he is close to profit and also close to lose [a permitted arrangement].”*

We commence, I.1, with analysis of the language of the Mishnah in comparison with that of Scripture. The claim is that the distinction between increase and interest, which the language of the Torah seems to require, really makes no difference; interest and increase in the Torah are the same thing, though differentiated; and the Mishnah does not differentiate them. Why the difference? This is worked out with great perspicacity. No. 2 proceeds to explain the givens of No. 1, working through the appropriate verses of Scripture. No. 3 is then an extension of No. 2. The splendid composite made up of No.4, 5, 6, 7, 8, 9, while free-standing, is included with good reason, since Raba's point generalizes on the prior materials and shows the relationship and difference among three kinds of illicit conversion of property or wealth. So the whole composition of Unit I is remarkably cogent and represents a well-constructed chapter, made up of cogent sub-compositions. II.1 goes on to the analysis of trading in futures, which is prohibited. This is a somewhat subtle matter, but the main point is clear: a farmer cannot take money for what he does not then own. This leads to the distinction between indirect and direct interest, and No. 2 pursues that distinction and asks whether these forms of illicit increase are recoverable through court action. The discussion seems sustained, and I could not find any breaks in the protracted analysis. No. 3 pursues the same topic, but seems to me to stand independent of the foregoing. But the entire treatment of Unit II proves to treat a single issue, the distinction between direct and indirect interest, and that forms the Talmud's judgment of what is at stake in the Mishnah. III.1 goes on to the illustration of the Mishnah. This involves our consideration of a rule given later in the Mishnah, that an agreement must conform to the established market-price, another indication of the administered-market that the Mishnah's distributive economics takes for granted. No. 2 is continuous with No. 1, a secondary expansion of the foregoing. No. 3 then considers the explanation for the prohibition in trading in futures. If there is a current market price and one does not have the produce but thinks he can get it, that does not constitute a permissible transaction: the seller must have the produce in hand before he takes money from a buyer. The reason that No. 4 is included is our reference to establishing a market price. It is clear that, prior to substantial trading, prices are going to be lower than when the active market begins; if one pays the money in advance, he has to put in an appearance at the granary, and that rule is worked out at No. 4. It is not a very conclusive or compelling discussion. It is the sequence beginning with No. 5 — rules joined together because the same authority said them, Nahman in the case of Nos. 5, 6 (+7, joined to No. 6) — that really bring us to the center of the matter. Now we are told why the trading in futures falls under the prohibition of usury. It involves a payment for (merely) waiting for the return of one's funds. III.8 is tacked on for obvious reasons, but it is not a major item.

5:2A-C

- A. **He who lends money to his fellow should not live in his courtyard for free.**
- B. **Nor should he rent [a place] from him for less [than the prevailing rate],**
- C. **for that is [tantamount to] usury.**

I.1 A. Said R. Joseph bar Minyomi said R. Nahman, "Even though they have said, 'He who lives in his fellow's courtyard without his knowledge does not have to pay

him rent,' still, if he lent the other money and dwells in his courtyard, he does have to pay him rent.'"

- B. *What does he propose to tell us? We have learned in the Mishnah: **He who lends money to his fellow should not live in his courtyard for free. Nor should he rent [a place] from him for less [than the prevailing rate], for that is [tantamount to] usury.***
- C. *Were the law to derive only from the statement of the Mishnah, I might have reached the conclusion that that rule applies only if there is a courtyard available for rent and a man who generally rents out property. But if it is a courtyard that is not for rent and involves a person who does not ordinarily rent out property, I might have said that that rule does not apply. So we are told that even in that case the law applies.*
- D. *Some report the matter in the following way:*
- E. Said R. Joseph bar Minyomi said R. Nahman, "Even though they have said, 'He who lives in his fellow's courtyard without his knowledge does not have to pay him rent,' still, [if he said to him,] 'Lend me money and live in my courtyard,' then he has to pay him rent."
- F. *He who says that at issue is a case in which he has already made the loan all the more so will rule that if he [if he said to him,] "Lend me money and live in my courtyard," then he has to pay him rent.*
- G. *And he who reports the matter in the formulation, if he [if he said to him,] "Lend me money and live in my courtyard," then he has to pay him rent, would maintain that if he had already made such a loan, the rule does not apply. Why is that the case? Since to begin with it was not with the intention of such an arrangement that the loan was made, we have no objection to this arrangement. [Freedman: Having lived there, he is not bound to pay the rent. The Mishnah's rule is that no condition to that effect is permissible.]*

I.2. A. R. Joseph bar Hama seized the slaves of those who owed him money and made them work for him. Said to him Raba his son, "What is the reason that the master acts in such a way?"

- B. *He said to him, "I share the view of R. Nahman, for R. Nahman has said, 'A slave is not worth the bread in his belly' [Freedman: having to provide them with food, I gain nothing by their labor and receive no interest]."*
- C. *He said to him, "But perhaps R. Nahman spoke only of such a slave as Dari, his slave, who goes around dancing in taverns. But did he mean all slaves?"*
- D. *He said to him, "I share the view of R. Daniel b. R. Qattina in the name of Rab, 'He who seizes the slave of his fellow and puts him to work is exempt [of blame for charging interest on the loan].' [65A] The reason is that the [owner of the slave, who owes the money] is just as happy that his slave does not become used to sloth."*
- E. *He said to him, "But that view pertains to a case in which the other does not owe him any money, while the master, since the other owes you money, appears to be collecting interest. For, after all, said R. Joseph bar Minyomi said R. Nahman, 'Even though they have said, "He who lives in*

his fellow's courtyard without his knowledge does not have to pay him rent," still, lent me money and lived in his courtyard,' then he has to pay him rent."

F. *He said to him, "I retract."*

I.3 A. *Said Abbayye, "If someone lent money on interest to his fellow and wheat is selling at four grivas for a zuz, and the debtor gave him five, when we reclaim the direct interest from him [which the court can and will do], we exact only four from him, in the theory that the fifth was just a cheap rate [and not deemed part of the interest that had been paid]."*

B. *Raba said, "Five do we exact from him, for to begin with, this extra came to him within the category of interest."*

I.4 A. *And said Abbayye, "If someone is collecting four zuz of interest from his fellow, and the other gave him in addition a cloak, when we retrieve the interest, we make him give back the four zuz but not the cloak."*

B. *Raba said, "The cloak as well do we exact from him. How come? It is so people will not say, 'The cloak that he is wearing is one that came on account of usury.'"*

I.5 A. *Said Raba, "If someone had a claim of twelve zuz of interest on his neighbor and the debtor rented him his courtyard, ordinarily worth ten zuz, for twelve, when we exact the interest-payment from him, we make him give back twelve."*

B. *Said R. Aha of Difta to Rabina, "But why can't he claim, 'When I rented it at that rate, it was because I made a profit [by getting the high rental property for a lower fee], but now that I have to pay the same rate as everybody else and do not profit, will I bother?'"*

C. *[He said to him,] "It is because the other can say to him, 'You understood what was at issue and agreed [to the twelve zuz].'"*

The Mishnah's rule is amplified at I.1, and at I.2, a secondary application of the same rule is worked out. The later collection has been compiled only because of the sequence of names and the general theme of exacting restitution for interest-payments, and that is hardly pertinent here.

5:2D-K

D. **One may effect an increase in the rent charge [not paid in advance], but not the purchase price [not paid in advance].**

E. **How so? [If] one rented his courtyard to him and said to him, "If you pay me now [in advance], lo, it's yours for ten selas a year,**

G. **"but if [you pay me] by the month, it's a sela a month" —**

H. **it is permitted.**

I. **[But if] he sold his field to him and said to him, "If you pay me the entire sum now, lo, it's yours for a thousand zuz.**

J. **"But if you pay me at the time of the harvest, it's twelve maneh [1,200 zuz]"**

K. **it is forbidden.**

I.1 A. *What is the difference between the first case [E-H] and the second [I-K]?*

- B. *Both Rabbah and R. Joseph said, “Rent is to be paid only at the end [of the month], and in this case, since the time for collecting the rent has not come [and hence the debt is not due], this does not a case of paying a fee for waiting, since but this is worth what he is paying. As to the statement, “If you pay me now [in advance], lo, it’s yours for ten selas a year, but if [you pay me] by the month, it’s a sela a month” — he is giving him a lower rate as a favor. But as to the second case, since we speak of an actual purchase, in which case the payment is immediately due, the higher price really is a fee paid for waiting on the collection of the funds, and that is forbidden.”*
- C. *Said Raba, “Rabbis have analyzed this matter and have assigned the reason for it to Scripture: ‘As the hiring of a year in a year’ (Lev. 25:53) — the rent for a year is not payable until the advent of the next year.”*

II.1 A. **[But if he sold his field to him and said to him, “If you pay me the entire sum now, lo, it’s yours for a thousand zuz.] But if you pay me at the time of the harvest, it’s twelve maneh [1,200 zuz]” — it is forbidden:**

- B. *Said R. Nahman, “[Freedman] an increased credit price [silent usury, selling goods on credit at more than cash price but without stipulating that the addition is on account of credit] is permitted.”*
- C. *R. Ammi bar Hama objected to R. Nahman, and some say, R. Uqba bar Hama to R. Nahman, “[But if he sold his field to him and said to him, “If you pay me the entire sum now, lo, it’s yours for a thousand zuz.] But if you pay me at the time of the harvest, it’s twelve maneh [1,200 zuz]” — it is forbidden.”*
- D. *He said to him, “In that case, he made that as a stipulation, here he made no such stipulation.”*

II.2. A. *Said R. Pappa, “The increased credit price that I collect is permitted. What is the reason? My beer will not deteriorate [if I keep it longer], and I don’t need the money. So by giving the purchaser the beer earlier, I give a benefit to him.”*

- B. *Said R. Sheshet son of R. Idi to R. Pappa, “How come the master rules only in accord with his own situation. Rule in accord with the situation of those who, if they had the money, would buy at the current price, but, not having the money, have to buy at higher prices in the future [and it is usury from their perspective]!”*

II.3. A. *Said R. Hama, “The increased credit price that I collect is permitted. [Freedman: Hama sold goods where they were cheap at the higher rate paid in some other place. The purchaser then conveyed the goods there at the risk of Hama. Since Hama bore the risk, the goods were his until brought there, therefore they really sold his wares and he was entitled to receive the price paid at that other place.] What is the reason? It serves the interest of the purchaser that the goods remain in my domain, so wherever they go, they are exempt from having to pay taxes [which rabbis did not have to pay, or believed they should not have to pay], and the market is held up until they arrive.”*

II.4. A. **[65B]** *The decided law accords with the position of R. Hama, The decided law accords with the position of R. Eleazar, and the decided law accords with the position of R. Yannai, who said, “What is the difference between the provisions and the value of the provisions”*

I.1 presents a fine explanation of the Mishnah's rule, in the form of Mishnah-exegesis, and II.1-4 move on to a theoretical question having to do with silent usury, which is, in this case, charging more for goods sold on credit than for cash. This arrangement, which is generally approved, is brought into alignment with the Mishnah's rule's clear rejection of any such subterfuge.

5:3

- A. [If] one sold him a field, and [the other] paid him part of the price,
- B. and [the vendor] said to him, "Whenever you want, bring me the rest of the money, and [then] take yours [the field]" —
- C. it is forbidden.
- D. [If] one lent him money on the security of his field and said to him, "If you do not pay me by this date three years hence, lo, it is mine" —
- E. lo, it is his.
- F. And thus did Boethus b. Zonin do, on instruction of sages.

I.1 A. Who enjoys the usufruct [of the field]?

- B. R. Huna said, "The seller enjoys the usufruct,"
- C. R. Anan said, "It is handed over to a third party."
- D. *But there is no dispute, for the former is the rule in the case of a stipulation, "When you pay the balance, acquire it," [so in the interim the seller gets the profit] and the latter applies if there is the stipulation, "When you pay off the loan, acquire it as of this date."* [Freedman: neither the seller nor the buyer can take the profit, and a third party keeps it in hand.]

I.2. A. R. Safra taught on Tannaite authority in connection with the rules of interest set forth in the house of R. Hiyya: "There are times that both the seller and the buyer are permitted to enjoy the usufruct, times that both are forbidden to enjoy the usufruct, times that the seller is permitted and the buyer forbidden to enjoy the usufruct, and times that the buyer is permitted and the seller forbidden to enjoy the usufruct."

- B. *Responded Raba in amplification, "There are times that both the seller and the buyer are permitted to enjoy the usufruct: this is in the case in which one stipulates, 'Acquire in proportion to your deposit [so both share the profit on a pro rata basis (Freedman)]';*
- C. *"times that both are forbidden to enjoy the usufruct: this is in the case in which one stipulates, 'When you pay off what is owing on the balance, then let it be yours as of now;'*
- D. *"times that the seller is permitted and the buyer forbidden to enjoy the usufruct: this is in the case in which one stipulates, 'You produce the funds and then acquire the ownership;'*
- E. *"and times that the buyer is permitted and the seller forbidden to enjoy the usufruct: this is in the case in which one stipulates, 'Let it be yours from now, and the balance will be a loan from me to you.'"*
- F. *Who is the Tannaite authority who holds that both are prohibited [from enjoying the usufruct]?*

- G. *Said R. Huna b. R. Joshua, "It does not accord with the position of R. Judah, for if it were in accord with the position of R. Judah, has he not maintained that one-sided interest is permitted?" [Freedman: Here too if the seller takes the usufruct and the sale is not completed, there is no interest, and on Judah's view, it is permitted.]"*

I.3. A. If one mortgaged a house or mortgaged a field, and the creditor said to him, "When you want to sell them you must sell them to me only at such-and-such a stipulated price," that is forbidden.

B. [But if he said,] "...at its actual worth," that is a permitted."

C. *Who is the Tannaite authority who holds that if he stipulates, "at such and such a price," it is forbidden?*

G. *Said R. Huna b. R. Joshua, "It does not accord with the position of R. Judah, for if it were in accord with the position of R. Judah, has he not maintained that one-sided interest is permitted?"*

I.4. A. If one sold a house or sold a field and said to him, "When I have the money, you must return them to me," it is a forbidden transaction. If the lender said, "When you have the money, I will resell the house or field to you," that is permitted.

B. *Who is the Tannaite authority who holds that view?*

C. *Said R. Huna b. R. Joshua, "It does not accord with the position of R. Judah, for if it were in accord with the position of R. Judah, has he not maintained that one-sided interest is permitted?"*

D. *What differentiates the first and the second cases before us?*

E. *Said Raba, "In the second case, the buyer has made the stipulation that the resale is voluntary." [Freedman: This is a business deal. But when the seller stipulates that the buyer must resell, it is a disguised loan.]*

I.5. A. *Somebody sold an estate to his neighbor without surety. He saw that the other was troubled, and said to him, "Why are you troubled? If people seize the field from you [in payment for a debt that I owe a third party], I will repay you out of the finest quality of property that I own, even covering your improvements and produce."*

B. *Said Amemar, [66A] "This is a mere come-on [and it is simply unenforceable]."*

C. *Said R. Ashi to Amemar, "How come? Since here it is the buyer who should have made the stipulation, but it is in fact the seller who did so, do you therefore take the view that this is a mere come-on? But take note of the teaching that we have learned on Tannaite authority, 'If the lender said, "When you have the money, I will resell the house or field to you," that is permitted. Here the seller should have made the stipulation, and the seller did not make it but the buyer did, and yet, when we asked, What differentiates the first and the second cases before us? said Raba, 'In the second case, the buyer has made the stipulation that the resale is voluntary.' [Freedman: This is a business deal. But when the seller stipulates that the buyer must resell, it is a disguised loan.] So the operative consideration is that it was voluntary. If it were not voluntary, it*

would be forbidden, and we do not there take the view that the offer was a mere come-on!”

- D. He said to him, “The case is such that it is as though he had stipulated that it would be a voluntary resale [Freedman: since it is a stipulation that would come most naturally from the seller, while it was actually made by the buyer, so the voluntary character is inherent.]”

I.6. A. A dying man issued a writ of divorce for his wife, and then groaned and signed. She said to him, “Why sigh? Should you recover, I will be yours.”

B. Said R. Zebid, “This was a mere come-on.”

C. Said R. Aha of Difti to Rabina, “So if this is not a mere come-on, what difference does it make? Does the wife have the power to insert a stipulation in a writ of divorce? Surely only the husband has the power to give a writ of divorce limited by any stipulation.”

D. [He said to him,] “What might you have ruled? It is in accord with the wife’s intentions that the husband has made the decision to hand over the writ of divorce? Thus we are informed that that is not the case.”

II.1 A. [If] one lent him money on the security of his field [and said to him, “If you do not pay me by this date three years hence, lo, it is mine” — lo, it is his. And thus did Boethus b. Zonin do, on instruction of sages]:

B. Said R. Huna, “[If he made that stipulation] at the moment of handing over the money, the whole of the field becomes his property [if the loan is not repaid]. If this was after the transmittal of the funds, he has acquired only the portion of the field that is in proportion to the worth of the money that he has lent.”

C. And R. Nahman said, “Even if the stipulation was made after lending the money, the whole of the field becomes his.”

II.2. A. R. Nahman carried out a decision with reference to a case at the exilarch’s court [where he was judge] in accord with his version of the matter. R. Judah ripped up the deed [that he had issued]. Said the exilarch to [Nahman], “R. Judah has ripped up your deed.”

B. He said to him, “Was it a child who tore it up? A weighty authority has torn it up. He saw a reason in it that made him tear it up.”

C. Some say that he said to him, “It is a child who tore it up, for in matters of civil law everybody is a mere child in comparison with me.”

D. Then said R. Nahman, “Even if the stipulation was made at the moment of lending the money, the lender has acquired nothing at all.”

E. Raba objected to R. Nahman, “If you do not pay me by this date three years hence, lo, it is mine” — lo, it is his.”

F. He said to him, “I have taken the view that a come-on [an *asmakhta*, that is, an assurance that one will compensate the other if he does not carry out a condition, which he is certain he will in fact carry out] effects a transfer of property [and such a come-on forms an enforceable stipulation,] while Minyumi took the view that a come-on does not effect a transfer of property [and I have now adopted his view].”

- G. *But does not our Mishnah-passage contradict the position of Minyumi?*
- H. *If you wish, I shall respond that our Mishnah accords with the position of R. Yosé, who takes the view that a come-on does effect a transfer of property.*
- I. **[66B]** *If you want, I shall say that he said to him, "Ownership is transferred from this time."* [Freedman: In this case it is not an *asmakhta* at all, for the money is given as the purchase price, not as a loan, except that the seller has the option of repurchase.]

II.3. A. *Mar Yanuqa and Mar Qashisha, sons of R. Hisda, said to R. Ashi, "This is what the Nehardeans say in R. Nahman's name, "A come-on in its time effects the transfer of ownership of property, but not in its time, it does not effect the transfer of property."*

- B. [Assuming the sense is that when the obligation matures, it is binding and the creditor can foreclose (Freedman)], *he said to them, "Everything in its time effects the transfer of ownership of property, but prior to maturing does not. Perhaps this is what you mean to say: if the debtor meets the creditor within the period of repayment and says to him, 'Take possession,' the creditor does effect acquisition of the property; if this is after the time fixed for repayment they meet and he says to him, 'Take possession,' he does not effect ownership of the property. Why not? He said this merely because he was ashamed [of not having repaid the loan, but he did not mean it; this is merely a come-on and is not binding]. 'But that view of yours is not valid, for even if the meeting takes place within the period, the creditor gets no legal rights, and as for the debtor's saying, 'Take possession,' what he means is that, when the time comes, he will not trouble him [to have to demand repayment]."*

II.4. A. *Said R. Pappa, "A come-on sometimes effects transfer of ownership of property and sometimes does not. If the creditor came upon the debtor sitting around in a pub, the come-on does effect the transfer of property, but if he found him going around in search of the money, then it does not effect transfer of property."*

- B. *Said R. Aha of Difti to Rabina, "Perhaps he was drinking to drown out his troubles, or perhaps someone else had promised him the money!"*
- C. *Rather, said Rabina, "If the debtor has been meticulous about the price of the field, then assuredly the come-on does effect transfer of ownership of the property."*
- D. *Said R. Aha of Difti to Rabina, "Maybe that was because he was concerned that the price of the field not decline.""*
- E. *Rather, said R. Pappa, "if he is meticulous about his land, the come-on is assuredly binding."*

II.5. A. *And R. Pappa said, "Even though our rabbis have ruled that a come-on does not effect the transfer of property, still, it does create a mortgage from which payment may be exacted."* [Freedman: Though the creditor may not seize the whole field, which is probably worth more than the debt, he can claim payment from that particular field and refuse to deal with some other field.]

- B. *Said R. Huna b. R. Nathan to R. Pappa, "Has he said to him, 'Let it be transferred to you for collection of the debt'?"*

- C. *Said Mar Zutra b. R. Mari to Rabina, "But even if he said to him, 'Let it be transferred to you for collection of the debt,' has he effected ownership of the field? After all, what it is is merely a come-on, and a come-on does not effect the transfer of property. But under what circumstances did R. Pappa rule that such a statement does create a mortgage? If the debtor stipulated, 'You will be paid only out of this particular field.'"*

II.6. A. *Somebody sold land to his neighbor subject to security [that if the seller's creditor's should seize the land from the buyer in collection of the seller's debts, the seller will make it up to the buyer]. The buyer said to the seller, "If someone should seize it from me, will you compensate me out of the very best of the best land that you own?"*

B. *He said to him, "From the very best of the best I shall not compensate you, since I want to keep them for myself, but I shall repay you from the best of other lands that I possess."*

C. *In the end the land was seized from the buyer, and a flood came and swamped the seller's very best land.*

D. *R. Pappa considered ruling, "He promised him compensation from the best, and that is intact."*

E. *Said R. Aha of Difti to Rabina, "But the seller can plead, 'But the seller can say to him, 'When I said to you that I shall pay you from the very best, the very best was in existence, but now the "best" has taken the place of "the very best."'"*

II.7. A. *Rab bar Sheba owed money to R. Kahana. He said to him, "If I do not pay you by such-and-such a date, you may collect the debt from this wine."*

B. *R. Pappa considered ruling, "When we rule that a come-on does not effect transfer of ownership, that is in the case of real estate, which is not ordinarily put up for sale [since real estate represents capital and is not going to be sold very commonly], but as to wine, which is routinely put up for sale, it is equivalent to liquid capital."*

C. *Said R. Huna b. R. Joshua to R. Pappa, "This is what we say in the name of Rabbah: 'No 'if' effects the transfer of ownership.'"*

II.8. A. *Said R. Nahman, "Now that our rabbis have stated, 'A come-on does not effect the transfer of ownership,' [in the case to which the Mishnah has referred, **If one sold him a field, and the other paid him part of the price, and the vendor said to him, "Whenever you want, bring me the rest of the money, and then take yours the field" — it is forbidden**], both the land and its produce are returnable."*

B. *Is that to suggest that R. Nahman takes the view that an act of renunciation made in error is invalid? [Freedman: The debtor in permitting the creditor to possess the usufruct has obviously renounced his rights, but he has done so erroneously, not knowing that the creditor's title is invalid, and Nahman rules that the produce is to be returned.]*

C. *But has it not been stated:*

D. *He who sells to his neighbor the produce of a palm tree —*

- E. said R. Huna, "If this is prior to the actual yield of the produce, he can retract. If it is afterward, he cannot retract."
- F. And R. Nahman said, "Even if it is afterward, he can retract."
- G. *And R. Nahman said, "I concede that if the buyer went and grabbed and ate the fruit, the seller has no claim upon him."* [The seller permitted him to do so only because he did not know that he could retract; this is a renunciation in error, and that is here shown to be valid (Freedman).]
- H. *[No, the cases are different, because] there it is a sale, here a loan. [In a loan it would have the appearance of interest.]*

- II.9.** A. Said Raba, **[67A]** *"I was in session before R. Nahman, and I wanted to refute his position [that an act of renunciation made in error is invalid] by reference to the law of overreaching, but he realized, and so drew attention to the case of the barren woman.*
- B. *[We now review both issues:] "Lo, there is the case of overreaching, which is surely an act of renunciation in error, and it is not deemed an act of renunciation.*
 - C. *"But he realized and so drew attention to the case of the barren woman: lo, there is the case of the barren woman, for lo, a barren woman effects an act of renunciation in error, and it is a valid act of renunciation.*
 - D. *"For we have learned in the Mishnah: **A girl who exercised the right of refusal, a woman in a secondary grade of prohibited relationship, and a barren woman do not have a claim on a marriage contract nor on the increase on melog-property nor on maintenance nor on indemnity for wear of clothing [M. Ket. 11:6A-C].*** [Freedman: With respect to a barren woman, though her renunciation of ownership rights in her dowry in favor of her husband was in error, for when marrying him, she did not foresee that she would prove incapable of childbirth, that renunciation is valid and she cannot demand restitution.]
 - E. *"But matters are not as I was thinking, since the matter of overreaching does not present a refutation of his view, and the matter of the barren woman does not present support for it either.*
 - F. *"The matter of overreaching does not present a refutation of his view: for the victim did not know that he had been defrauded at all, such that he should renounce his rights;*
 - G. *"and the matter of the barren woman does not present support for it either: for she derived satisfaction from being classified as a married woman [and therefore was happy to renounce her rights, come what may. Hence this is not an act of renunciation in error.]"*

- II.10.** A. *A woman once said to a man, "Go and buy me land from my relatives," and he went and bought it for her. Said the seller to him, "If I can find the funds, will she return it to me?"*
- B. *He said to him, "You and so-and-so are relatives [so she will allow you to buy the land back when you can]."*
 - C. *Said Rabbah bar R. Huna, "Any statement such as, 'You and so-and-so are relatives' is such that the seller has relied upon the promise, so he does not completely transfer the land. [When the funds are paid back,] the land certainly returns, but what about the produce? Does this*

constitute direct interest, which can be legally recovered in court, or is it only indirect interest, which cannot be recovered in court?"

- D. *Said Rabbah b. R. Huna, "It stands to reason that it is in the category of indirect interest, which cannot be recovered in court."*
- E. *And so said Raba, "It is in the category of indirect interest, which cannot be recovered in court."*

II.11. A. *Said Abbaye to Rabbah, "What is the rule governing a mortgage [a field was mortgage with no stipulation about the crops, and the creditor took them]? Is the operative consideration in the preceding case that there has been no prior stipulation, and here too there is no stipulation [so the crops are not returnable]? Or perhaps the consideration there is that it is a sale, while here it is a loan?"*

- B. *He said to him, "The operative consideration in the preceding case is that there has been no prior stipulation, and here too there is no stipulation [so the crops are not returnable]."*

II.12. A. *Said R. Pappi, "Rabina made a practical decision in a case, reckoning the value of the crops and ordering the return."*

- B. *"He was not in accord with the position of Rabbah bar R. Huna."*

II.13. A. *Said Mar b. R. Joseph in the name of Raba, "In respect to a mortgage, in a locale in which it is the custom to make the creditor quit whenever the loan is repaid [but until that point he is in possession and enjoys the usufruct of the field that is subject to the mortgage], if he took the usufruct to the amount of the loan, he is removed from the property [the usufruct is treated as repayment and the creditor has no further claim], but if he consumed more than the amount of the loan, they do not exact restitution from him, nor if one loan balanced against another [in that, if the debtor owes him more money on another mortgage, the excess usufruct does not go to his credit against that mortgage]."*

- B. *"But in the case of a field belonging to an estate, if he took the usufruct to the amount of the loan, he is removed from the property [the usufruct is treated as repayment and the creditor has no further claim], and if he consumed more than the amount of the loan, they do exact restitution from him, and one loan is balanced against another."*

- C. *Said R. Ashi, "Now that you have ruled, 'if he consumed more than the amount of the loan, they do not exact restitution from him,' if he consumed precisely the value of produce that was equivalent to the loan, then here too he is not to be dismissed without payment. Why so? To dismiss him without cash payment of the loan is equivalent to making him return what he has already consumed, but that is only indirect interest, and that is not to be recovered in a court of law."*

- D. *R. Ashi made a practical decision in such a case, treating minors [67B] as equivalent to adults [Freedman: and did not allow the dismissal of the creditors without payment in spite of the discrimination in their favor that the prior authority has specified].*

II.14. A. *Said Raba b. R. Joseph in the name of Raba, "In respect to a mortgage, in a locale in which it is the custom to make the creditor quit whenever the loan is repaid [but until that point he is in possession and enjoys the usufruct of the field that is subject to the mortgage], one may enjoy the usufruct only if there is a fixed*

annual deduction [for every year of the usufruct, by which the creditor allows a fixed deduction from the debt, even though the usufruct should amount to less; then that is not a loan but a temporary sale, so even if the usufruct exceeds the allowance, it is not classed as interest (Freedman)].

- B. *"But an apprentice of our rabbis may not enjoy the usufruct even if there is an allowance of a fixed annual deduction."*
- C. *Then how is he to enjoy the usufruct? By a stipulated time limit [which is explained presently].*
- D. *That view poses no problems to the position of him who says a stipulated time limit is permitted, but on the view of the one who says that such an arrangement is forbidden, what is there to be said?*
- E. *For it has been stated:*
- F. *As to a stipulated time limit, there is a dispute between R. Aha and Rabina.*
- G. *One said, "A stipulated time limit is permitted."*
- H. *And the other said, "A stipulated time limit is forbidden."*
- I. *So what is a stipulated time limit anyhow?*
- J. *It is a case in which the creditor said to the debtor, "For five years I shall enjoy the usufruct of the field without a deduction [of the value of the usufruct from the outstanding loan], while from that time forward, I shall give you full allowance for the crops that I consume."*
- K. *Others say, "But any arrangement involving no deduction for usufruct is forbidden, and what is meant by a stipulated time limit? It is a case in which the creditor said to the debtor, 'For the first five years the usufruct will belong to me at a fixed deduction, and afterward I will give you full allowance for all the crops that I enjoy.'"*
- L. *He who prohibits the first sort of arrangement will permit the second, but one who prohibits the second sort of arrangement — on what basis will the apprentice of our rabbis enjoy the usufruct at all?*
- M. *He will permit it on the basis of the mortgage bonds that are arranged in Sura, in which it is specified, "At the expiration of a certain number of years, this estate will revert to the debtor without any payment whatsoever."*

II.15. A. Both R. Pappa and R. Huna b. R. Joshua say, *"In respect to a mortgage, in a locale in which it is the custom to make the creditor quit whenever the loan is repaid [but until that point he is in possession and enjoys the usufruct of the field that is subject to the mortgage], the creditor's creditor cannot exact the payment of his debt from the field. [Freedman: If the creditor dies and the usufruct of the estate passes on to his children, the deceased's creditor cannot demand repayment out of the usufruct of the field. For since it must be returned whenever the loan is repaid, the heirs have no possible title to the land itself, but to its usufruct, and that is movable property, which cannot be seized from the heirs in payment of the deceased's debt.] Furthermore, the first-born does not take a double portion in such a property, and the advent of the seventh year cancels the privilege of the usufruct [like any other loan on a written bond].*

- B. *"But in a locale in which it is not the custom to make the creditor quit whenever the loan is repaid, the creditor's creditor can exact the payment of his debt from*

the field. The first-born does take a double portion in such a property, and the advent of the seventh year does not cancel the privilege of the usufruct.”

- II.16.** A. *And Mar Zutra said in the name of R. Pappa, “In respect to a mortgage, in a locale in which it is the custom to make the creditor quit whenever the loan is repaid [but until that point he is in possession and enjoys the usufruct of the field that is subject to the mortgage], they make him quit even the dates on the mattings. But if he has already picked them up and put them into baskets, they are his.*
- B. *“And in accord with the position that the purchaser’s utensils effect possession for him even when located in the domain of the seller, even if the dates have not been gathered into baskets, they are his.”*
- II.17.** A. *Now it is obvious that in a locale in which it is the custom to make the creditor quit whenever the loan is repaid, if the creditor had said to the borrower as a stipulation, “I shall quit the property only at a certain time,” then it is a valid stipulation.*
- B. *But what is the rule in a place in which it is not the custom to make the creditor quit whenever the loan is repaid? If he promised to quite on repayment when not compelled, is it necessary to require him to undertake a symbolic act to bind him to his promise? Or is it not necessary?*
- C. *R. Pappa said, “It is not necessary to undertake a symbolic act to bind him to his promise.”*
- D. *R. Sheshet b. R. Idi said, “It is necessary to undertake a symbolic act to bind him to his promise.”*
- E. *And the decided law is that it is necessary to undertake a symbolic act to bind him to his promise.*
- II.18.** A. *If the debtor said, “I am going to bring you the money,” the creditor may not make use of the usufruct in the interim.*
- B. *If the debtor said, “t make the effort to bring you the money” —*
- C. *Rabina said, “The creditor may make use of the usufruct.”*
- D. *And Mar Zutra b. R. Mari said, “He may not make use of the usufruct.”*
- E. *And the decided law is that he may not make use of the usufruct.*
- II.19.** A. *R. Kahana, R. Pappa, and R. Assi did not take the usufruct with a deduction against the principal of the loan. Rabina did do so.*
- B. *Said Mar Zutra, “What is the reason of the one who does take the usufruct with a deduction against the principal of the loan? It is analogous to the field of possession [Lev. 27:16-18: if one sanctified an inherited field after the jubilee, it is redeemed at a fixed price, which is proportionate to the number of years left to the next jubilee]. And in the case of a field of possession, has not the All-Merciful said, even though one should derive greater usufruct from such a field, [67B] nonetheless, it is redeemed at the rate of four zuz per year. Here too, there is no difference.*
- C. *And he who holds that such an arrangement is prohibited will say to you that [there is a difference from the inherited field], for a field that has been inherited here falls into the category of what has been sanctified, and it is the All-Merciful*

that has allowed for a fixed fee of redemption. Here we deal with a loan, and such an arrangement appears to fall into the category of interest.

II.20. A. Said R. Ashi, *"The elders of Mata Mehasia said to me, 'A mortgage bearing no further stipulations is valid for one year.'"*

B. *So what?*

C. *If one has had the usufruct for one year, he can be evicted from the property [once the debt is paid], but not otherwise.*

II.21. A. And said R. Ashi, *"The elders of Mata Mehasia said to me, 'What is the meaning of "a pledge"? It is that it remains with the mortgagee.'"*

B. *So what?*

C. *It has to do with the right of preemption [Freedman: when a person sells a field, the adjoining neighbor has the first option to buy it].*

II.22. A. Said Raba, *"The law is not in accord with the credit interests of R. Papa, the bonds of the Mahozeans, or the tenancies of Nersh."*

B. *"'the credit interests of R. Papa:' this refers to the credit sales arranged by R. Papa;*

C. *"'the bonds of the Mahozeans:' they add the estimated profit to the principal and record the whole in a bond, for who in the world knows whether or not there will be a profit?"*

D. *Said Mar b. Amemar to R. Ashi, "Father would do it, but when his agents come before him and say they have earned no profit, he takes their word."*

E. *He said to him, "That is o.k. when he is alive, but what happens when he dies and the notes are transferred to his heirs?" [They would see the debt and might not believe the agents (Freedman).]*

F. *It was in the category of "an unwitting order that the ruler made" (Qoh. 10: 5), and Amemar died.*

G. [Raba continues,] *"'or the tenancies of Nersh:' this is what they write: 'Mr. So-and-so has mortgaged his field to Mr. Such-and-such and has then gone and rented it from him.'*

H. [Raba continues,] *"Now when did the lender make acquisition of the field, that he may transfer ownership to him?"*

I. *But nowadays, when the note is written in this language, "The creditor has acquired it from him, has been in possession of the field for such-and-such a span of time, and has now returned it to him," with the intention of not cutting off credit from borrowers, it is a valid practice.*

J. *But that is not at all a valid judgment [and it is prohibited].*

The Talmud vastly expands the issues presented by M. B.M. 5:3, since the rule at hand concerns only the narrowest possibility of interest paid through usufruct, while the Talmud expands the discussion to a vast range of problems connected with usufruct. So the Mishnah has dictated the theme, but only that; the larger principle of course is routine — the prohibition of interest — but the Talmud's rich expansion of the possibilities of the application of that principle constitutes its most compelling contribution through what is a protracted and satisfying inquiry. The treatment at I.1 focuses most narrowly upon the considerations operative in the

Mishnah-paragraph. No. 2 proceeds from that point to expand the matter. No. 3 immediately broadens the range of discussion by dealing with arrangements that do not represent direct payment of interest but do provide an advantage to the creditor that he would not otherwise enjoy, and No. 4 goes along the same path. No. 5 then introduces a case, which raises an issue that will predominate: the status of a come-on, a statement that one assumes will never have to be carried out but that one makes in order to encourage the deal to go through, and this further leads to the analysis of whether renunciations made in error are valid. Both of these matters hardly merit attention within the limits of our Mishnah-paragraph, but each one of them forms a natural outgrowth of the consideration of that rule. II.1 then draws us onward to the next phase of the Mishnah-paragraph. The strength of the Talmud is in its consistent introduction of the issues important within its reading of the Mishnah — the status of a come-on — rather than those dictated by the Mishnah's language. The only point of clarification of the Mishnah's rules comes at II.1-2. No., 3 then shades over into the issue of the come-on, and from that point we work out details, inclusive of practical cases, on that subject. This leads at No. 9 to a tertiary issue, the matter of whether or not an erroneous renunciation is valid. Nos. 11-22 pursue yet another tangential matter, the disposition of the usufruct under diverse prevailing practices. While the whole makes the impression of being somewhat run-on, in fact we can identify distinct groups of materials, which have been brought together to focus attention on large and important issues. Clearly, the grouping produces so cogent an effect as to attest to a prior plan: collect materials on a given theme and problem, work them out in their own terms, and then produce a conglomeration that is orderly and follows an entirely reasonable agenda.

5:4

- A. They set up a storekeeper for half the profit,
 - B. or give him money to purchase merchandise [for sale] at [the return of the capital plus] half the profit,
 - C. only if one [in addition] pays him a wage as a worker.
 - D. They set the hens [of another person to hatch one's own eggs] in exchange for half the profit,
 - E. and assess [and commission another person to rear] calves or foals for half the profit,
 - F. only if one pays him a salary for his labor and his upkeep.
 - G. But [without fixed assessment] they accept calves or foals [for rearing] for half the profits,
 - H. and they raise them until they are a third grown —
 - I. and as to an ass, until it can carry [a burden], [at which point profits are shared].
- I.1** A. *It has been taught on Tannaite authority:*
- B. a wage as a worker that is unemployed [T. B.M. 4:11B].
 - C. *What is the definition of an unemployed worker?*

D. **[68B]** Said Abbayye, “Like an unemployed worker of that particular specialty from which he is unemployed.”

II.1. A. **[They set up a storekeeper for half the profit...or give him money to purchase merchandise [for sale] at [the return of the capital plus] half the profit:]**

B. *It was necessary to specify both matters.*

C. *For had the Tannaite authority specified only the matter of the store-keeper, it would be the store-keeper who suffices to be paid as is an unemployed worker, because he does not engage in much strenuous labor, but as to the case of giving one money to purchase produce, who has to engage in much strenuous labor, I might have said that it would not suffice to pay him at the rate of an unemployed worker.*

D. *And had the Tannaite authority specified only the case of the one given coins to purchase produce, I might have said that it is in particular in that case that he requires payment in the status of an unemployed worker, because he has to engage in much strenuous labor, but in the case of a store-keeper, who does not have to carry on much strenuous labor, I might say that it would suffice to give him some pittance, for example, even if he just dipped his bread into vinegar or ate a dried fig of the investor, that would suffice.*

E. *Therefore it was necessary to specify both cases.*

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

B. How much is his salary?

C. “Whether much or little,” the words of R. Meir.

D. **R. Judah says, “Even if he dipped his bread with him in brine or even if he ate with him two dried figs, this constitutes the wage for the time invested in running the shop.”**

E. **R. Simeon b. Yohai says, “He pays him a full and proper wage” [T. **B.M. 4:11B-D**].**

The remainder of the Talmud-passage before us pertains to M. **5:5A-E**, which is as follows: **They assess and put out for rearing a cow, an ass, or anything which works for its keep, for half the profits. In a locale in which they are accustomed to divide up the offspring forthwith, they divide it forthwith. In a place in which they are accustomed to raise the offspring, they raise. Rabban Simeon b. Gamaliel says, “They assess [and put out] a calf with its dam, a foal with its dam.”** To explain: the one who supplies the capital, in the form of the cow or ass, benefits from the work of the rancher in raising the animal. But, unlike the case of Mishnah-tractate **Baba Mesia 5:4D-F**, since the animal works for its keep, the rancher gains the usufruct of the animal and so cannot be thought to pay “interest” to the capitalist in exchange for his share in the capital, namely, in the profits on the animals when they are sold. The rancher gets the work of the beast in return both for what he feeds it and his own work with it, so that the considerations of Mishnah-tractate **Baba Mesia 5:4** are not invoked. C-D provide a minor qualification. Simeon

even goes so far, E, as to permit the offspring of a dam to be assessed and raised, even though it is only the dam which will work.

III.1 A. *Our rabbis have taught on Tannaite authority:* **They do not make an agreement to divide the profits in the case of goats, sheep, or anything that does not work for its feed.**

B. **R. Yosé b. R. Judah says, “They do make an agreement to divide the profits in the case of goats, because in exchange for their feed they give milk, sheep, because they give wool by being shorn or by being passed through water or by being plucked, and chickens, because they lay eggs” [T. B.M. 5:4A-D].**

C. *But in the view of the initial Tannaite authority, are the shearings and milk not enough to pay for the work and food [of tending them]?*

D. *As to shearings and milk, all parties concur. Where they differ, it has to do with the whey and wool refuse [in an agreement in which the farmer is permitted to keep only these, but not the milk and wool]. The initial Tannaite authority takes the view of R. Simeon b. Yohai, who holds, “He pays him a full and proper wage.” R. Yosé b. R. Judah takes the position of his father, who says, “Even if he dipped his bread with him in brine or even if he ate with him two dried figs, this constitutes the wage for the time invested in running the shop.”*

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

B. **A woman may rent out her chicken to her neighbor [for the chicken to set on the eggs] in exchange for two fledglings.**

C. **A woman who said to her neighbor, “I have a chicken, you have eggs, let’s divide the fledglings” —**

D. **R. Judah permits.**

E. **R. Simeon prohibits [T. B.M. 4:24-25].**

F. *But does not R. Judah require compensation for tending and food?*

G. *There are addled eggs [Freedman: that cannot be hatched, and the egg-owner gets them back for her work. This is very little, but Judah accepts even the smallest payment, and addled eggs may be eaten and so are of some value].*

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

B. **In a locale in which it is customary to pay in coin for the wages for carrying the beast, they pay, and people are not to diverge from the local custom.**

C. **Rabban Simeon b. Gamaliel say, “They put out a calf with its dam, a foal with its dam [M. B.M. 5:5E],**

D. **“and even in a locale in which it is customary to pay in coin for the wages for carrying the beast” [T. B.M. 5:5D-F].**

E. *But does not R. Simeon require compensation for tending and food?*

F. *There is the dung.*

G. *And the initial authority [B]?*

H. *Ownership of dung is renounced [and so it cannot be claimed as part-payment for the work].*

III.4. A. Said R. Nahman, “The decided law accords with the view of R. Judah, and the decided law accords with the view of R. Yosé b. R. Judah, and the decided law accords with the view of Rabban Simeon b. Gamaliel.”

III.5. A. *Against the sons of R. Ilish was issued a bond which stipulated half-profits, half-loss. [That is, a bond by which he had undertaken to trade on such terms, and the arrangement is forbidden as involving interest.]*

B. *Said Raba, “R. Ilish was a weighty authority, and he would never have fed other people with prohibited food. So what is involved can be one thing or another: half profit, two thirds loss, [69A] half loss, two thirds profit”*

C. *Said R. Kahana, “I stated this report before R. Zebid of Nehardea, who said to me, ‘Perhaps R. Ilish made an arrangement such that the other would dip his bread into his vinegar, and R. Nahman has said that the law accords with the position of R. Judah [in which case this is a valid agreement].”*

D. *He said to him, “It is not as the decided law that the matter was set forth, but it was as a single governing principle that the matter was set forth. And that is entirely reasonable, for if you do not take that view, then why specify in each instance, ‘the law accords with...,’ ‘the law accords with...’? Simply say, ‘the law accords with R. Judah,’ who takes the most lenient position of them all.”* [Freedman: Hence in fact such small remuneration is inadequate and therefore Raba was justified in his assumption.]

III.6. A. Said Rab, “[If one says, ‘Take] the excess above a third [of the profits] as your remuneration,’ such an agreement is permitted. [Freedman: If one gives calves or foals to a breeder on a half profit half loss basis, which is forbidden, but adds that should it appreciate by more than a third of its present value, the excess belongs to the breeder, that constitutes payment, though such appreciation is uncertain.]”

B. And Samuel said, “But if he found no excess above a third, will this one go home empty-handed?”

E. Rather, said Samuel, “He makes an agreement to pay him a denar [for his work.]”

F. *Now does Rab take the view that people may not make an agreement for a denar of payment [under such circumstances]? And has not Rab said, “The head of the calf goes to the breeder”? Is this not in a case in which he has said to him, “Take the excess above a third [of the profits] as your remuneration”?*

G. *No, it is in a case in which he has said to him, either the excess over a third in the increase in value, or the head of the calf will go to the breeder.*

H. *If you prefer, I shall phrase matters in this way: when Rab made the statement, “[If one says, ‘Take] the excess above a third [of the profits] as your remuneration,’ such an agreement is permitted,” it is in a case in which the breeder has a cow of his own, for people say, “All the same is mixing fodder for an ox or for a lot of oxen.”*

III.7. A. *R. Eleazar of Hagronia bought a cow and handed it over to his share-cropper. He fattened it up and the owner gave him the head as his fee, as well as half the profit.*

B. *The wife of the share-cropper said to him, “If you were a partner with him, he would have given you the tail as well.”*

- C. *He went and bought a cow in partnership with him. R. Eleazar divided the tail and said, "Now let's divide the head too."*
- D. *The share-cropper said to him, "Now am I not getting so much as I did before?"*
- E. *He said to him, "Up to now the money was entirely mine, and if I had not given you a bit more than half, it would have looked like interest. Now that we are partners, what claim do you have? That I have worked more? But people say, 'The ordinary share-cropper obligates himself to the master on account of pasture.'"*

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

- B. **He who assesses and takes over the rearing of a beast from his fellow — how long is he liable to take care of it?**
- C. **Sumkhos says, "In the cases of asses, eighteen months, and in the case of animals living in folds, twenty-four months."**
- D. **And if the rancher laid claim upon him during the state time [to divide the animal's worth], his partner can prevent it.**
- E. **But the care to be given during the first year is not equivalent to that which is to be given in the second year [T. **B.M. 5:8A-F**].**
 - F. *What is the sense of "but"? Rather: "because the care to be given during the first year is not equivalent to that which is to be given in the second year."*

III.9. A. *A further teaching on Tannaite authority:*

- B. **He who assesses and takes care of the rearing of a beast from his fellow — how long is he liable to take care of it?**
- C. **In the case of small cattle, for thirty days.**
- D. **In the case of large cattle, fifty days.**
- E. **R. Yosé says, "In the case of small cattle, three months, because they take a great deal of tending. [Therefore in the case of all of them, if it was the share of the householder, one makes an assessment, but they do not vary from the prevailing practice of the province]" [T. **B.M. 5:7A-H**].**
 - F. *What is the meaning of, because they take a great deal of tending?*
 - G. *It is because their teeth was tender.*
 - H. *From that point forward, the breeder receives his half of the young and half of his neighbor's half as well . [Freedman: the original arrangement to share in the profits extends to the increased value of the young which he must continue to look after, and he takes his own half complete plus half the increased value of the owner's half.]*

II.10. A. *R. Manassia bar Gada took his half and half of his partner's half.*

- B. *The case came before Abbayye, who ruled, "Who divided for you [assessing the value and making sure you took only half a share]? And further more, this is a place in which it is customary to breed until the animals are fully grown, and we have learned: In a place in which they are accustomed to raise the offspring, they raise [M. **B.M. 5:5D**, below]."*

II.11. A. *Two Kuteans made an agreement together [with one investing the money, the other trading with it]. One of them went and divided the money without the knowledge and consent of the other. They came to R. Pappa for a ruling. He said to the plaintiff, "What difference does this action of his make? For thus did R. Nahman rule, 'Money held in partnership is deed to be already divided.'"*

B. *The next year they bought wine in partnership. The other went and divided it without his partner's knowledge and consent. They once more came for a ruling to R. Pappa, who said to him, "Who divided it for you?"*

C. *He said to him, "I see that you take his line."*

D. *Said R. Pappa, [69B] "In a case such as this it is certainly necessary to inform him [of the basis of the ruling]. As for money, would he take good coins and leave short-weight ones for you? Hardly. But in the case of wine, everybody knows that some wine is sweet and some has turned [so there can be no question about impartial division of money, but there may be such a question in the case of wine, so a third party is required]."*

II.12. A. *Reverting to the body of the prior statement:*

B. *R. Nahman ruled, "Money held in partnership is deed to be already divided."*

C. *That applies when all are good and full-weight, but not if some are good and others of full weight.*

II.13. A. *R. Hama used to rent out a zuz for a peshita a day [and this was not interest, because the borrower would be exempt, as would any one else who rented out an object, in the case of an unavoidable accident].*

B. *His money disappeared.*

C. *He said, "How does it differ from a spade?"*

D. *But that is not a valid argument, for for it is the same spade that comes back, and one can assess how it has depreciated, but the same coin is not returned, nor can one estimate how they have depreciated.*

II.14. A. *Said Raba, "One is permitted to say to his fellow, 'Here are these four zuz, take the money and lend it to so-and-so [even on interest],' for the Torah has forbidden only interest that is paid from the borrower to the lender."*

B. *And said Raba, "One is permitted to say to his fellow, 'Here are these four zuz, persuade so-and-so to lend me money.' The reason is that this is merely a fee for saying a few words that the other is getting."*

II.15. A. *So Abba Mar, son of R. Pappa, would take balls of wax from wax dealers and say to his father to lend them money."*

B. *Said our rabbis to R. Pappa, "The master's son is taking interest."*

C. *He said to them, "That kind of interest we are permitted to enjoy. For the Torah has forbidden only interest that is paid from the borrower to the lender, but here this is merely a fee for saying a few words that the other is getting, which is permitted."*

The Talmud passage before us serves M. 5:5 more than M. 5:4, as we shall see presently. Our Mishnah-passage is concerned with fair sharing of profits, so that the active partner is paid not only part of the profit but also a fair fee for his labor.

Otherwise the labor is construed as silent interest. But of course the investor puts in all the money and takes all the risk, and that means that, in the conception of the Mishnah and the Talmud alike, risk-capital is deemed null, and the rules of the distributive economy take over. Nos. 1-3 deal with our Mishnah-passage. But II.1 carries us to Tosefta's supplement to M. 5:5, and that fact is confirmed at No. 3. There is no intrinsic reason to separate M. 5:4 from M. 5:5, and it is clear that the arrangement of the Talmud admits for no such separation, since No. 7 shows us that the prior items, whether dealing with our Mishnah-paragraph or the following one, form a cogent composition. The rest of the discussion before us then belongs to M. 5:5. Since next Talmud-discussion begins with M. 5:5F-G, it is clear that the printers or copyists have made a minor mistake in their division. That accounts for my correcting it by citing M. 5:5A-E above at II.1.

5:5

- A. They assess [and put out for rearing] a cow, an ass, or anything which works for its keep,
- B. for half the profits.
- C. In a locale in which they are accustomed to divide up the offspring forthwith, they divide it forthwith.
- D. In a place in which they are accustomed to raise the offspring, they raise.
- E. Rabban Simeon b. Gamaliel says, "They assess [and put out] a calf with its dam, a foal with its dam."
- F. (And) one may pay increased rent [in exchange for a loan for the improvement of] one's field,
- G. and one need not scruple by reason of interest.

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

- B. (And) one may pay increased rent [in exchange for a loan for the improvement of] one's field and one need not scruple by reason of interest — how so?
- C. If one has accepted the tending of a field in exchange for ten kors of wheat and then said to him, "Give me two hundred denars and I shall fertilize it, and then I'll pay you twelve kors of wheat in a year's time" — that is permitted.
- D. But they may not pay increased rent in exchange for a loan for the improvement of one's ship, shop, or any thing that does not earn its keep [T. B.M. 5:13B-F].

I.2. A. Said R. Nahman said Rabbah bar Abbuha, "There are occasions at which one may offer increased rent for a shop, specifically, for a loan for decorations; or for a ship, to build a sail-yard on it.

- B. "for a shop, specifically, *for a loan for decorations: so people will find it more attractive and the shop will earn a higher profit;*
- C. "or for a ship, to build a sail-yard on it: *for the more beautiful its sail-yard, the higher the fee for renting the ship.*"

I.3. A. As to a ship:

- B. *Said Rab, "An agreement covering both the fee for rental and the sharing of the loss is permitted."* [Freedman: rent a ship at the lessee's risk in case it is damaged or sunk.]
- C. *Said R. Kahana and R. Assi to Rab, "If for the rent, then there can be no sharing of the loss, and if there is a sharing of the loss, then there can be no fee paid for rental [a combination of the two is forbidden; if the ship is assessed and the lessee accept all responsibility, it is as though he had borrowed money to its value, and the rent is usury (Freedman)]."*
- D. *Rab remained silent.*
- E. *Said R. Sheshet, "How come Rab remained silent? Has the master not heard that which has been taught on Tannaite authority: Even though an investment on 'iron flock' terms [by which the investor cannot lose money, with the profits shared but the loss taken wholly by one party to the agreement; if there is no risk and the investor's money is secure, this is a loan, and the half profit is interest] may not be accepted from an Israelite, it may be accepted from gentiles [M. B. M. 5:6C]?"*
- F. *"Truly have they said, 'He who assesses a cow for his neighbor, saying to him, "Lo, your cow is charged to me at thirty denars [for which I am liable, should the cow die or be injured], and I will pay you a sela a month,' — that is permitted, because he did not assess it as money."*
- G. *But did he not treat it as money?*
- H. *Said R. Sheshet, "He did not treat it as money while it was alive, but only if it died [Freedman: only if it perishes is he responsible for it; but if the price should drop while it is alive, the renter is not responsible, and that is why it is not considered a loan. So too in the case of a ship, since the lessee is responsible only for shipwreck and not for a drop in the market value, this is not an ordinary loan and a hiring free is permissible]."*
- I. *Said R. Pappa, "The law is, as to a ship, an agreement for both paying a rental fee and also making up the loss is permitted."*
- J. **[70A]** *The ship-owners are accustomed to receive the fee for rental at the time of the drawing of the ship [by the one who rents it] and payment for loss when it is ship-wrecked.*
- K. *But do matters depend upon local custom?*
- L. *The local custom is on account of the Tannaite teaching, such as was set forth.*

The Special Problem of the Disposition of the Capital of an Estate

- I.4.** A. *Said R. Anan said Samuel, "As to the capital of an estate ['money belonging to orphans'], it is permitted to lend it out at interest."*
- B. *Said to him R. Nahman, "Is it because they are orphans that you are feeding them forbidden food? Orphans who eat what is not theirs may follow the one who left them behind! Tell me," he said to him, "what actually took place [for Samuel can have made no such explicit statement, and it is only from some deed of his that people have drawn the conclusion that has been re-framed as the generalization Anan has reported]?"*
- C. *He said to him, "There was a pot in the care of Samuel, that belonged to the children of Mar Uqba [who had died]. He weighed it before he hired it out and he weighed it when he got it back, and he charged for both the rental fee and also*

the depreciation of its weight. But if a fee was paid for renting the pot, there should have been no charge for depreciation, and if there was a charge for depreciation, there should be no free for renting the pot.”

- D. *He said to him, “Under such circumstances it is permitted for even bearded men to do likewise, for lo, the owner bears the cost of wear and tear, since as the copper is burned, so the pot depreciates more and more [and the hiring fee in addition to depreciation is not a form of interest at all].”*

I.5. A. *Said Rabbah bar Shila said R. Hisda, and some say, said Rabbah bar R. Joseph bar Hama said R. Sheshet, “As to the capital of an estate [‘money belonging to orphans’], it is permitted to lend it out on terms that leave them near for profit but far from loss.”*

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

- B. If one is near to profit and distant from loss, he is wicked; near to loss and distant from profit, he is exemplary; near this and that, far from this and from that — that is the trait of ordinary folk.

I.7. A. *[Reverting to I.5.A:] said Rabbah to R. Joseph, “As to the money of these orphans, what is actually done with it?”*

- B. *He said to him, “We deposit the money with a court and pay it out to them in installments.”*
- C. *He said to him, “Then you will use up the capital.”*
- D. *He said to him, “And just how does the master propose to handle the matter?”*
- E. *He said to him, “We seek out a man who has in hand broken pieces of gold, take the gold from him, and entrust the orphan’s money on terms that are near to profit and far from loss.”*
- F. *But an object that has a distinctive mark cannot be taken as security, since it may have been merely left with him and the real owner may come, state the distinctive trait to prove ownership, and take it away.*
- G. *Said R. Ashi, “Well enough, anyhow, if you can find a man who has broken gold. But if you don’t find a man who has broken gold, will the orphans’ money be allowed to go to waste?”*
- H. *Rather, said R. Ashi, “we find a man whose [Freedman:] property is secure, who is trustworthy and who obeys the law of the Torah and will not be forced to accept excommunication from the rabbis, and the money is entrusted to him in the presence of the court.”*

As is clear, our Talmud begins only with the concluding lines of the Mishnah-paragraph, F-G. I.1 cites a pertinent passage of the Tosefta, which forms the basis for the further analysis of the rule, Nos. 2, 3. Nos. 4ff. take up a special problem in the context of the general rule at hand.

5:6

- A.** **[70B] They do not accept from an Israelite a flock on “iron terms” [that the one who tends the flock shares the proceeds of the flock but restores the full value of the flock as it was when it was handed over to him, so that the other is “near to profit and far from loss”],**
- B.** **because this is interest.**

- C. But they do accept a flock on “iron terms” from gentiles.
- D. And they borrow from them and lend to them on terms of interest.
- E. And so is the rule for the resident alien.
- F. An Israelite may lend out the capital of a gentile on the say-so of the gentile,
- G. but not on the say-so of an Israelite. [If the gentile had borrowed money from an Israelite, one may not lend it out on interest with the Israelite’s knowledge and consent.]

- I.1** A. *Is this [because this is interest] then to imply that the flock remains in the domain of the contractor [and not of the Israelite]?*
- B. *But an objection is to be raised: He who contracts with a gentile to breed on iron-flock terms — [the herd subject to those terms] is exempt from the law of firstlings. [The offspring are equally divided between the capitalist and the farmer. If the young produced offspring, while half of them belong to the Israelite, the obligation of firstlings does not apply to them. So they are regarded as the property of the capitalist, not the contractor-farmer (Freedman)].*
- C. *Said Abbaye, “There is no contradiction. In the one case [the capitalist] accepted the risk of unavoidable accidents and of depreciation, in the other he did not. [Where he did, the property is within his domain, and if it is a gentile, the law of firstlings does not apply. If the contractor accepts these risks, then there is usury; a Jewish capitalist may not make such an agreement.]”*
- D. *Said Raba to him, “If the capitalist has accepted the risk of unavoidable accidents and of depreciation, then can you call such an agreement ‘iron flock terms’ at all? [Obviously not!] And furthermore, while the later clause of the passage states, **But they do accept a flock on “iron terms” from gentiles**, it should rather make a distinction in this wise: ‘When does this apply [that ‘iron flock’ terms may not be contracted for with a Jew]? Only if the capitalist does not bear the risk of unavoidable accidents or depreciation, but if he accepts those risks, it is a permissible arrangement.’”*
- E. *Rather, said Raba, “Both the Mishnah-passage and the cited teaching concerning the firstling refer to a case in which the capitalist has not accepted the risks of unavoidable accidents and depreciation. But as to the rule governing firstlings, this is the operative consideration that the offspring are exempt from that rule: since, if the farmer did not hand money over to the capitalist, the gentile would come and seize the beast, and if he did not find the beast, he would seize the offspring, you have a case in which the hand of a gentile is mixed up in the matter, and in any case in which the hand of a gentile is mixed up in the matter, the offspring is exempt from the obligation governing firstlings.”*

Usury and Gentiles.

“HE WHO AUGMENTS HIS WEALTH BY INTEREST AND INCREASE GATHERS IT FOR HIM WHO IS KIND TO THE POOR” (PRO. 28: 8):

- I.2** A. “He who augments his wealth by interest and increase gathers it for him who is kind to the poor” (Pro. 28: 8):
- B. *Who is meant by the words, for him who is kind to the poor?”*
- C. *Said Rab, “For example, King Shapur.”*

- I.3.** A. [“He who augments his wealth by interest and increase gathers it for him who is kind to the poor” (Pro. 28: 8):]
- B. *Said R. Nahman, “Huna said to me, ‘This verse serves only [to encompass] interest that comes even from a gentile.’”*
- C. *Raba objected to R. Nahman, “[You shall not lend upon interest to your brother, interest on money, interest on food, interest on anything that is lent for interest.] To a foreigner you may lend upon interest, [but you shall not lend upon interest to your brother, that the Lord your God may bless you in all that you undertake in the land that you are entering to take possession thereof]” (Deu. 23:129-20). What is meant by ‘you may lend upon interest’? Is it not that you may take interest?”*
- D. *“No, it means, you may pay out interest [to a gentile, not to an Israelite].”*
- E. *“Cannot one then not suffice without [lending on interest to gentiles, that you should impute the meaning, one must...]?”*
- F. *“It means to exclude your brother, to whom one may not pay out interest.”*
- G. *“But is this not explicitly stated: ‘but you shall not lend upon interest to your brother, that the Lord your God may bless you in all that you undertake in the land that you are entering to take possession thereof?’”*
- H. *“This is to impose both a positive and a negative commandment.”*
- I. *An objection was raised: **And they borrow from them and lend to them on terms of interest. And so is the rule for the resident alien.** [But that makes explicit that it is permitted to pay interest to, or take interest from, gentiles.]*
- J. *Said R. Hiyya b. R. Huna, “The specific remission of the prohibition is necessary **[71A]** [to cover a loan from a gentile to an Israelite] up to the minimum requirements of sustaining life. [For such a loan one may pay interest, but not for working capital.]”*
- K. *Rabina said, “The passage at hand deals with disciples of sages. What is the operative consideration? Rabbis made a decree [against disciples’ paying interest to gentiles] so that other people will not learn from what they do. And here, since it is a disciple of a sage, others will not learn from what they do.”*
- I.4** A. *There are those who refer this statement of R. Huna to the following, which R. Joseph repeated on Tannaite authority:*
- B. *“‘If you lend money to any of my people with you who is poor, you shall not be to him as a creditor, and you shall not exact interest from him’ (Exo. 22:25) —*
- C. *“‘my people’ and a gentile — my people takes precedence.*
- D. *“‘one who is poor’ and one who is rich — the one who is poor takes precedence.*
- E. *“‘your poor’ and the poor of your town — your poor takes precedence.*
- F. *“the poor of your town and the poor of some other town — the poor of your town take precedence.”*
- G. *Now the master has said, “‘my people’ and a gentile — my people takes precedence,” but that is perfectly self-evident!*
- H. *Said R. Nahman, “Huna said to me, ‘The passage is required to make the point that even if it is a case of lending money to a gentile on interest and to an Israelite not on interest, [the latter is to get the money, not on interest].’”*

I.5 A. *It has been taught on Tannaite authority:*

- B. Said R. Yosé, “Come and see the blindness of those who lend on interest. A person calls his fellow wicked, and undertakes to destroy his very life, — so they bring witnesses, a scribe, a pen and ink, and write and seal: ‘So and so has denied the God of Israel.’”

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

- B. R. Simeon b. Eleazar says, “Of whoever has liquid capital and lends it not on interest, Scripture says, ‘who does not put out his money at interest and does not take a bribe against the innocent; he who does these things shall never be moved’ (Psa. 15: 5) —
- C. “thereby you have learned that whoever does lend money at interest — his property will tremble.”
- D. *Yet, as a matter of fact, we see that the property trembles of those who do not lend on interest!*
- E. Said R. Eleazar, “That of these trembles but recovers, while that of the others trembles and does not recover.”

I.7 A. “You who are of purer eyes than to behold evil and cannot look on wrong, why do you look on faithless men and are silent when the wicked swallows up the man more righteous than he” (Hab. 1:13):

- B. Said R. Huna, “‘...the wicked swallows up the man more righteous than he’ he may swallow up, but one who is entirely righteous he cannot swallow up.”

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

- B. Rabbi [Judah the Patriarch] says, “The righteous proselyte mentioned in the context of selling oneself as a slave and the resident alien mentioned in connection with interest — I do not know the sense of the matter.
- C. “‘The righteous proselyte mentioned in the context of selling oneself as a slave, as it is written, ‘And if your brother that dwells with you grows poor and is sold to you’ (Lev. 25:39) — not only to you’ [an Israelite] but even to a proselyte, as it is written, ‘and sell himself to a proselyte,’ (Lev. 25:47), and not to a righteous proselyte, but even to a resident alien, as it is written, ‘to a proselyte and a settler’ (Lev. 25:47), ‘or to a family of a proselyte’ — to a gentile, so when it is said, ‘or to the stock’ it must speak of one who sells himself as a slave to an idol itself.” [This exposition continues below at 7.]

I.9 A. The master has said, “‘And if your brother that dwells with you grows poor and is sold to you’ (Lev. 25:39) — not only to you’ [an Israelite] but even to a proselyte, as it is written, ‘and sell himself to a proselyte,’ (Lev. 25:47).”

- B. *Does this then bear the implication that a proselyte may acquire a Hebrew slave?*
- C. *But an objection is to be raised from the following:* A proselyte may not be acquired as a Hebrew slave, and a woman and a proselyte cannot acquire a Hebrew slave.
- D. A proselyte may not be acquired as a Hebrew slave, *since we require fulfillment of the clause, “and he shall return to his own family,” which does not apply to the proselyte.*
- E. and a woman and a proselyte cannot acquire a Hebrew slave, *a woman, because it is not seemly, and a proselyte, because we have learned as a tradition that one*

who can be acquired also can acquire but one who cannot be acquired cannot acquire.

- F. Said R. Nahman bar Isaac, "He cannot acquire under the law that applies to an Israelite owner, but he may acquire him under the law that applies to a gentile owner, *for it has been taught on Tannaite authority*, 'The slave whose ear is bored and one who is sold to a heathen serve neither the son nor the daughter [of the owner].'"

I.10 A. The master has said, "A woman and a proselyte cannot acquire a Hebrew slave."

- B. *May we say that this does not follow the view of Rabban Simeon b. Gamaliel, for it has been taught on Tannaite authority: A woman may purchase slave-women but she may not purchase slave-men.*
- C. Rabban Simeon b. Gamaliel says, "She may also purchase slave men."
- D. *You may even attribute the cited passage to Rabban Simeon b. Gamaliel, for there really is no contradiction. In the one place he speaks of a Hebrew slave, in the other a Canaanite slave. A Hebrew slave is chaste as to the woman, the Canaanite slave lewd in her regard.*
- E. *And how about what R. Joseph taught on Tannaite authority, "A widow should not breed dogs nor keep as a boarder a young member of a rabbinical house."*
- D. *Now as to a young member of a rabbinical house is a matter of privacy [so the prohibition is readily understood], but, as for a dog, since it will follow her if she commits bestiality with it, she will surely be afraid to do so [so why can't she raise dogs]?*
- E. *I should say, since the dog will also follow her even if she tosses a piece of meat to her, that will be taken as the cause of its devotion.*

I.11 A. "and the resident alien mentioned in connection with interest — I do not know the sense of the matter:"

- B. For it is written, "And if your brother becomes poor and cannot maintain himself with you, you shall maintain him; as a stranger and a sojourner he shall live with you. Take no interest from him or increase, but fear your God, that your brother may live beside you. You shall not lend him your money at interest, nor give him your food for profit. I am the Lord your God who brought you forth out of the land of Egypt to give you the land of Canaan and to be your God" (Lev. 25:35-7). [So interest may not be collected from a resident alien.]
- C. *Now an objection is to be raised from the following: **And they borrow from them and lend to them on terms of interest. And so is the rule for the resident alien.***
- D. Said R. Nahman bar Isaac, "Is it written, 'you shall not collect interest from them'? What is written is, 'from him,' meaning, from an Israelite."

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

- B. "You shall not lend him your money at interest, nor give him your food for profit."
- C. But you may serve as a surety for him [for one who is borrowing money on interest].
- D. **[71B]** *A surety for whom? Should we say an Israelite? But it has been taught on Tannaite authority: **These [who participate in a loan on interest] violate a***

negative commandment: (1) the lender, (2) borrower, (3) guarantor, and (4) witnesses....[M. 5:11A-B].

- E. *Should we say then that it is for a gentile? But since the law of the gentile is that one may lay claim directly on the surety, it is the surety who is doing the borrowing!* [Freedman: From the viewpoint of Jewish law there are two transactions in this loan: the surety borrows money from the gentile and pays interest on it, and he lends the money to the Jew, and gets interest from him; so such a transaction is forbidden.]
- F. Said R. Sheshet, "It is a case in which the other has undertaken to conform to Jewish law."
- G. *If he has agreed to conform to Jewish law, then he also should not collect interest at all!*
- H. Said R. Sheshet, "It is a case in which he has undertaken to conform to Jewish law for the one but not for the other."

II.1 A. An Israelite may lend out the capital of a gentile on the say-so of the gentile, but not on the say-so of an Israelite:

- B. *Our rabbis have taught on Tannaite authority:*
- C. **An Israelite may lend out the capital of a gentile on the say-so of the gentile, but not on the say-so of an Israelite. How so? An Israelite who borrowed money from a gentile and wants to pay it back to him — if his fellow came up him and said to him, "Give it to me and I'll hand it over for you just as you would hand it over to him" — it is prohibited. But if he made this request from a gentile, it is permitted. And so too, a gentile who borrowed money from an Israelite and wants to pay it back to him — if another Israelite came upon him and said to him, "Give the money to me just as you would have given them to him" — it is permitted. But if he made this request from an Israelite, it is prohibited [T. B.M. 5:16-17].**
- D. *Now it is clear that, as to the second of the two examples, it yields a strict rule. But as to the first of the two cases, since the law of agency does not apply to a gentile, it is the Israelite who ends up collecting interest from the fellow Israelite!*
- E. *Said R. Huna b. Manoah in the name of R. Aha b. R. Iqa, "With what sort of case do we deal here? It is, for example, a case in which he said to him, 'Leave the money on the ground and go your way [so that the second Jew does not receive the money from the first Jew at all].'"*
- F. *If that is the case, then what is at stake here anyhow [since that is a self-evident possibility]!*
- G. Rather, said R. Pappa, "It is, for example, a case in which the gentile took the money from the first creditor and personally handed it over to the second."
- H. *Still, if that is the case, then what is at stake here anyhow [since that is a self-evident possibility]!*
- I. *What might have you supposed? The gentile himself, when he acts as he does, is acting in accord with the knowledge and intention of an Israelite, so it is taught that that is not the case.*

II.2. A. R. Ashi said, “When we invoke the principle, the law of agency does not apply to a gentile, that applies only to the separation of heave-offering [from the crops of an Israelite for use as priestly rations]. But in all other matters of the Torah, the law of agency does apply to a gentile.”

B. But that statement of R. Ashi’s is ridiculous, for what distinguishes the separation of heave-offering, that a gentile cannot serve as an Israelite’s agent? It is that it is written, “Thus you, you shall also offer heave offering” (Num. 18:28), meaning, just as you are subject to the covenant, so those who serve as your agents must be subject to the covenant. But is not the principle of agency as it pertains to all matters of the Torah in point of fact derived from the case of heave-offering? It follows that that statement of R. Ashi’s is dubious.

C. There are those who say matters in the following form:

D. Said R. Ashi, “When we invoke the principle, the law of agency does not apply to a gentile, that pertains when they are to serve as our agents, but we can serve as their agents.”

E. But that statement of R. Ashi’s is ridiculous, for what distinguishes the matter of their serving as our agent? It is that it is written, “Thus you, you shall also offer heave offering” (Num. 18:28), which serves to encompass those who serve as your agents, meaning, just as you are subject to the covenant, so those who serve as your agents must be subject to the covenant. But that then pertains to our serving as their agents: just as “you” [who appoint agents] must be subject to the covenant [so those whom you serve as agents must be subject to the covenant]. It follows that that statement of R. Ashi’s is ridiculous.

II.3. A. Rabina said, “Granting that a gentile cannot serve as an agent, on the authority of the rabbis one may nonetheless effect rights of possession in his behalf, by the analogy of a minor.

B. “Just as, in the case of a minor, even though he cannot serve as an agent, [72A], on the authority of the rabbis one may nonetheless effect rights of possession in his behalf, here too, there is no different.”

C. But that is not a valid analogy, for an Israelite enters the category of one who is covered by the law of agency, while a gentile does not enter the category of one who is covered by the law of agency at all.

II.4. A. Our rabbis have taught on Tannaite authority:

B. An Israelite who borrowed money on interest from a gentile and recorded the principal and interest against him as a loan, and the creditor became a proselyte, if it was prior to his conversion that he recorded the principal and interest against him as a loan, he may collect the principal and collect the interest. If it was after he converted that he did so, he may collect the principal but he may not collect the interest.

C. And so too a gentile who borrowed money from an Israelite for interest and recorded it to him as a loan and the gentile then converted, if it was prior to his conversion that he recorded the principal and interest against him as a loan, he may collect the principal and collect the interest. If it was after he

converted that he did so, he may collect the principal but he may not collect the interest.

- D. **R. Yosé says, “A gentile who borrowed money from an Israelite on interest, one way or the other, the Israelite may collect the principal and may collect the interest” [T. B.M. 5:21].**
- E. *Said Raba said R. Hisda said R. Huna, “The law accords with the position of R. Yosé.”*
- F. *Said Raba, “What is the reason for the view of R. Yosé? It is so that no one may have reason to say, ‘it was on account of financial considerations that this person has converted.’”*

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

- B. **“A bond in which is inscribed provision of interest — they penalize the holder, who may collect on the strength of that bond neither principal nor interest,” the words of R. Meir.**
- B. **And sages say, “He may collect the principal but he may not collect the interest” [cf. T. B.M. 5:22D-E].**
 - C. *What is at stake here?*
 - D. *R. Meir takes the view that we penalize the permitted return on account of the forbidden one, and our rabbis maintain that we do not penalize the permitted aspect of the transaction on the account of the forbidden.*

II.6. A. *We have learned in the Mishnah: Antedated bonds are invalid, but postdated bonds are valid [M. Shebiit 10:5B].*

- B. *But why should the predated ones be entirely invalid? Granted that one may not collect what is owing as indicated by the earlier, false date, let one collect on the basis of the second, and valid date! [Freedman: The creditor may not seize land sold after the date of the bond but prior to the actual loan, but why should he not seize land sold after the loan was made?]*
- C. *Said R. Simeon b. Laqish, “It goes over a familiar dispute and represents the position of R. Meir.”*
- D. *And R. Yohanan said, “You may even say that it represents the view of our rabbis. The rule represents a decree made lest the creditor collect on the strength of the earlier date that is in the bond.”*

II.7. A. *Someone pledged an orchard to his neighbor for a span of ten years. The creditor had the usufruct of the field for five years. He then said to the debtor, “If you will sell it to me, well and good, but if not, I will conceal the mortgage deed and claim that I bought it from you.”*

- B. *He went and transferred ownership to his minor son, then went and sold it to the man.”*
- C. *The sale certainly is null, but is the money paid in purchase deemed a written debt, to be collected from mortgaged property that may have been sold, or only a verbal debt, which cannot be recovered from mortgaged property?*
- D. *Said Abbaye, “But does this not pertain to the opinion of R. Assi? For R. Assi said, [72B] ‘If the debtor concedes the validity of a bond, the creditor does not have to confirm it, and he may collect on the strength of the bond from mortgaged*

property [which was sold after the debt was contracted].’ [Since the debtor admits having written the deed, the liability is a debt secured in writing.]”

- E. *Said to him Raba, “But are the cases truly comparable? In the case to which R. Assi refers, it was permitted to write the bond, but here it is not [since the sale was null to begin with].”*
- F. *Maremar was in session and stated this version. Said Rabina to Maremar, “But as to that which R. Yohanan said, ‘The rule represents a decree made lest the creditor collect on the strength of the earlier date that is in the bond,’ rather why not maintain that it was a bond that ought not to have been written to begin with?”*
- G. *He said to him, “How now! Granted that in that case, it was improper to have written it with the earlier date, still, it was quite proper to write it with the later date [on which the loan actually took place], but here, it was improper to have written the document at all!”*
- H. *“But take note of the following, taught on Tannaite authority: As to collecting indemnity for improvements of the land, how so? Lo, if one has stolen a field from his fellow, and sold it to another, who improved it, and lo, it now is removed from the latter’s possession, when the victim collects, he collects the principal from encumbered property, and the compensation for the improvements he collects from unencumbered property. Rather why not maintain that it was a bond that ought not to have been written to begin with?”*
- I. *“How now! In that case, whether we take the view that the seller is concerned not to be called a robber, or on the view that he wants to maintain the purchaser’s confidence, he will want to appease the first owner so as to validate the deed [and it is a genuine deed]. But here, it was the farmer’s intent to save the field from the creditor’s avarice, so is he going to validate the deed? [Surely not!].”*
- I.1 commences with the anticipated interest in analyzing the language of the Mishnah, but the real interest is to ask about the theory of the “iron-flock” contract: who is the ultimate owner of the property? Then we turn to a free-standing exposition of the laws of interest as Scripture sets them forth, which can have been situated anywhere in this chapter and hardly serves our Mishnah-paragraph in particular. The main trait is the exposition of Tosefta’s complement to our Mishnah-paragraph. The extension of the discussion accounts for the inclusion of Nos. 2, 3, then at II.4 we revert to another Tosefta-complement and proceed along the same lines.

5:7

- A. **They do not strike a bargain for the price of produce before the market price is announced.**
- B. **[Once] the market price is announced, they strike a bargain,**
- C. **for even though this one does not have [the produce for delivery], another one will have it [so this is not trading in futures].**
- D. **[If] one was the first among the reapers [of a given crop], he may strike a bargain with him**

- E. for (1) grain [already] stacked [on the threshing floor],
- F. or for (2) a basket of grapes,
- G. or for (3) a vat of olives,
- H. or for (4) the clay balls of a potter,
- I. or for (5) lime as soon as the limestone has sunk in the kiln.
- J. And one strikes a bargain for the price of manure every day of the year [since the rate of production is constant].
- K. R. Yosé says, "They do not strike a bargain for manure before the manure is on the dung heap."
- L. And sages permit.
- M. And one may strike a price at the height [of the market, the cheapest rate prevailing at the time of delivery].
- N. R. Judah says, "Even though one has not made a bargain at the cheapest rate [prevailing at the time of delivery], one may say to him, 'Give it to me at such-and-such a rate, or give me back my money.'"

I.1 A. Said R. Assi said R. Yohanan, "One [who does not have the goods in hand] may not make a contract to supply [over a period of time] goods at the current market price."

B. *Said R. Zira to R. Assi, "Did R. Yohanan say that that was so even in the case of a great fair [Freedman: even though prices then are stable and a fair indication of value]?"*

C. *He said to him, "R. Yohanan made his statement only in regard to the market of towns, where the prices are not fixed."*

D. *Now if we consider our initial hypothesis that R. Yohanan's ruling pertained even to great fairs, then, as to the rule of our Mishnah, **They do not strike a bargain for the price of produce before the market price is announced. [Once] the market price is announced, they strike a bargain, how shall we find an appropriate case [in which that rule can ever apply]?***

E. *Our Mishnah's rule speaks of wheat in granaries and on boats, the fixed price of which extends over a long period of time [for here the price is stable and there will be no appreciation, such as can occur if the supply is short].*

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

B. **They do not strike a bargain for the price of produce before the market price is announced. Once the price has been announced, they may then strike a bargain.\ For even if the seller has no produce, another one has. If the new produce was going at four to a zuz and the old at three, one may make an agreement only when the price has come forth for both the old and the new [and equalized]. If gleaned grain was at four, while what everybody had was at three, one may not enter a contract at the fixed maximum price until the same market price has been established for both the gleaner and the wholesale merchant [T. B.M. 6:1, with variations].**

I.3. A. Said R. Nahman, "[Even though a contract may not be made until the prices are equally, that applies only if the vendor supplies gleanings or ordinary stock, but if

the vender is a gleaner, supplying only gleanings, then] they may make a contract for gleanings at the price of gleanings.”

- B. *Said Raba to R. Nahman, “What differentiates the gleaner? Is it because, if he lacks stock, he can borrow it from his fellow gleaner? The same applies to a merchant, who can borrow from a gleaner.”*
- C. *He said to him, “It is demeaning for a householder to borrow from a gleaner. If you prefer, I shall explain, someone who pays a householder for grain is paying for the produce of the best quality [such as is not left for the gleaners].”*

I.4. A. *Said R. Sheshet said R. Huna, “They do not borrow money on the market price [that is, with the stipulation that if the money is not repaid by a certain date, provisions will be supplied in place of the money at the market price prevailing at the time of the loan, a price that is lower than that which will prevail later (Rashi/Freedman)].”*

- B. *Said R. Joseph b. Hama to R. Sheshet, and some say, R. Yosé bar Abba to R. Sheshet, “And did R. Huna make that statement? Rather, someone asked a problem for R. Huna’s solution:*
- C. *“As to the beginning students, who borrow in Tishri and pay in Tebet, is it permitted or prohibited? [That is, may they borrow money in Tishri and repay in produce in Tebet at the prices of Tishri?]”*
- D. *He said to them, “You can get wheat anywhere — whether in Hini or Shili! If they wish, they can buy and repay [and this is not a usurious transaction, in contradiction to A].”*
- E. *At first R. Huna took the position that one must not borrow in this way, but when he had heard what R. Samuel bar Hiyya said R. Eleazar said, which is that people may borrow in this way, he too ruled that they may borrow in this way.*

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

- B. **If one was bringing a cargo from one place to another, and someone said to him, “Hand it over to me, and I shall pay you the price you would get there” — [73A] if the cargo remains within the domain of the seller, it is a permitted transaction, but if it is within the domain of the purchaser, it is prohibited.**
- C. **If one was bringing produce from one place to another, and someone came upon him and said to him, “Hand them over to me, and I shall provide you with produce that I have in that place” — if he has produce there, then it is a permitted transaction, and if not, it is forbidden.**
- D. **But ass-drivers accept produce from a householder where it is cheaper and sell it where it is more expensive, and they do not have to scruple by reason of violating the prohibition against price-gouging [T. B.M. 4:7-8, with variations].**
- E. *What is the operative consideration here?*
- F. *R. Pappa said, “They are satisfied to know the market price.”*
- G. *R. Aha b. R. Iqa said, “They are satisfied [Freedman:] with the extra discount they receive.”*
- H. *What is at issue here?*

- I. *The case of a new trader.* [Freedman: If the carrier has only just begun to trade, in the first view, it is permitted, for the same reason applies; in the second view, being a new trader, he lacks the farmer's confidence; the farmer may not believe that the new trader is supplying the produce in the place in which it is expensive at the cheap rate, and hence the trader should receive no additional discount. The transaction is forbidden, for the work of carriage is merely on account of the money that is advanced and this is usury.]

I.6. A. *In Sura four seahs of grain went for a zuz, in Kafri, six. Rab gave money to an ass-driver and accepted the risk of unavoidable accidents on the way and got five seahs per zuz.*

- ‘ B. *So why not charge six?*
C. *A major authority is in a different category.*

I.7. A. R. Assi asked R. Yohanan, “*What is the law as to doing the same with small ware?*”

- B. He said to him, “R. Ishmael b. R. Yosé wanted to do so with linen garments, but Rabbi did not permit it.
C. *There are those who say, “Rabbi wanted to do the same with small ware, but R. Ishmael b. R. Yosé did not permit it.”*

I.8. A. *As to an orchard [is it permitted to advance money at a fixed price for the produce of the orchard before it is ripe to be delivered when it is ripe? This price will be less than the price for the ripe fruit.]*

- B. *Rab prohibited doing so.*
C. *Samuel permitted doing so.*
D. *Rab prohibited doing so, for, since later in, it will be worth more, it appears to be like a fee paid for waiting.*
E. *Samuel permitted doing so, for, since there is the possibility of regret [and risk is involved], it will not appear to be like a fee paid for waiting.*
F. *Said R. Shimi bar Hiyya, “But Rab concedes in the case oxen, since the possibility of loss is considerable [it is permitted to make such an arrangement, e.g., to advance money prior to the birth of the beast].”*

I.9. A. *Said Samuel to those factors who supply seed grain to be returned in new grain, “Turn over the ground of the field, so that you may acquire rights to the field itself, since, if not, it will be treated as a loan made by you and the transaction will be forbidden.”*

I.10. A. *Raba said to those who watch over grain fields, “Go out and work in the barn, since your wages will not be payable until [you have finished those tasks], for a salary is payable only at the end of the work.”* [Freedman: The watchers were paid only when the grain had been winnowed, but the wages were due immediately after the harvest, and in consideration of their waiting, they were given something more than was owing. This has the appearance of interest, so Raba told them to work around the barn, so the wages would not be legally payable until they actually received them, in which case the extra payment would be a gift, not interest.]

- I.11.** A. *Our rabbis said to Raba, "You are enjoying interest, for everybody takes four zuz and dismisses the tenant in Nisan, but you wait until Iyyar and collect six."*
[The additional money appears to be payment for waiting the extra months for the rent.]
- B. *He said to them, "You are the ones who are acting contrary to law! The law is in bond to the tenant. If you make him leave in Nisan, before the crops ripen, you cause him loss. I wait until Iyyar, and he makes much more profit."*
- I.12.** A. **[73B]** *A certain gentile gave to R. Mari b. Rachel a house as a pledge, but then he sold it to Raba.*
- B. *R. Mari waited for twelve months, took the rent and offered it to Raba [for the year to come, but not for the prior year]. He said to him, "The reason that I did not pay a rent to you up to this point is that the unstipulated period of time for a pledge is routinely one year. Had the gentile wanted to make me leave the house, he could not have done so. Now you must take rent for the house."*
- C. *He said to him, "Had I know that it was pledged to you, I should never have bought it. Now I will deal with you according to their laws: until the pledge is redeemed, they receive no rent. I therefore shall take no rent from you until the debt owing to you is paid."*
- I.13.** A. *Said Raba of Barnesh to R. Ashi, "Now note, sir, how the rabbis are collecting interest, because they pay money for wine in Tishri and receive in return the choicest quality in Tebeth."*
- B. *He said to him, "But they as a matter of fact are paying their money for wine, and they are not paying their money for vinegar; to begin with, wine is wine, vinegar is vinegar; it is then [when they pay] that they make their choice and select the choice wine."*
- I.14.** A. *Rabina gave money to people in Agra diShanwata, who provided an additional jug. He went to R. Ashi and asked, "Is this permitted?"*
- B. *He said to him, "Yes, if they renounce their rights in your favor."*
- C. *He said to him, "But the land does not belong to them [so how can they dispose of the wine]?"*
- D. *He said to him, "The land anyhow is indentured for the land tax, and the royal decree is this: 'whoever pays for the land tax of a piece of property has title to the usufruct [so the land is theirs after all].'"*
- I.15.** A. *Said R. Pappa to Raba, "See, sir, how these rabbis pay money for people's head tax and then impose excessive labor-tasks upon them."*
- B. *He said to him, "Now, had I died, I should never have had occasion to tell you the following [but now that you have asked, I can do so]: this is what R. Sheshet said, 'The service-warrant of these people is in the royal archive, and the king has said, 'Whoever does not pay the poll tax is indentured to the one who pays the poll tax for him.''"*
- I.16.** A. *R. Seoram, brother of Raba, would seize people of a bad name and make them carry Raba's palanquin. Said Raba to him, "You have acted quite properly. For this is what we have learned on Tannaite authority:*

- B. “If you see someone who does not behave appropriately, how on the basis of Scripture do we know that you have the right to subjugate him?”
- C. “Scripture has said, “They [Canaanites] shall be your bondmen forever and your brethren the children of Israel” (Lev. 25:46) as well.
- D. “Might I suppose that this pertains to those who behave appropriately?”
- E. “Scripture states, “but over your brethren, the children of Israel, you shall not rule one over another with rigor” (Lev. 25:46).”

I.17. A. *Said R. Hama, “Someone who gives his fellow money to buy wine for him, and the other is negligent and does not buy wine for him — the other must make restitution to him at the rate at which wine is sold in the market of Belshafat.”*

- B. *Said Amemar, “I repeated this tradition before R. Zebid of Nehardea. He said, ‘When R. Hama made that statement, he made it in connection with wine of an unstipulated character. But as to a particular wine, who knows whether or not the agent could have gotten wine of that particular sort for him to begin with?’”*
- C. *R. Ashi said, “Even if the order was given for the purchase of wine that was not of a stipulated variety, the same ruling does not pertain. Why not? Because this is just a come-on, and a come-on imposes no legal claim whatsoever.”*
- D. *But in the view of R. Ashi, how does the prior case differ from the following one, which we have learned in the Mishnah: [He who as a sharecropper leases a field from his fellow and then let it lie fallow — they make an estimate of how much the field is suitable to produce, and the tenant pays that amount to the landlord. For thus does he write to him [in the writ of occupancy or lease], “If I let the field lie fallow and do not work it, I shall make it up to you at its highest rate of yield” [M. B.M. 9:3]?*
- D. *In that case, it is within the power [of the share-cropper to farm the field] [73B], but here it is not in his power [to procure the wine at the stipulate price, so the undertaking was a mere come-on].*

I.18. A. *Said Raba, “If three people gave money to one person to buy something for them, and he bought only for one of them, the purchase is treated as though it were for all three. But this statement applies only if the agent did not make up a separate sealed bundle of the money of each of the purchasers. If he did so, then the one for whom he made the purchase is the one for whom he made the purchase, and those for whom he has bought nothing have gotten nothing.”*

I.19. A. *Said R. Pappi in the name of Raba, “The mark on wine-barrels confers possession.”*

- B. *For what [does the mark confer title]?*
- C. *R. Habiba said, “It confers actual possession.”*
- D. *Rabbis said, “It is only for the purpose of incurring the curse, ‘he who exacted punishment...”*
- E. *And the decided law is that it is only for the purpose of incurring the curse, ‘he who exacted punishment...”*
- F. *But where it is the local custom to treat it as conferring actual possession, then it does so in full actuality.*

II.1 A. [If] one was the first among the reapers [of a given crop], he may strike a bargain with him for grain [already] stacked [on the threshing floor]:

- B. Said Rab, "If two stages in the processing are lacking, one may strike a bargain, but if three are mixing, one may not."
- C. And Samuel said, "If lacking are stages in the processing that are conducted by man, then even if a hundred are lacking, still, one may strike a bargain, but if the stages in the processing are those for which Heaven is responsible, then even if one is lacking, one may not strike a bargain."
- D. *We have learned in the Mishnah: ...grain [already] stacked [on the threshing floor]. Now lo, that still has to be spread out in the sun to dry, and it further has to be threshed and winnowed [thus, three processes are still to be done, and one, drying by the sun, is not in human power at all]!*
- E. *It means that the grain had already been spread out.*
- F. *And with regard to the position of Samuel, who has said, "but if the stages in the processing are those for which Heaven is responsible, then even if one is lacking, one may not strike a bargain," lo, it has yet to be winnowed, and that depends on Heaven!*
- H. *It is possible to do it with fans.*

III.1 A. or for a basket of grapes:

- B. *But lo, they have to be heated, put in the press, subjected to treading, and being drawn into the pit.*
- C. *It accords with that which R. Hiyya taught on Tannaite authority: a contract may be made in regard to a heated mass of olives.*
- D. *Here too, the contract may be made concerning the heated mass of grapes.*
- E. *But lo, the processing is still wanting for three stages!*
- F. *The rule refers to a locale in which it is the purchaser who draws the wine into the pit [so only two processes are lacking].*

IV.1 A. or for a vat of olives:

- B. *But lo, it still has to be heated, placed between the boards of the olive press, pressed, and drawn into the oil pit!*
- C. *It accords with that which R. Hiyya taught on Tannaite authority: a contract may be made in regard to a heated mass of olives.*
- D. *But lo, the processing is still wanting for three stages!*
- E. *The rule refers to a locale in which it is the purchaser who draws the wine into the pit [so only two processes are lacking].*

V.1 A. or for the clay balls of a potter:

- B. *How come? Lo, the clay still has to be moulded, dried, put in the oven, burned, and taken out!*
- C. *We deal with a case in which it has been moulded and dried.*
- D. *But lo, the processing is still wanting for three stages!*
- E. *The rule refers to a locale in which it is the purchaser who removes the clay from the oven.*

VI.1 A. or for lime as soon as the limestone has sunk in the kiln:

- B. *How come? It still has to be burned, removed from the kiln, and crushed!*
- C. *The rule refers to a locale in which it is the purchaser who crushes it.*
- D. *And on the view of Samuel, who has said, "If lacking are stages in the processing that are conducted by man, then even if a hundred are lacking, still, one may strike a bargain," why must **the limestone have sunk in the kiln**?*
- E. *Repeat in this language: when it is ready to be put in the kiln.*

VII.1 A. or for the clay balls of a potter:

- B. *Our rabbis have taught on Tannaite authority:*
- C. **"They do not strike a bargain for the clay balls of a potter until they are kneaded into lumps," the words of R. Meir.**
- D. **Said R. Yosé, "Under what circumstances? In the case of clay made of white earth, but as for clay made of black earth, for instance, in Kefar Hanania and its neighborhood or Kefar Sihin and its neighborhood, one may strike a bargain, for even if one merchant has none, someone else will have some" [T. B.M. 6:3D-I].**

VII.2. A. Amemar gave money to the manufacturer as soon as he had stocked himself with the necessary clay.

- B. *In accord with which of the two authorities cited above did he do so? It can have been neither in accord with R. Meir, for he has said, "until they are kneaded into lumps," nor in accord with R. Yosé, for he has said, "for even if one merchant has none, someone else will have some."*
- C. *In point of fact, his view accords with R. Yosé, for in the locale of Amemar, earth for this purpose was uncommon, so if he has some in stock, each party fully depends upon the transaction, which is irrevocable, but he has none, no one will depend upon the agreement.*

VIII.1 A. And one strikes a bargain for the price of manure every day of the year [since the rate of production is constant]. [R. Yosé says, "They do not strike a bargain for manure before the manure is on the dung heap." And sages permit]:

- B. *The sages take exactly the same view as the initial authority [who is anonymous].*
- C. *Said Raba, [74B] "At issue between the two is the rainy season [when there is not much dry manure available. The initial authority will allow it through the rainy season nonetheless, and sages will not; only in summer is the manure plentiful (Freedman)]."*

IX.1 A. And one may strike a price at the height [of the market, the cheapest rate prevailing at the time of delivery. R. Judah says, "Even though one has not made a bargain at the cheapest rate prevailing at the time of delivery, one may say to him, 'Give it to me at such-and-such a rate, or give me back my money'"]:

- B. *Somebody gave money in advance for the dowry owing from his father-in-law [ordering the trousseau in behalf of the father-in-law]. [He then acted in behalf of the father-in-law in placing the order. The father in law can repudiate the agent, the son-in-law, for not having done the task in the proper way, since he has failed to make the necessary stipulation (Freedman)]. But the dowry depreciated [before*

delivery]. They came before R. Pappa. He said to the [the purchaser], "If you made an agreement with him for the price at the height of the market [which was of course the lowest], then take the merchandise at the prevailing price at this time; but if not, you must take it at the present price."

- C. Said rabbis to R. Pappa, "But if he did not make such an agreement, must he accept the merchandise at the price prevailing to begin with? It is in fact money that has passed between them, and money does not afford the transfer of title."
- D. He said to them, "My ruling had only to do with his accepting upon himself the requirement of the curse, 'He who exacted punishment....' If he made an agreement with him for the price at the height of the market, and the seller wishes to retract, the seller must submit to the curse; if there was no stipulation, and the buyer wishes to retract, then the buyer has to."
- E. Said Rabina to R. Pappa, "How do you know that [the Mishnah-paragraph before us] accords with rabbis vis à vis R. Simeon, who take the view that money does not afford the transfer of title? Perhaps [the paragraph before us] accords with the view of R. Simeon, who takes the view that money does afford the transfer of title, so that, if one stipulated at the price when the market was at its height [and hence the lowest price], he receives the merchandise at current values, but if not, he must accept it at the initial price, because his money has effected the transfer of title for him? In the view of rabbis, whether or not such a stipulation was made, he can take it at present prices, for someone always has the intention of getting merchandise at the lowest price!" [Freedman: since the rabbis maintain that the buyer may rescind the sale even without a drop in price, but that he is subject to the curse, it may be that if the price falls, he is even morally entitled to retract, for a most-favored-sale is implicit in every such transaction.]
- F. He said to him, "You have to assume that R. Simeon made such a ruling [that the purchaser is in possession after paying money] only if there is a single price, but did he make such a ruling in a case in which there are two prices [that is, the price fell]? If you do not take that view, then does R. Simeon take the position that the imposition of the curse, 'He who exacted punishment....,' never pertains to the buyer [since the sale is always legally binding upon the buyer, that cannot ever happen (Freedman)]! And if you wish to respond, that is indeed the case, then surely the following has been taught on Tannaite authority. **R. Simeon says, "Even though they have said, 'a cloak effects acquisition of a golden denar, but a gold denar does not effect acquisition of a cloak, while that is, indeed the law, nonetheless, Truly have they said: He who exacted punishment from the men of the Generation of the Flood and the Generation of the Dispersion and from the Men of Sodom and Gomorrah and from Egypt at the Sea is destined to exact punishment from him who does not keep his word. But he who has given and taken in words — the other party has not effected acquisition of the object. And he who retracts loses the good will of sages [but the other has no claim of fraud against him if he does not keep his word] [T. B.M. 3:14A-F].** Now what is the meaning of 'nonetheless'? Is it not that there is no difference between the situation of the purchaser and that of the seller in accepting upon oneself the curse of 'he who exacted punishment? Hence when R. Simeon made his ruling, he made it in a situation in which there was a single

price [and then the seller cannot cancel the sale], but not if there were two prices.”

- G. *Said R. Aha b. Raba to R. Ashi, “Then should one not draw the conclusion [that no curse is at issue in the case at hand], for to begin with the father-in-law had appointed the son-in-law as his agent?”* [Freedman: since the father-in-law provides the dowry, the son-in-law merely acted in his behalf in placing the order and is not subject to the curse, since he is not the one who retracts, and the father-in-law may repudiate the agent for not having carried out the task, having left out the necessary stipulation.]
- H *He said to him, “This speaks of the merchant who buys and sells [and the son-in-law did not act as an agent but bought on his own account to sell to the father-in-law].”*

The issue of our Mishnah-paragraph, as the Talmud reads it, is not the administered market (a concept that was not in hand) but the consideration of trading in futures, e.g., increase in kind, rather than interest on liquid capital. This of course is forbidden, and, by extension, I.1 immediately raises the issue of what it means to have goods in hand. The main point throughout is that when the market is at full strength, the goods are there, since if one dealer does not have a commodity, another will, so there can be no shortage or profiteering on that account. Nos. 2-3 go over the ground of the Mishnah-paragraph and qualify the matter. At No. 4 we generalize on the basis of a particular ruling, which expands on the principle at hand. No. 5 then goes back to Tosefta’s supplement to our Mishnah-paragraph, continued at Nos. 6, 7. No. 8 then raises a question that is parallel, now in reference to the growing season, and we see precisely how the matter of interest pertains to commodities: we are concerned not to pay a fee for waiting for the return of money, which is how interest is understood. A series of practical rulings, Nos. 9-19 completes the vast and useful amplification of the principle of the law. The Talmud begins with, but transcends, the Mishnah-paragraph, in its attention to the principle that animates the Mishnah’s ruling — Talmud at its best. II.1-VIII.2 follow a single pattern, asking and answering the same question again and again — pure Mishnah-commentary, planned as such. IX.1 breaks no new ground. At X.1 we turn to the conclusion of our Mishnah-paragraph and analyze a case in relationship to the law of the Mishnah. The case is slightly asymmetrical, but the point emerges with clarity.

5:8

- A. **A man may lend his tenant farmers wheat [to be repaid in] wheat, [if] it is for seed,**
- B. **but not [if it is] for food,**
- C. **For Rabban Gamaliel would lend his tenant farmers wheat [to be repaid in] wheat [when it was used] for seed.**
- D. **[If one lent the wheat when the price was] high and [wheat] became cheap,**
- E. **[or if he lent the wheat when the price was] cheap and [wheat] became expensive,**

- F. he would collect from them at the cheapest price,
- G. not because that is what the law requires,
- H. but because he wished to impose a strict rule upon himself.

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

- B. A man may lend his tenant farmers wheat [to be repaid in] wheat, [if] it is for seed.
- C. Under what circumstances? That is when the tenant has not yet gone down to work his field. But if he has gone down to his field, lo, he is equivalent to any other person [and it is prohibited] [T. **B.M. 6:8A-D**].
- D. *How come our Mishnah-paragraph's Tannaite authority does not differentiate between whether or not the tenant farmer has gone down into the field to work, while our Tosefta-paragraph's Tannaite authority differentiates between whether or not the tenant farmer has gone down into the field to work?*
- E. *Said Raba, "R. Idi explained the matter to me as follows: in the locale of the Tannaite authority of our Mishnah, the tenant-farmer provided the seed, and whether he has gone down into his field to start the work or not, so long as he has not provided the seed, the landlord can make him quit, so, when he enters the field and the owner has provided the seed, it is certainly for a lower return on the investment [Freedman: for he could have been forced to leave the field altogether, the seed that the owner provides is not regarded as a loan but as an addition to the land that he is leasing; in consideration of that the farmer has to pay him the same quantity of seed over and above what he would otherwise have had to pay, and even if the seed increases in price, there is no interest on a loan]. But in the locale of the Tannaite authority of the Tosefta-passage, the landowner is the one who has provided the seed; the tenant farmer has not yet entered the labor, so the landlord can make him quit; when he does enter, it is for a lower return, but if he has already entered the property and the landlord cannot force him to quit, it is a forbidden transaction [for the land has already been leased, and the seed is not advanced in addition to the field (Freedman)]."*

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

- B. A man may say to his neighbor, **[75A]** "Lend me a kor of wheat," and stipulate a monetary return; if the grain depreciates in price, he may pay him off in wheat, and if it is appreciates, he may pay him off in cash.
- C. But did he not make a stipulation [to return money? why repay in wheat if its price has gone down?]
- D. Said R. Sheshet, "This is the sense of the statement: if there is no stipulation and grain depreciates, he takes wheat, if it appreciates, he repays the value that it originally had."

The Mishnah-paragraph is clarified through two brief Tannaite complements.

5:9

- A. A man should not say to his fellow, "Lend me a kor of wheat, and I'll pay you back at [a kor of wheat] at threshing time."
- B. But he says to him, "Lend it to me until my son comes [bringing me wheat] "
- C. or, "... until I find the key"

- D. **Hillel prohibits [even this procedure].**
- E. **And so does Hillel say, “A woman should not lend a loaf of bread to her girl friend unless she states its value in money.**
- F. **“For the price of wheat may go up, and the two women will turn out to be involved in a transaction of usury.”**

- I.1 A. [With reference to the rule, **A man should not say to his fellow, “Lend me a kor of wheat, and I’ll pay you back at [a kor of wheat] at threshing time.” But he says to him, “Lend it to me until my son comes [bringing me wheat],” or, “...until I find the key”]** said R. Huna, “If someone has a seah [which he cannot just then get], he may borrow a seah, if he has two, he may borrow two.”
- B. R. Isaac says, “Even if he has only a single seah of grain, he may borrow on the strength of it any number of kors of wheat.”
- C. *R. Hiyya taught the following on Tannaite authority, which supports the position of R. Isaac:*
- D. If one has not a drop of wine, if one has not a drop of oil, [he may not borrow these commodities], but lo, if he has these, he may borrow on the strength of them any volume whatsoever.

II.1 A. Hillel prohibits [even this procedure]:

- B. Said R. Nahman said Samuel, “The decided law accords with the statement of Hillel.”
- C. *But the law does not accord with him.*

III.1 A. And so does Hillel say, “A woman should not lend [a loaf of bread to her girl friend unless she states its value in money. For the price of wheat may go up, and the two women will turn out to be involved in a transaction of usury]:”

- B. Said R. Judah said Samuel, “This is the position of Samuel, but sages say, ‘They may lend without further stipulation and pay back without further stipulation.’”
 - C. And said R. Judah said Samuel, “Members of an association who are meticulous in their relationships with one another violate the prohibitions covering measure, weight, number, borrowing, and repaying on the Festival, and, in Hillel’s view, of usury as well.”
 - D. And said R. Judah said Samuel, “Disciples of sages are permitted to borrow from one another on interest.
 - E. *“Why so? They know full well that interest is forbidden, and it is merely a gift that they exchange with one another..”*
 - F. Said Samuel to Abbuha bar Ihi, “Lend me a hundred peppercorns for a hundred and twenty,” *and that was a proper transaction.*
 - G. Said R. Judah said Samuel, “A person is allowed to lend money on interest to his children and dependants so as to teach them what interest tastes like.”
 - H. *But that is not so, because they will come to do it as a habit.*
- None of the expansions of the Mishnah’s rules adds much to the matter; this is routine, an example of making Talmud as a mere formality.

5:10

- A. A man [may] say to his fellow, “Weed with me, and I’ll weed with you,”
- B. “Hoe with me, and I’ll hoe with you.”
- C. But he [may] not say to him, “Weed with me, and I’ll hoe with you,”
- D. “Hoe with me, and I’ll weed with you.”
- E. [75B] All the days of the dry season are deemed equivalent to one another.
- F. All the days of the rainy season are deemed equivalent to one another.
- G. One should not say to him, “Plough with me in the dry season, and I’ll plough with you in the rainy season.”
- H. Rabban Gamaliel says, “There is usury paid in advance, and there is usury paid at the end.
- I. “How so?
- J. “[If] one wanted to take a loan from someone and so sent him [a present] and said, ‘This is so that you’ll make a loan to me,’ —
- K. “this is usury paid in advance.
- L. “[If] one took a loan from someone and paid him back the money and [then] sent [a gift] to him and said, ‘This is for your money, which was useless [to you] when it was in my hands,’ —
- M. “this is usury paid afterward.”
- N. R. Simeon says, “There is usury paid in words.
- O. “One may not say to him, ‘You should know that so-and-so from such-and-such a place is on his way.’ “

5:11

- A. These [who participate in a loan on interest] violate a negative commandment:
- B. (1) the lender, (2) borrower, (3) guarantor, and (4) witnesses.
- C. Sages say, “Also (5) the scribe.”
- D. (1) They violate the negative commandment, “You will not give [him] your money upon usury” (Lev. 25:37).
- E. (2) And [they violate the negative command], “You will not take usury from him” (Lev. 25:36).
- F. (3) And [they violate the negative command], “You shall not be a creditor to him” (Ex, 22:25).
- G. (4) And [they violate the negative command], “Nor shall you lay upon him usury” (Ex. 22:25).
- H. (5) And they violate the negative command, “You shall not put a stumbling block before the blind, but you shall fear your God. I am the Lord” (Lev. 19:14)

I.1 A. *It has been taught on Tannaite authority:*

- B. R. Simeon b. Yohai says, “How on the basis of Scripture do we know that one who lends his neighbor a maneh — [if] the neighbor does not usually greet him first, it is forbidden for him now to greet him first?

- C. “Scripture states, ‘Usury of any word which may be usury’ (Deu. 23:20) — even words can constitute a form of usury.”

II.1 A. These [who participate in a loan on interest] violate a negative commandment: (1) the lender, (2) borrower, (3) guarantor, and (4) witnesses:

- B. Said Abbaye, “The lender violates all of them. The borrower violates on the counts of, ‘You shall not cause your brother to take usury’ (Deu. 23:20), ‘but to your brother you shall offer no usury’ (Deu. 23:21), ‘and you shall not put a stumbling block before the blind’ (Lev. 25:37).”
- C. “The surety and the witness violate only ‘neither shall you lay upon him usury’ (Deu. 25:21).”

II.2 A. It has been taught on Tannaite authority:

- B. **R. Simeon says, “Those who lend on interest — more than they make they lose. And not only so, but they treat as a fraud our lord, Moses, the sage, and his Torah, saying, ‘If Moses knew how much money we could make, he would never have written the prohibition of interest’” [T. 6:17I-L].**

II.3 A. When R. Dimi came, he said, “How on the basis of Scripture do we know that one who lends a maneh to his fellow and knows that he does not have the money to repay is forbidden even to pass before him?”

- B. “Scripture states, ‘You shall not be to him as a usurer’ (Exo. 22:24).”
- C. *R. Ammi and R. Assi both say*, “It is as though he subjects him to two trials, as it is written, ‘You have caused man to ride over our heads, we went through fire and through water’ (Psa. 66:12).”

II.4 A. Said R. Judah said Rab, “Whoever has money and lends it not in the presence of witnesses violates the law, ‘you shall not put a stumbling block before the blind’ (Lev. 19:14).”

- B. And R. Simeon b. Laqish said, “He brings a curse upon himself: ‘Let the lying lips be put to silence, which speak grievous things proudly and contemptuously against the righteous’ (Psa. 31:19).”

II.5 A. Said rabbis to R. Ashi, “Rabina carries out everything that our rabbis have said.”

- B. *He sent this message to him on the eve of the Sabbath: “May the master send me ten zuz, for a small plot of land has come my way for purchase.”*
- C. *He replied, “Let the master bring witnesses and we shall write a bond.”*
- D. *“Even for me too!”*
- E. *“For the master in particular, since, being absorbed in your studies, you may forget the loan and bring a curse down upon me.”*

II.6 A. Our rabbis have taught on Tannaite authority:

- B. Three appeal to the court but get no response: who has money and lends them without witnesses, he who acquires a master for himself, and a man whose wife runs his life.
- C. he who acquires a master for himself: *what is such?*
- D. *Some say*, “It is one who assigns his capital to a gentile.”

- E. *There are those who say, "One who writes over his property to his children while he is still alive."*
- F. *And there are those who say, "He who is doing poorly in one town and does not go somewhere else."*

The Talmud closes with perfectly routine supplements to the Mishnah, making no effort at the rhetorical elegance with which the Mishnah's authorship has concluded its presentation of the topic of interest.