

II.

BAVLI KETUBOT CHAPTER TWO

FOLIOS 15B-29A

2:1

- A. The woman who was widowed or divorced –
- B. she says, “You married me as a virgin” –
- C. and he says, “Not so, but I married you as a widow” –
- D. if there are witnesses that [when she got married], she went forth to music, with her hair flowing loose,
- E. her marriage contract is two hundred [zuz].
- F. R. Yohanan b. Beroqah says, “Also, passing out parched corn is proof [of her status as a virgin when she was married].”

2:2

- A. And R. Joshua concedes in the case of him who says to his fellow, “This field belonged to your father, and I bought it from him,”
- B. that he is believed.
- C. [16A] For the mouth that prohibited is the mouth that permitted.
- D. And if there are [other] witnesses that it had belonged to his father, and he claims, “I bought it from him,” he is not believed.

- I.1** A. [...if there are witnesses that when she got married, she went forth to music, with her hair flowing loose:] *The operative consideration then is that there are witnesses. Lo, if there were no witnesses, then the husband*

would have been believed. May we then say that our unattributed Mishnah paragraph in no way accords with Rabban Gamaliel? For were it Rabban Gamaliel who is behind the unattributed passage, has he not said that she is the one who would be believed?

- B. You may even say that Rabban Gamaliel [stands behind this rule]. Rabban Gamaliel took the position that he did there only in a case in which one party asserted certainty, while the other mere probability, but here, where we have two claims of certainty, he did not take that same position.
- C. Well, then, as to the one who raised the question to begin with, how could he have raised such a question? Lo, what we have here are two claims of certainty!
- D. Since most women when they get married are virgins, it is like a situation in which one claim rests on certainty, the other on probability. [Daiches: The statement of the wife is more sure than that of her husband, and therefore you might say that she is believed even when there are no witnesses, and that explains why the question was a propos.] And that stands to reason, for, since the passage goes on to state in its Tannaite formulation, **And R. Joshua concedes in the case of him who says to his fellow, "This field belonged to your father, and I bought it from him," that he is believed. For the mouth that prohibited is the mouth that permitted, then there is no problem if you say that Rabban Gamaliel concedes** [that absent witnesses, the husband is believed, since we have two claims of certainty; then the author of the opening clause is Gamaliel, differing from Joshua in a case of certainty as against probability, who agrees here with Joshua, since we have two conflicting points of certainty; therefore it is said, and Joshua concedes, namely, in the first clause, Gamaliel concedes Joshua's view, and in the second Joshua concedes Gamaliel's (Daiches)]. But if you take the position that Rabban Gamaliel does not concede [at the opening clause], then to whom does R. Joshua reciprocally concede the point?
- E. Well, do you really think that R. Joshua makes reference to the chapter before us when he makes his concession? He refers to the argument that since [one may make a stronger claim but makes a weaker one, the weaker claim is accepted as fact], and addresses the first chapter of the tractate.
 - F. To which pericope of that chapter then? Should we say it is to the following: [If] she was pregnant, and they said to her, "What is the character of this foetus?" [and she said,] "It is by Mr. So-

and-so, and he is a priest” – Rabban Gamaliel and R. Eliezer say, “She is believed.” And R. Joshua says, “We do not depend on her testimony. But lo, she remains in the assumption of having been made pregnant by a netin or a mamzer, until she brings evidence to back up her claim” [M. 1:9A-D]? *Well, in that case, what sort of argument that since... is there to be made?* Lo, her belly is up there between her teeth.

G. *Rather, it is to the following: [If] they saw her “conversing” with a man in the market, [and] they said to her, “What is the character of this one?” [and she said,] “It is Mr. So-and-so, and he is a priest” – Rabban Gamaliel and R. Eliezer say, “She is believed.” And R. Joshua says, “We do not depend on her testimony. But lo, she remains in the assumption of having had sexual relations with a netin or a mamzer, until she brings evidence to back up her claim” [M. 1:8A-E]. Well, in that case, too, what sort of argument that since... is there to be made?! To be sure, according to Zeiri, who has said, “What is the meaning of conversing? It means, going into seclusion with the man,” there really is an argument that since... to be made, for if she had wanted, she could have said, “I didn’t have sexual relations at all,” but since she has said, “I did have sexual relations, but the man is not genealogically impure,” she is believed. But from the perspective of R. Assi, who has said, “What is the meaning of conversing? It means, having sexual relations,” what sort of argument that since... is there to be made?*

H. *So, it is with reference to the following pericope of that chapter: She says, “I was injured by a piece of wood,” and he says, “Not so, but you have been laid by a man” – Rabban Gamaliel and R. Eliezer say, “She is believed.” And R. Joshua says, “We do not depend on her testimony. But lo, she remains in the assumption of having been laid by a man, until she brings evidence to back up her claim” [M. 1:7A-D]. Well, in that case, too, what sort of argument that since... is there to be made?! To be sure, according to R. Eleazar, who has said, “At issue is whether she gets a maneh or nothing at all,” there is the possibility of arguing that since..., for if she had wanted, she could have claimed, “I was smitten by a piece of wood while I was subject to him,” in which case she would have*

collected two hundred zuz, but she has said that to begin with she had a claim for only a maneh, so she is believed. But from the perspective of R. Yohanan, who has said, "What is at issue is whether she gets two hundred zuz or a maneh," what argument that since... is there to set forth?

I. *Rather, it is to the following: He who marries a woman and did not find tokens of virginity – she says, "After you betrothed me, I was raped, and your field has been flooded," and he says, "Not so, but it was before I betrothed you, and my purchase was a bargain made in error" – Rabban Gamaliel and R. Eliezer say, "She is believed." R. Joshua says, "We do not depend on her testimony. But lo, she remains in the assumption of having had sexual relations before she was betrothed and of having deceived him, until she brings evidence to back up her [contrary] claim" [M. 1:6D-F]. Now, since, if she had wanted, she could have said, "I was smitten with a piece of wood while I was subject to you," so she would not have invalidated herself from marrying into the priesthood, but she has said, "I was raped," in which case she has invalidated herself for marriage into the priesthood, it is on that account that Rabban Gamaliel has said that she is believed. And R. Joshua then states to Rabban Gamaliel, "With respect to this argument that since..., in particular, I concur to you, while with regard to the argument that since..., elsewhere, I differ from you."*

J. *Well, since this represents an argument that since..., and that represents an argument that since..., what's the difference between the one and the other?*

K. Here [in our Mishnah paragraph] there is no slaughtered ox lying right in front of you [that is, undeniable facts], while there [in the passages of Chapter One] there is a slaughtered ox lying right in front of you. Here the woman is not a virgin; the argument that since... is null in Joshua's view. But where the claimant would not have known that his father had owned the field [M. 2:2], if the defendant had not told him so, the defendant's further claim is validated.

I.2 A. *Now as to the argument that most women when they get married are virgins, even if witnesses do not come along [to testify that **when she got married, she went forth to music,***

with her hair flowing loose], *what difference does it make? Let us rather invoke the principle that the operative criterion is the condition of the majority of women, and the majority of women are virgins when they get married!*

B. *Said Rabina, "It is because one may well say that, while the majority of women are virgins when they are married and a minority are widows, still, on the other hand, when a woman is married as a virgin, that fact is publicly known, [16B] and since in this case the fact is not confirmed, the principle of following the status, so far as she is confirmed, is damaged."*

C. *If it is the fact that, when a virgin is married, that fact is publicly known, what in the world do we need witnesses for? Since the fact that she was married as a virgin is not established, they are false witnesses!*

D. *Rather, said Rabina, "The majority of those who marry as virgins are known to have been in that condition when they were married, but since the condition of this one is not known, the majority principle in her case is damaged."*

- I.3** A. **...if there are witnesses that when she got married, she went forth to music, with her hair flowing loose:**
- B. *But should we not take account of the possibility that she might produce witnesses in this court and collect her marriage settlement, and then she might later on produce the actual marriage contract in another court and collect on the strength of it a second time?*
- C. *Said R. Abbahu, "The fact that we do not take account of that possibility indicates that a receipt is to be written out [and given to the payor of the marriage settlement, the husband or his estate]."*
- D. *R. Pappa said, "We deal with a locale in which they do not write out a marriage contract at all" [but only give a bond, which is torn up].*

I.4 A. *There are those who repeat the controversy at hand in connection with the following Tannaite statement:*

B. *If the wife lost her marriage contract or hid it away or it was burned up, if, then, they danced before her at her wedding, played before her, passed out the cup of good news or the cloth of virginity, and if she has witnesses in regard to any of these signals of her character at marriage, her marriage settlement is two hundred zuz.*

C. *But should we not take account of the possibility that she might produce witnesses in this court and collect her marriage settlement, and then she might later on produce the actual marriage contract in another court and collect on the strength of it a second time?*

D. Said R. Abbahu, "The fact that we do not take account of that possibility indicates that a receipt is to be written out [and given to the payor of the marriage settlement, the husband or his estate]."

E. R. Pappa said, "We deal with a locale in which they do not write out a marriage contract at all" [but only give a bond, which is torn up].

F. *But note, the language is used, If the wife lost her marriage contract...!*

G. *It is a case in which he wrote one for her.*

H. *So ultimately she can well produce the actual marriage contract in another court and collect on the strength of it a second time!*

I. *What is the meaning of "lost"? She lost it in a fire.*

J. *If so, then that's the same thing as it was burned up! Furthermore, what can the language, hid it away, possibly mean? Furthermore, what need to I have for a reference to hid it away?*

K. *Rather, any reference to she lost it bears the meaning, it is as though she had hidden it away before us, and we do not pay off the marriage settlement unless witnesses come and testify that her marriage contract has been burned up.*

I.5 A. *One who repeats the dispute in connection with the cited Tannaite formulation all the more so will find it correct exegesis for our Mishnah paragraph.*

B. *But one who repeats it in connection with our Mishnah paragraph would not refer it to the cited Tannaite formulation on account of the difficulty [with regard to the use of "if she lost it...," she is paid only when she finds the document; or if she says it was burned, she has to have witnesses, and this is not a satisfactory explanation].*

I.6 A. **...if there are witnesses that when she got married, she went forth to music, with her hair flowing loose:**

- B. *But should we not take account of the possibility that she might produce witnesses to the effect that virginal music was performed at her marriage in this court and collect her marriage settlement, and then she might later on produce other such witnesses in another court and collect on the strength of that testimony yet a second time?*
- C. *If there is no other choice [as in such a case] we certainly do write out a receipt for payment of the marriage settlement.*

I.7

- A. [If the wife lost her marriage contract or hid it away or it was burned up, if, then, they danced before her at her wedding, played before her,] passed out the cup of good news [or the cloth of virginity, and if she has witnesses in regard to any of these signals of her character at marriage, her marriage settlement is two hundred zuz,] *what is the cup of good news?*
- B. Said R. Ada bar Ahbah, “They bring before her a cup of wine in the status of priestly rations, as if to say, ‘This one was worthy of consuming priestly rations [so pure is her genealogy].’”
- C. *Objected R. Pappa, “Well, if she were a widow, would she not have been able to eat priestly rations?”*
- D. Rather, said R. Pappa, “The meaning is, ‘For this one it is the first,’ as priestly rations are called ‘first’ [at Num. 15:20, Deu. 18: 4].”

I.8

- A. *It has been taught Tannaite authority:*
- B. R. Judah says, “They pass before her a jug of wine.”
- C. Said R. Ada bar Ahbah, “If she was a virgin, they pass before her a sealed jug, and if she had had sexual relations, they pass before her an open one.”
 - D. *Why do it that way? Rather pass before a virgin a cask of wine, and pass before one who had sexual relations nothing at all?*
 - E. *It could be that sometimes she later on grabs two hundred zuz and then claims, “Well, I really was a virgin, but the reason they didn’t pass a cask of wine before me was that an accident prevented it.”*

Celebrating the Bride: A Thematic Composite

I.9

- A. *Our rabbis have taught on Tannaite authority:*
- B. What do they say when dancing before a bride?
- C. The House of Shammai say, **[17A]** “You praise the bride just as she is.”
- D. The House of Hillel say, “They say, ‘Beautiful and graceful bride.’”

- E. Said the House of Shammai to the House of Hillel, "So if she was lame or blind, are they going to say before her, 'Beautiful and graceful bride'? But the Torah has said, 'From a false matter keep your distance' (Exo. 23: 7)!"
- F. Said the House of Hillel to the House of Shammai, "Well, in accord with your opinion, if somebody makes a bad purchase in the market, should one praise it to him or denigrate it to him? You have to say, one should praise it to him."
- G. In this connection sages have said, "A person should always show sympathy to other people."

I.10 A. *When R. Dimi said, "This is what they sing before a bride in the West: 'No powder, no paint, no hairdo – and still a graceful gazelle.'"*

I.11 A. *When rabbis laid hands in ordination on R. Zira, they sang this to him: 'No powder, no paint, no hairdo – and still a graceful gazelle.'"*
 B. *When rabbis laid hands in ordination on Ammi and R. Assi, they sang to them: "Anyone like this, anyone like that, ordain for us, but don't ordain for us counterfeiterers or babblers," and some say, "half-baked scholars or third-cooked scholars."*

I.12 A. *When R. Abbahu would come from the court session to the palace of Caesar, slave girls of Caesar's household would come toward him singing this to him: "Lord of his people, spokesman of his nation, bright light, blessed is your coming in peace!"*

I.13 A. They said concerning R. Judah bar Ilai that he would take a branch of a myrtle and dance before the bride, saying, "Beautiful and graceful bride."

B. *R. Samuel bar R. Isaac would dance with three of them.*

C. *Said R. Zira, "The elder puts us to shame."*

D. *When [Samuel] died, a pillar of flame made a barrier between him and everyone else, and there is a tradition that a pillar of fire does something like that only for one or two people in an entire generation. Said R. Zira, "The twig has rewarded the elder," or, some say, "His habit has rewarded the elder." And some say, "The foolishness has rewarded the elder."*

I.14 A. *R. Aha would put the bride on his shoulder and dance. Rabbis said to him, "What is the rule on our doing the same thing?"*

- B. *He said to them, "If a bride resting on you is no more than a beam of wood, well and good, but if not, you'd better not do it."*

I.15 A. Said R. Samuel bar Nahman said R. Jonathan, "It is permitted to gaze upon the face of the bride all seven days of the celebration, so as to make her all the more beloved to her husband."

B. *But the law is not in accord with him.*

I.16 A. *Our rabbis have taught on Tannaite authority:*

- B. The funeral procession gives way before the bridal procession, and both of them before the king of Israel.
C. They said about King Agrippas that he gave way before a bridal procession, and sages praised him.

D. *They praised him? Then it would follow that he did the right thing! But lo, R. Ashi said, "Even in the view of him who has said, 'If the patriarch forgives an insult to his honor, the insult to his honor is forgiven,' nonetheless, a kind who gave up the honor owing to him – the honor owing to him nonetheless is not to be given up"! For a master has said, "You shall surely set him as king over you" (Deu. 17:15) – that reverence for him will be upon you" [M. San. 2:5C].*

E. *It was at a crossroad.*

I.17 A. *Our rabbis have taught on Tannaite authority:*

- B. They cancel a Torah study session in order to bring out a corpse and bring in a bride.
C. They say about R. Judah b. R. Ilai that he cancelled the study of the Torah in order to bring out a corpse and bring in a bride.
D. Under what circumstances may this be done? When the corpse or bride does not have a sufficient company, but if there is a sufficient company, they do not cancel Torah study.

I.18 A. And how big is a sufficient company?

B. *Said R. Samuel bar Ini in the name of Rab, "Twelve thousand men and six thousand shofars."*

C. *There are those who say, "Twelve thousand men, with, among them, six thousand shofars."*

D. *Ulla said, "For example, when people form a funeral procession from the gate of the city to the burial place."*

I.19 A. [With special reference to the death of a sage,] R. Sheshet, and some say, R. Yohanan, said, "Removing [the Torah contained in the sage] must be like the giving of the Torah: just as the giving of the Torah involved six hundred thousand, so taking away the Torah involves six hundred thousand.

B. *"But this is with regard to one who has recited Scripture and repeated Mishnah traditions. [17B] But in the case of one who repeated Tannaite statements to others, there is no upper limit at all."*

I.20 A. **...she went forth to music:**

B. *What is the meaning of music?*

C. *Surhab bar Pappa in the name of Zeiri said, "A canopy of myrtle."*

D. *R. Yohanan said, "A veil under which she may slumber."*

II.1 A. **R. Yohanan b. Beroqah says, "Also, passing out parched grain is proof [of her status as a virgin when she was married]":**

B. *A Tannaite statement: That is the evidence that serves in Judah. Would would constitute equivalent evidence for Babylonia?*

C. *Said Rab, "Pouring oil on the heads of rabbis."*

D. *Said R. Pappa to Abbaye, "Did the master speak of shampoo?!"*

E. *He said to him, "Orphan, didn't your mother drip oil on the heads of rabbis at the time of the event [of your marriage]?"*

F. *That is in line with the case of one of the rabbis, who was engaged in marrying off his son in the household of Rabbah bar Ulla, and some say, Rabbah bar Ulla was engaged in marrying off his son in the household of one of the rabbis, and he dripped oil on the heads of the rabbis who were present at the event.*

II.2 A. *What about the indicator that a widow is married?*

B. *R. Joseph stated as a Tannaite formulation, "A widow has no parched grain."*

III.1 A. **And R. Joshua concedes in the case of him who says to his fellow, "This field belonged to your father, and I bought it from him," that he is believed:**

- B. *But the Tannaite formulation should state: R. Joshua concedes in the case of him who says to his fellow, "This field belonged to you, but I have bought it from you," that he is believed!*
- C. *He framed matters in terms of the father, not the claimant himself, because he wished to teach in the next clause: **And if there are [other] witnesses that it had belonged to his father, and he claims, "I bought it from him," he is not believed.***

- III.2** A. *Now how are we to imagine the case at hand? If he had had the usufruct through the required years of usucaption, why shouldn't he be believed? And if he did not enjoy the usufruct through the required span of usucaption, it is obvious that he should not be believed!*
- B. *If so, then with regard to the father of the other party, one could make the same argument: If he had had the usufruct through the required years of usucaption, why shouldn't he be believed? And if he did not enjoy the usufruct through the required span of usucaption, it is obvious that he should not be believed!*
 - C. *Well, with regard to the issue of the father, you would find such a case, for example, when the man enjoyed the usufruct for two years during the life of the father and one during the life of the son, and that would accord with R. Huna, for said R. Huna, "Ownership through usucaption is not attained if the usucaption involves the property of a minor, even if later on he grew up."*
 - D. *But [if so, and that is how we read the Mishnah sentence before us, then, as a matter of fact,] R. Huna tells us what the Mishnah has already indicated!*
 - E. *If you wish, I shall say, R. Huna draws the inference yielded by our Mishnah, and if you wish, I may say, he informs us that that is the case even if in the interim the son has come of age.*
 - F. *Well, then, why not present the rule with respect to the man himself [not the man's father], and state that the case deals with his enjoying the usufruct for two years in his presence, and one in his absence, for example, he fled?*
 - G. *Well, why would he have fled? If because of danger, then it is obvious that the other is not believed, since the defendant was not in a position to protest. And if he fled because of money matters, he ought to have protested, because it is an established fact so far as we are concerned that a protest issued in the absence of the other is valid. For we have learned in the Mishnah: **There are three regions so far as securing title through usucaption [is concerned]: Judah, Transjordan, and Galilee. [If] one was located in***

Judea, and [someone else] took possession of his property in Galilee, [or] was in Galilee, and someone took possession [of his property] in Judea, it is not an effective act of securing title through usucaption – unless [the owner] is with [the squatter in the same province [M. B.B. 3:2A-D].

Now in that connection, we reflected in the following way: What is the operative consideration of the first of the three Tannaite authorities [who treats the three regions as free-standing]? If he takes the view that a protest registered by the owner not in the presence of the squatter is validly registered, then it should be valid even if the owner is in Judea and the squatter in Galilee, and if he takes the view that a protest registered by the owner not in the presence of the squatter is not a valid one, then it should be invalid even if both parties are located in Judea!

- H. *Said R. Abba bar Mammel said Rab, “In point of fact he takes the view that protest registered by the owner not in the presence of the squatter is validly registered. And our Mishnah rule refers to a time in which there is a lapse of communication.”*
- I. *And how come that he made explicit references to Judah and Galilee?*
- J. **[18A]** *In this way he informs us that when conditions are not otherwise spelled out, we take for granted that there is a lapse of communication between Judea and Galilee.*
- K. *Well, let the framer of the passage formulate matters as follows [illustrating Joshua’s position in a case in which “there is no ox slaughtered before you,” rather than by appealing to the one involving real estate and the claimant’s father (Daiches)]: R. Joshua concedes in the case of one who says to his fellow, “I borrowed a maneh from you, but I paid it back to you,” that he is believed?*
- L. *The reason is that he would then have had to formulate the concluding statement as follows: If there are witnesses that he had borrowed from him, and he said, “I paid him back,” lo, he is not believed. But we have it as an established fact that he who lends money to his fellow in the presence of witnesses [not on the strength of a bond] does not have to pay him back in the presence of witnesses. [So he would be believed even if he said that he repaid him but there were no witnesses.]*
- M. *Well, let the framer of the passage formulate matters as follows: R. Joshua concedes in the case of one who says to his fellow, “I have a maneh belonging*

to your father in my possession, but I returned half of it to him,” that he is believed?

N. *In accord with whose position would such a statement have been made? If it were in accord with the position of rabbis, lo, they rule, “He is in the situation of one who simply returns a lost object,” and if it were in accord with the position of R. Eliezer b. Jacob, lo, he has said that he has to take an oath. For it has been taught on Tannaite authority: R. Eliezer b. Jacob says, “There are occasions on which someone has to take an oath on his own claim [Silverstone: on his own admission that the other has a valid claim against him, though the other does not even know it]. How so? If he said to him, ‘In my possession is a maneh belonging to your father, of which I have paid back half,’ he takes an oath to that effect. This is then a case in which someone has to take an oath on his own claim.”*

O. “And sages say, ‘He is only in the status of returning a lost object and is exempt from having to take an oath.’”

P. *But does not R. Eliezer b. Jacob also maintain that one who is in the status of returning a lost object is exempt from having to take an oath?*

Q. Said Rab, “He imposes the oath only if it is a minor who makes the claim.”

R. A minor? *But have you not said, **They do not take an oath in the case of a claim made by a deaf-mute, an idiot, or a minor. And they do not impose an oath upon a minor!***

S. *In point of fact, it is an adult, but why is he called a minor? It is because in relationship to his father’s business, he is a minor [since he may not know the business affairs of the deceased parent].*

T. *Well, if that’s the case, how can [Eliezer] regard it as his own claim, since it’s the claim of others?*

U. *True enough, it’s the claim of others, but it contains also his own admission [admitting as he does that he owes half] on the matter.*

V. *But all of them also fall into the category of a claim of others and an admission on one’s own part!*

W. *Rather, what is at issue is the statement of Rabbah. For said Rabbah, “On what account has the Torah imposed the requirement of an oath on one who confesses to only part of a claim against him? It*

is by reason of the presumption that a person will not insolently deny the truth about the whole of a loan in the very presence of the creditor and so entirely deny the debt. [He will admit to part of the debt and deny part of it. Hence we invoke an oath in a case in which one does so, to coax out the truth of the matter.]” **[18B]** *Now this one really wanted to deny the whole claim of the creditor but did not have the balls to deny it in front of the creditor, and he really wanted to concede it all, but he did not admit it, trying to evade him with the notion, “When I’ve got the money, I’ll pay him,” so the All-Merciful has said, “Impose an oath on him so that he will admit to the whole truth.” Now, R. Eliezer b. Jacob takes the view that there is no difference whether the claim is against him or against his son, he hasn’t got the balls, and therefore he is not in the category of someone who returns a lost object* [Silverstone: therefore when the minor makes the claim, it is as if the father is doing so, and since the defendant admits half, he takes an oath as would anybody else who admits part of a claim]. *And rabbis maintain that, while if it were against the creditor himself he wouldn’t have the balls, against the son he does, and since he is not being brazen, he is in the status of giving back something that is lost.*

2:3

- A. **The witnesses who said, “This is our handwriting, but we were forced [to sign],” “...we were minors,” “...we were invalid [as relatives] for testimony” –**
- B. **lo, these are believed, [and the writ is invalid].**
- C. **But if there are witnesses that it is their handwriting, or if their handwriting was available from some other source, they are not believed.**

- I.1** A. **[If their handwriting was available from some other source:]** Said Rami bar Hama, “They have stated that qualification only if the witnesses affirmed, ‘We were compelled by monetary threats’ [since such threats should not have made the sign to a lie, and they are not believed when they say that they signed to a falsehood (Daiches)]. But if they said, ‘We were compelled by threats to our lives,’ lo, they are believed [to disqualify the present document].”
- B. *Said to him Raba, “Does the witness have such power!?”* Once the witness has made his statement, he is not again allowed to testify! *And if you wish to*

say that rule pertains to testimony given orally, but not to testimony given in a document, has not R. Simeon b. Laqish said, 'Witnesses who have signed a document are treated as equivalent to those who have been cross-examined in court'?'

- C. *Rather, if such a statement was made, it was made with respect to the opening clause, namely, **lo, these are believed, [and the writ is invalid]**. It was in this connection that Rami bar Hama said, "They have stated that qualification only if the witnesses affirmed, 'We were compelled by death threats.' But if they said, 'We were compelled by monetary,' lo, they are not believed [to disqualify the present document]."*
- D. *Why not? Because a person does not make himself out to be wicked.*

I.2

- A. *Our rabbis have taught on Tannaite authority:*
- B. *[With respect to the statement of the Mishnah, **The witnesses who said, "This is our handwriting, but we were forced to sign," "...we were minors," "...we were invalid as relatives for testimony" – lo, these are believed]**, "They are not believed to disqualify the document," the words of R. Meir.*
- C. *And sages say, "They are believed."*

I.3

- A. *There is no problem understanding the position of rabbis, since for them the operative consideration is, the mouth that imparts a prohibition is the same mouth that provides a remission thereof [the ones who validate the document invalidate it]. But what can possibly be the operative consideration for R. Meir? Now with respect to testimony having to do with those who are disqualified to testify, it is the creditor who conducts a careful investigation in advance of the suitability of the witnesses and only then lets them sign. With respect to minors, the matter can accord with R. Simeon b. Laqish, for said R. Simeon b. Laqish, **[19A]** "We assume that witnesses do not sign on a document unless it is done by an adult" [Daiches: all parties, including the witnesses, must have been adults and not minors, so Meir holds that the witnesses are not allowed to say now that they were minors when they signed the document]. But how come he takes the position that he does if they claim that they were **forced to sign**?*
- B. *Said R. Hisda, "R. Meir takes the view that in the case of witnesses to whom people said, 'Sign a falsehood and don't get yourselves killed,' they should get killed and not sign to a lie."*

C. *Said to him Raba, "But nowadays, if they came before us to get advice, we should say to them, 'Go, sign, and don't get yourself killed,' for a master has said, 'Nothing stands in the way of the saving of life except idolatry, fornication, and bloodshed alone [to avoid which, one should give his life,' now that they have signed, are we going to say to them, 'Why did you sign it'? Rather, the operative consideration for R. Meir's position is in accord with what R. Huna said Rab said, for said R. Huna said Rab, 'In the case of one who concedes in the case of a bond that he has written it, it is not necessary to confirm the document.'"*

I.4 A. *Reverting to the body of the foregoing:*

B. *Said R. Huna said Rab, "In the case of one who concedes in the case of a bond that he has written it, it is not necessary to confirm the document."*

C. *Said to him R. Nahman, "Why beat around the bush? If in your view logic favors R. Meir, say, 'The decided law accords with R. Meir.'"*

D. *[Huna] said to [Nahman], "So what do you think?"*

E. *He said to him, "When they come before us to court, we should say to them, 'Go, confirm your documents, then come to court.'"*

Other Rules on the Validation of Documents by Witnesses

I.5 A. *Said R. Judah said Rab, "He who says, 'This is a deed of trust' [signed in advance to cover a loan not yet made, though the document says it has been made; the debtor trusts the creditor (Daiches)] is not believed."*

B. *Now who made that statement? Should I say it was the debtor, it is obvious, does he have the power [to invalidate the document he has signed indicating he owes money]? And should it be the creditor? Then a blessing upon him! Rather, it is the statement of the witnesses.*

C. *Well, then, if it is possible to validate their handwriting based on some other sample, it is obvious that they are not believed, and if it is not possible to validate their handwriting from some other document, why should they not be believed?*

D. *Said Raba, "In point of fact, it is a statement made by the borrower, and it is in accord with R. Huna, for said R. Huna said Rab, 'He who concedes that a document is in his handwriting does not have to confirm it.'"*

E. *Abbaye said, "In point of fact, it is a statement made by the lender, and it is a case in which, by invalidating this document of a debt owing to him, he would injure third parties. And that is in accord with R. Nathan, for it has been taught on Tannaite authority: R. Nathan says, 'How on the basis of Scripture do we know that if someone claims a maneh from someone else, and the other party claims the same amount of money from a third party, the money is collected from the third party and paid out directly to the original claimant? "And give it to him against whom he has trespassed" (Num. 5: 7).'"*

F. *R. Ashi said, "In point of fact, it is a statement made by the witnesses, in a situation in which there is no other evidence to validate their signatures. And as to your question, then why should they not be believed, the answer is in accord with R. Kahana, for said R. Kahana, 'It is forbidden for someone to keep in the house a loan deed of trust, since it is written, "Do not let unrighteousness dwell in your tents (Job. 11:14).'" [19B] And said R. Sheshet b. R. Idi, "What follows from what R. Kahana has said is, 'Witnesses who stated, Our statement concerned a matter of trust,' they are not believed. How come? Since it is 'unrighteousness,' we invoke the rule that they would never have signed off on something unrighteous.'"*

- I.6** A. Said R. Joshua b. Levi, "It is forbidden for someone to keep in his house a paid-off bond, because it is said, 'Do not let unrighteousness dwell in your tents' (Job. 11:14)."
- B. In the West they say in the name of Rab, "'If iniquity be in your hand, put it away' (Job. 11:14) – that refers to a loan deed of trust or a deed of good will. And it is said, 'Do not let unrighteousness dwell in your tents' (Job. 11:14) – this refers to a bond that has already been paid off."

C. *One who has said that it is a bond that has already been paid off all the more so will condemn a loan deed of trust, but one who said that it is a loan deed of trust will not say the same of a bond that has already been paid off. For sometimes someone may hold on to it on*

account of the scribe's fee [which the debtor has to pay, and the creditor holds the document until that fee is paid].

I.7 A. *It has been stated:*

B. A scroll of the Torah that has not been corrected –

C. Said R. Ammi, “For thirty days it is permitted to keep it; from that point on, it is forbidden to keep it, on the ground of ‘Do not let unrighteousness dwell in your tents’ (Job. 11:14).”

I.8 A. Said R. Nahman, “Witnesses to a bond who said later on, ‘We wrote the bond [Simon: given by the borrower to the lender] only as a kind of come-on’ [Simon: an assurance given to a debtor who signed a bond without receiving money that the creditor would not enforce it unless he actually lent him the money], are not believed. If witnesses to a deed of sale said, ‘We only wrote it as a notification,’ they are not believed.”

B. Said Mar b. R. Ashi, “If they said, ‘We wrote the bond only as a kind of come-on’ [Simon: an assurance given to a debtor who signed a bond without receiving money that the creditor would not enforce it unless he actually lent him the money], they are not believed. If witnesses to a deed of sale said, ‘We only wrote it as a notification,’ they are believed. *How come?* The notification is quite routinely committed to writing, while the come-on is not routinely committed to writing.”

I.9 A. Raba asked R. Nahman, “What is the rule if witnesses say, ‘Our statement was subject to a stipulation [we signed the deed, but the sale was made on a stipulation that has not been met]’? *Is it the fact that they are not believed in the case of a bond or a deed of sale because they invalidate the document, and here they do the same? Or perhaps the statement that there was a stipulation not yet met is of a different order?*”

B. *He said to him, “When they come before us to court, we say to them, ‘Go, carry out your stipulation and then come to court.’”*

I.10 A. If one witness says, “It was subject to a stipulation,” and the other says, “It was not subject to a stipulation” –

B. *Said R. Pappa, “Both of them have given evidence to the validity of the document, and the one who says that there was a stipulation is*

only one witness on his own, and the statement of a single witness is null in the face of two witnesses.”

C. Objected R Huna b. R. Joshua, “If so, then even if both of them make such a statement, what they say also should be null. But we say that they have come to uproot the testimony they have already given, and here, too, he has come to uproot testimony he has already given.”

D. *And the decided law is in accord with R. Huna b. R. Joshua.*

Reverting to the Exposition of the Mishnah-Paragraph

I.11 A. [The witnesses who said, “This is our handwriting, but we were forced [to sign],” “...we were minors,” “...we were invalid [as relatives] for testimony” – lo, these are believed, [and the writ is invalid]. But if there are witnesses that it is their handwriting, or if their handwriting was available from some other source, they are not believed:] *Our rabbis have taught on Tannaite authority:*

B. Two who had signed a document died, and two witnesses came in from the market and said, “We know that this is their writing, but they were compelled,” or “were minors,” or “were invalid to testify,” lo, these are believed. But if there were yet other witnesses to attest that this is their handwriting, or their handwriting was available from some other source, for example, from a document, the validity of which was challenged and which was confirmed in court, then they [the first set of witnesses] are not believed.

C. So do we collect a debt with it as though it were a valid document? But why should that be the case? What we have is two sets of contradictory witnesses [the two deceased witnesses, the two witnesses from the marketplace]!

D. Said R. Sheshet, “That is to say, the contradictory evidence is the beginning of the process of proving that they are perjurers, [but that process is not brought to a conclusion by the contradictory testimony]. And [20A] just as witnesses are rebutted and shown to be a conspiracy of perjurers unless they are present, so witnesses are not contradicted unless they are present.”

E. *Said to him R. Nahman, “If they were present before us, and the other two witnesses had contradicted them, it would have been a contradiction, so we should not have paid any attention to [the new witnesses]. For it would have been a case of contradicted testimony.*

Now that they are not here – and if they had been here, they might have conceded the claim of the other – should they be believed?”

F. *Rather, said R. Nahman, “Match one pair against the other and let the money remain with its owner.”*

G. *This is analogous to the case of the deranged man. For a certain deranged person sold some property. Two witnesses came along and said, “He did so when he was of sound sense,” and another pair came and said, “He did so when he was deranged.” And said R. Ashi, “Match two against two, and the land then is confirmed in the domain of the deranged person.”*

H. *But we invoke that ruling only when he inherited the ownership from his forefathers, but if he did not inherit it from his forefathers, we invoke the notion, “When he was an idiot, he bought it, and when he was an idiot, he sold it.”*

I. *Said R. Abbahu, “Witnesses are tried as a possible conspiracy of perjury only in their presence, but witnesses may be contradicted even not in their presence as well. And as to the issue of whether or not they are a conspiracy of perjury, even though it is not a demonstration that they are such a conspiracy, this still can and does constitute a contradiction of their testimony.”*

I.12 A. *A master has said, “But if there were yet other witnesses to attest that this is their handwriting, or their handwriting was available from some other source, for example, from a document, the validity of which was challenged and which was confirmed in court, then they [the first set of witnesses] are not believed.”*

B. *So if the validity was challenged, that is the case, but if it was not challenged, that is not. That supports what R. Assi said, for said R. Assi, “A document is confirmed [the signatures of a document are validated by signatures attached to another document] only on the strength of a document that was challenged and that was confirmed by a court.”*

C. *The Nehardeans say, “A document is confirmed [the signatures of a document are validated by*

signatures attached to another document] only on the strength of two marriage contracts or two deeds of fields, and only when the owners had used the fields for three years, in full security [there being no challenge to their ownership].”

D. Said R. Shimi bar Ashi, “And that is so only when it is produced by a third party, but not if it is produced by the man himself.”

E. *Why not if it is produced by the man himself?*

F. *Since he can have forged the signatures.*

G. *So if someone else produced it also, perhaps he went and saw the writing and then had it forged?*

H. *No one is going to be able so clearly to fix in mind [something he does not have in hand and can copy].*

I.13 A. *Our rabbis have taught on Tannaite authority:*

B. **A man may write down his testimony in a document and give testimony on the strength of that document, continuing to do so even for a number of years after the date of the document [T. Ket. 2:2L].**

I.14 A. Said R. Huna, “But that is the case only if he remembers the testimony on his own.”

B. R. Yohanan said, “Even if he does not remember the testimony on his own.”

C. *Said Rabbah, “On the basis of what R. Yohanan has said, it follows that if two people know evidence, and one forgot, the other may remind him.”*

I.15 A. *The question was raised: What is the law if the litigant himself [wants to remind the witness about his evidence]?*

B. R. Habiba said, “Even he himself may do so.”

C. Mar b. R. Ashi said, “He himself may not do so.”

D. *And the decided law is that he himself may not do so.*

E. **[20B]** *But if the witness is a neophyte rabbi, then even he himself may remind the witness.*

F. *That is in line with the case of R. Ashi, who had evidence to present for R. Kahana, and [Kahana] said to [Ashi], "Does the master remember the evidence?"*

G. *He said to him, "No."*

H. *"But was it not such-and-so?"*

I. *He said, "I still don't know."*

J. *But finally, R. Ashi remembered and gave evidence for him.*

K. *He saw that R. Kahana was surprised and said to him, "Do you think I depended on you? I tried hard and remembered on my own."*

I.16 A. *We have learned in the Mishnah: Mounds which are near, whether near the city or the road, whether new or old, are unclean. Those which are distant – new ones are clean, and old ones are unclean. What is one that is near? "Fifty cubits. And old? Sixty years," the words of R. Meir. R. Judah says, "Near that there is none nearer than it. And old – that no man remembers it[s origins]" [M. Oh. 16:2J-Q].*

B. *What is the definition of a city and what is the definition of a road? If I should say that what is meant is literally a city or a road, then do we confirm that something is unclean on the basis of doubt? Did not R. Simeon b. Laqish say, "They found a pretext for declaring the land of Israel to be cultically clean"?*

C. *Said R. Zira, "By a town, what they meant was a town near a graveyard, and*

by a road, what they meant was a road near a graveyard.”

D. *Now I have no problem understanding in the case of a road that goes by a graveyard why a mound situated near a graveyard should be unclean, since sometimes it might happen that a funeral was held at twilight, and by chance the corpse was buried in the mound. But in the case of a town near the burial place – everybody goes to the burial place [not the mound, so why should the mound be unclean]?*

E. Said R. Hanina, “Since women bury their abortions there, or people afflicted with Hansen’s disease their arms,” we assume that, for fifty cubits, *a woman will go by herself, but for a longer distance, she will take a man and go to the burial place. Therefore we do not confirm that the land of Israel is cultically unclean.*”

F. *Said R. Hisda, “What follows from what R. Meir has said is that one can remember evidence up to sixty years, but beyond that point, one will not remember it.”*

G. *But that is not the fact. If someone does not remember the evidence after sixty years, it is because it is not a topic of intense personal interest, but here [with the legal dispute where he was a witness (Daiches)], since it is a topic of*

intense personal interest, he will remember for even longer than that period.

2:4

- A. This one says, “This is my handwriting, and this is the handwriting of my fellow,”
- B. and this one says, “This is my handwriting, and this is the handwriting of my fellow” –
- C. lo, these are believed.
- D. “This one says, ‘This is my handwriting,’ and this one says, ‘This is my handwriting’ –
- E. “they have to add another to them [so each signature is confirmed by two witnesses],” the words of Rabbi.
- F. And sages say, “They do not have to add another to them.
- G. “But: A man is believed to say, ‘This is my handwriting.’”

I.1

- A. *Should you wish, you may say:* In accord with the position of Rabbi, [21A] the evidence that they give is in respect to their handwriting, while in accord with sages, the evidence that they give is with reference to the maneh to which the deed makes reference.
- B. *So what else is new?!*
- C. *What might you have supposed? Rabbi was in doubt concerning whether it was in respect to the handwriting that they gave testimony or in respect to the maneh to which the bond makes reference that they give testimony. And at issue [in whether or not Rabbi was in doubt about this matter] would be a case in which one of them died. [Because of Rabbi’s doubt – within this theory of matters – on that to which the witnesses attest,] we should require two witnesses at large to testify concerning the signature of the deceased witness. Otherwise [were a single witness sufficient for the purpose of validating the signature], the entirety of the sum specified, less a quarter, would be paid out on the strength of the testimony of one witness, and a strict rule would prevail both here and there. [Daiches: If Rabbi was in doubt, we should require two other witnesses to give evidence regarding the signature of the dead witness. One other witness, added to the surviving witness, would not suffice, because the evidence of the witnesses may be with regard to the maneh in the deed, not to the signatures – Rabbi is in doubt on this very*

matter – in which case half of the evidence regarding the transaction would be given when the surviving witness confirms his own signature. His own confirmation of his signature is sufficient, as far as his evidence is concerned, if the object of the evidence is the transaction recorded in the deed. Half of the sum mentioned in the deed would then go to the claimant by his confirmation of his signature, which is his evidence. And when he testifies with the other new witness regarding the signature of the dead witness, half of the other half of the sum is testified to by him, so that altogether, three-fourths of the sum mentioned in the deed would go to the claimant through the evidence of one, that is, the surviving witness. This is not according to the law, which demands that no more than one half should be paid out by the evidence of a single witness. Therefore, because Rabbi is in doubt, we should require two other witnesses in a case in which one witness has died. And when both witnesses who signed the deed are alive, each signature must be testified to by both witnesses, because there would be Rabbi's doubt that the evidence may be regarding the signatures. The result would be that in both cases, whether both witnesses are alive or one witness is dead, each signature would have to be testified to by two witnesses.]

- D. *So we are informed that the issue is clear to Rabbi [that the evidence concerns the signatures], whether the result is lenient or strict.* [Lenient, in the case of the death of one witness; strict, in the case of two, when both must attest both signatures.] Daiches: Lenient, as in the case of the death of one witness; being certain in his view that the evidence is with regard to the signatures and not with regard to the maneh in the deed, Rabbi would hold that one witness from an outside source, added to the surviving witness, suffices; the surviving witness and the new one would both testify to both signatures; there would be no question of three-quarters of the sum being paid out by the testimony of one witness, because in Rabbi's view, of which he is certain, the evidence is with regard to the signatures and not to the maneh in the deed.]

E. For said R. Judah said Rab, "Two who had signed a bond, and one of them died – [within the position of sages] they require two witnesses from an outside source to give testimony concerning him." In this case, the upshot from Rabbi's perspective is a lenient ruling, and from rabbis', a strict ruling. [Daiches: As sages hold that the evidence pertains to the maneh in the deed, the two new witnesses are needed to testify to the signature of the dead witness; if there were

only one new witness, and he is joined to the surviving one, three-quarters of the sum mentioned in the deed would be paid out on the strength of the testimony of one witness.]

I.2 A. *And if there were not two but only one [outside witness to attest to the signature of the deceased witness], what is the law?*

B. *Said Abbaye, "Let the surviving witness write out his signature on a sherd and present it to the court, and the court will confirm it, so that he does not have to testify that the bond has his signature on it, and then he joins with the outside witness, and together they attest to the signature of the other witness on the bond. And this should be done only on a piece of clay, not on a piece of parchment scroll, lest an unscrupulous man come along and write on it whatever he wants. For we have learned in the Mishnah: [If] he produced against him [the debtor's] note of hand [as evidence] that he owes him [money], he collects from unindentured property [M. B.B. 10:8A-D].*

- I.3** A. Said R. Judah said Samuel, "The decided law is in accord with the position of sages."
- B. *So what else is new!?* Where you have an individual as against the majority, the decided law accords with the majority!
- C. *What might you otherwise have thought?* The decided law accords with Rabbi over the opinion of his colleague – and even over the opinions of his colleagues? *So we are informed that that is not the case.*

I.4 A. *Said R. Hinena bar Hiyya to R. Judah, and some say, R. Huna bar Judah to R. Judah, and some say, R. Hiyya bar Judah to R. Judah, "But did Samuel say any such thing? And note, a bond came out of the court of Mar Samuel, in which it was written, 'Since R. Anan bar Hiyya came and gave testimony to confirm his signature and that of the other signatory with him, and who was that? It was R. Hanan bar Rabbah, and since R. Hanan bar Rabbah came and gave testimony to confirm his signature and that of the other signatory with him, and who was that? It was R. Anan bar Hiyya, we [the judges] have verified the document, confirmed it as right and proper'" [so Samuel ruled in accord with Rabbi's view].*

B. *He said to him, "That bond belonged to an estate ['orphans'], and Samuel was concerned about the possibility of a court that might err [and wrongly suppose that the law follows Rabbi, when that is not the case]. Specifically, Samuel reasoned: 'Perhaps there might be one who supposes that the law is in accord with Rabbi as against the opinion of his colleague, but not in accord with Rabbi as against the opinion of his colleagues, but in this matter, the decided law is according to Rabbi even as against the opinion of a majority of his colleagues. So I will provide a space so that the estate will not lose out.'"*

I.5 A. Said R. Judah said Samuel, "A witness and a judge in the court join together [to confirm the validity of a document, the witness testifying that it is his signature, the judge to his, endorsing the document in behalf of the court (Daiches)]."

B. *Said Rammi bar Hama, "How excellent is this tradition!"*

C. *Said Raba, "What's so good about it! That to which the witness gives testimony, the judge does not give testimony, and that to which the judge gives testimony, the witness does not give testimony."* [The witness attests to the maneh to which the bond makes reference, saying that the loan was made; the judge attests only that it is his signature in the bond.]

D. *Rather, when Rammi bar Ezekiel came, he said, "Don't pay any attention to these encompassing principles that my brother, Judah, has worked out in the name of Samuel."*

I.6 A. **[21B]** *Rabbanai, the brother of R. Hiyya bar Abba, came around to buy some sesame and said: "This is what Samuel said, 'A witness and a judge in the court join together.'"*

B. *Said Amemar, "How excellent is this tradition!"*

C. *Said R. Ashi to Amemar, "Just because your mother's father praised it, are you going to praise it too? Raba has already overturned it."*

I.7 A. Said R. Safra said R. Abba said R. Isaac bar Samuel bar Marta said R. Huna, and some say, said R. Huna said Rab, "Three who went into session to confirm a bond – two recognize the signatures of the witness and one does not – before the three go ahead and sign onto the document [and confirm it], they give testimony before him, and then he signs as well. If this is after they

have signed, however, they do not give testimony before him, and he may not sign.”

- B. *But [before the signatures of the witnesses have been subjected to testimony by the signatories or others who know their writing (Daiches)], do we write out such a document? Has not R. Pappi said in the name of Raba, “The judges’ validation written prior to the witnesses’ presentation of their testimony as to their signatures on the document is invalid, simply because it appears to be deceit”? Here, too, surely it would appear to be deceit! Rather, state the matter as follows: [Three who went into session to confirm a bond – two recognize the signatures of the witness and one does not –] before the three go ahead and sign onto the document [and confirm it], they give testimony before him, and then he signs as well. If this is after they have written the attestation, they may not give testimony before him, and he may not sign the document.*

C. *Three facts follow from this statement. First, it follows, a witness may serve as a judge; second, it follows, in the case of judges who recognize the signatures of the witnesses, it is not necessary for witnesses to give testimony in their presence; and third, it follows, in the case of judges who themselves do not recognize the signatures of the witnesses, it is necessary to present evidence before each one of the judges [since here the two judges have to testify before the third (Daiches)].*

D. *Objected R. Ashi, “Now there is no problem in understanding how we derive the rule that a witness may serve as a judge. But as to the matter of the inference that in the case of judges who recognize the signatures of the witnesses, it is not necessary for witnesses to give testimony in their presence, I might be able to say to you that it is in general necessary that they do just that, but the present case is exceptional, for the presentation of the evidence has already been carried out in the presence before the third judge. And, furthermore, concerning the inference that in the case of judges who themselves do not recognize the signatures of the witnesses, it is necessary to present evidence before each one of the judges, I might be able to say to you that in general, it is not necessary, but the present case is exceptional, because the presentation of the evidence has not been accomplished at all [if the two judges have not testified before the third].”*

I.8 A. *In session R. Abba stated this tradition, specifically, that a witness may serve as a judge. R. Safra objected to R. Abba, “If three of them saw it, and they already are a court, let two of them arise, and let them seat some of their colleagues with the remaining judge, and give testimony before them, so they may say, “[The new month] is sanctified, it is sanctified.” For an individual is not regarded as trustworthy by himself [to pronounce the sanctification of the month] [M. R.H. 3:1E-G]. Now if you suppose that a witness may serve as a judge, then why go through all this rigmarole? Let the court stay in place and declare the new month sanctified [the court serving as its own testimony]!”*

B. *He said to him, “Well, I had that question, too, so I asked R. Isaac bar Samuel bar Marta, and R. Isaac asked R. Huna, and R. Huna asked Hiyya bar Rab, and Hiyya bar Rab asked Rab, who said to them, “Forget the problem of testimony concerning the appearance of the new moon, which derives from the authority of the Torah, and the confirmation of documents, rules for which derive from the authority of rabbis. [By biblical law, a witness cannot act as a judge, but for rabbinic procedures, he can.]”*

I.9 A. Said R. Abba said R. Huna said Rab, “Three who went into session to confirm a document, and an objection was raised against one of them – before they have signed off on the document, the other two may give evidence concerning the third judge [that he is suitable to do the job], and then he signs too; but if they have already signed off on the document, they may not give evidence concerning him and he may not sign.”

B. *On what basis was the challenge to the validity of the third man to serve as a judge raised to begin with? If it was that he was a thief, [22A] then you have two who testify against him and two who testify that he is no thief [namely, the two other judges]. And if the protest involves some genealogical blemish, then all you have to do is find out the facts of the matter!*

C. *In point of fact, I shall tell you, that the disqualification that was raised concerned the third man’s having stolen something, and they*

say, “We know that he has repented.” [The other judges accept the complaint but explain it is null.]

- I.10** A. Said R. Zira, “I heard this matter from R. Abba, and were it not R. Abba of Akko, I should have forgotten it, namely: Three who went into session to confirm a document, but one of them died, have to write out the following: ‘We were a session of three, but one of them is no more.’”
- B. Said R. Nahman bar Isaac, “And if written in it was the formula, ‘This document came before us as a court of law,’ it is not necessary to say more than that.”
- C. But maybe it’s an arrogant court [made up of only two judges, not the usual three], in accord with the view of Samuel, for Samuel said, “If two made a judgment, their judgment is valid, though they are called ‘an arrogant court’”?
- D. Written in the document was, for instance, “The court of our lord, Ashi.”
- E. But maybe the rabbis of the household of R. Ashi concur with Samuel?
- F. Written in it was, “And our lord, Ashi, instructed us [to act as a court]” [in which case there were certainly three judges].

2:5

- A. The woman who said, “I was married, and I am divorced,” is believed.
- B. For the testimony that imposed a prohibition is the testimony that remitted the prohibition.
- C. But if there are witnesses that she was married, and she says, “I am divorced,”
- D. she is not believed.
- E. [If] she said, “I was taken captive, but I am pure,” she is believed.
- F. For the testimony that imposed a prohibition is the testimony that remitted the prohibition.
- G. But if there are witnesses to the fact that she was taken captive, and she says, “I am pure,”
- H. she is not believed.

I. But if the witnesses appeared [to testify that she was taken captive] only after she had remarried, lo, this one should not go forth.

I.1 A. Said R. Assi, “How on the basis of the Torah do we know that **the testimony that imposed a prohibition is the testimony that remitted the prohibition?** ‘My daughter I gave to this man as a wife’ (Deu. 22:16). When he said, ‘To...man,’ he has prohibited her [since we do not know which man is in mind, so all men are equally forbidden], but when he said, ‘This man,’ he permitted her to that one man.”

B. *Well, anyhow, what need do I have for a verse of Scripture? It stands to reason, he is the one who imposed the prohibition, so he is the one who releases it! Rather, the purpose for which a verse of Scripture is required concerns what R. Huna said Rab said, for said R. Huna said Rab, “How on the basis of the Torah do we know that a father is believed when he makes a statement that prohibits his daughter from marrying [a third party]? As it is said, ‘My daughter I gave to this man as a wife’ (Deu. 22:16). When he said, ‘To...man,’ he has prohibited her [since we do not know which man is in mind, so all men are equally forbidden].”*

C. *What purpose, then, is served by the language “this”?*

D. *It is required in line with what R. Jonah set forth as a Tannaite statement, for R. Jonah set forth as a Tannaite statement: “‘My daughter I gave to this man as a wife’ (Deu. 22:16) – to this man, not to the levir.”*

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

B. A woman who said, “I am a married woman,” but then went and said, “I am an unattached woman,” is believed.

I.3 A. *But lo, she has made herself forbidden in some part!*

B. *Said Raba bar R. Huna, “It would involve a case in which she had given some sort of plausible basis for her [latter] statement.”*

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

D. A woman who said, “I am a married woman,” but then went and said, “I am an unattached woman,” is not believed. But if she gave some plausible basis for her statement, she is believed.

E. And there was a case, *moreover*, of a woman of high standing, who was outstanding in beauty, too, and lots of men

were trying to betroth her, and she said to them, “I am betrothed.”

F. Then someone came along and she accepted his betrothal on her own account. Sages said to her, “How come you acted in this way?”

G. She said to them, “Earlier, when men came along who were unworthy, I said, ‘I am betrothed.’ But now that men have come along who are worthy, I went and accepted a betrothal in my own behalf.”

H. And this law did R. Aha, head of the fortress, present before sages in Usha, and they said, “If she gave some plausible basis for her statement, she is believed.”

I.4 A. *Samuel asked Rab*, “If she said, ‘I am unclean,’ and then she went and said, ‘I am clean,’ what is the law?”

B. He said to him, “Even in a case such as this, if she gave [22B] some plausible basis for her statement, she is believed.”

C. *He repeated it as a Tannaite statement from him forty times, but even so, Samuel did not on his own account judge a practical case in such a manner.*

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

B. If two witnesses say the husband has died, and two say he has not died, two say the wife has been divorced, and two say she has not been divorced, lo, this woman may not remarry, and if she has remarried, she also does not have to leave her second husband.

C. R. Menahem b. R. Yosé says, “She must leave the second husband.”

D. Said R. Menahem b. R. Yosé, “Under what circumstances do I rule that she must leave the second husband? It is when witnesses came, and then she got married. But if she got married and then the contrary witnesses showed up, lo, this one should not go forth.”

I.6 A. *In any event, there are two witnesses against two, and one who has sexual relations with her [since we do not know which pair of witnesses is accurate] has to bring a suspensive guilt-offering.*

B. Said R. Sheshet, “[That would involve] a case in which she was married to one of the witnesses [who has testified that the first husband has died].”

C. *Then she herself is subject to a suspensive guilt-offering!*

D. It is a case in which she says, "I am certain."

I.7 A. Said R. Yohanan, "If two witnesses say, 'He is dead,' and two witnesses say, 'He is not dead,' lo, this woman should not remarry; but if she has remarried, she should not go forth. If two say, 'She is divorced,' and two say, 'She is not divorced,' lo, this woman should not remarry, but if she remarries, she must go forth from the marriage."

B. *So what's the difference between the first case and the second?*

C. *Said Abbaye, "Explain [Yohanan] to speak of a case involving only one witness on each side. If a single witness says, 'He has died,' rabbis have accorded him credence as though he were two witnesses, in accord with what Ulla said. For said Ulla, 'In any case in which the Torah has lent credence to the testimony of a single witnesses, lo, behold, it is as though there are two witnesses,' and the evidence of one man [who says the husband is not dead] against the testimony of two is null."*

D. *If so, why not let her marry to begin with [not only after the fact]?*

E. *Because of what R. Assi said, for said R. Assi, "'Put away from you an audacious mouth and perverse lips' (Pro. 4:24)."*

F. *In the concluding clause, we deal with a case in which one says, 'She is divorced,' and the other says, 'She is not divorced,' both concur that she is a married woman, and, since one who says she is divorced is one, and the words of one have no standing against two [she must leave the second husband].*

G. *Raba said, "In point of fact, in both cases we have two witnesses against two witnesses, but R. Yohanan accepted the opinion of R. Menahem b. R. Yosé in the case in which at issue was whether or not she was divorced, but not in the case in which at issue is whether or not the husband had died. How come? In the case of death, the woman could never contradict the husband [were he to come back and present himself], but in the case of a divorce, she certainly can contradict him [and insist he did divorce her]."*

H. *So does a woman have the balls to do that? Did not R. Hammuna say, "A woman who said to her husband, 'You have divorced me,' is believed, in the assumption that a woman*

would not be so brazen against her husband [if it were not the truth]”?

I. *That rule applies where there are no witnesses on her side, but if she has witnesses, she has the balls!*

J. *R. Assi said, “It would involve a case in which witnesses say, ‘He died just now, he divorced her just now.’ The matter of death is not up for clarification, but as to the divorce, that is subject to clarification. For we say to her, ‘If it’s so that that’s how things are, show us your writ of divorce.’”*

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

B. *If two witnesses say she was betrothed and two say she was not betrothed, she should not marry, and if she has married, she shall not go forth. If two say she was divorced and two say she was not divorced, she shall not marry, and if she has married, she will go forth.*

I.9 A. **[23A]** *So what’s the difference between the first case and the second?*

B. *Said Abbaye, “Explain the cited passage to speak of a case involving only one witness on each side. If a single witness says, ‘She has been betrothed,’ and the other says, ‘She has not been betrothed,’ both of them concur that they give testimony concerning an unattached woman. And in the matter of the one who has said, ‘She has been betrothed,’ this represents one witness, and the statement of one witness cannot stand against that of two. In the second passage, by contrast, one witness says, ‘She has been divorced,’ and one witness says, ‘She has not been divorced,’ so both of them give testimony concerning a married woman. And the one who says she has been divorced is one, and the statement of one cannot stand against the statement of two.”*

C. *R. Assi said, “In point of fact, there are two witnesses in each instance, but reverse matters: Two say, ‘We saw her get betrothed,’ and two say, ‘We didn’t see her get betrothed,’ lo, this one should not marry [a third party], and if she was married, she must go forth.”*

D. *Well, that’s pretty obvious! The statement, “We didn’t see her get betrothed,” proves nothing at all!*

E. *Not at all, the statement is required to deal with a case in which all parties are living in the same courtyard. What might you have*

supposed? If it were the fact that she had been betrothed, there would have been public knowledge of that fact. So we are informed that people may well undertake a betrothal in private.

F. *“As to the concluding clause [Assi continues], two say, ‘We saw that she was divorced,’ and two say, ‘We didn’t see her getting divorced,’ lo, this one should not remarry, but if she remarried, she should not go forth.”*

G. *So what are we supposed to get out of that? Even though all parties are living in the same courtyard...? That’s exactly the same point as the other clause has already put forth!*

H. *What might you otherwise have supposed? It is in matters of betrothals that people may well conduct a betrothal in private, but as to a divorce, if it were the fact that the woman had been divorced, people would know about it! So we are informed that people may well both betroth and also issue a writ of divorce in confidence.*

II.1 A. But if the witnesses appeared [to testify to the facts of what had happened earlier, only] after she was remarried, lo, this one should not go forth:

B. *R. Oshaia repeats the cited clause with reference to the opening clause of the Mishnah [The woman who said, “I was married, and I am divorced” is believed], and Rabbah bar Abin refers it to the second clause [If she said, “I was taken captive, but I am pure,” she is believed].*

C. *He who repeats it with reference to the first case all the more so will apply it to the second, since with respect to the captive, rabbis have imposed a lenient ruling, but one who repeats it with reference to the second clause may not consider that it pertains to the first.*

II.2 A. May we say that at issue between them is what R. Hamnuna [*“A woman who said to her husband, ‘You have divorced me,’ is believed, in the assumption that a woman would not be so brazen against her husband if it were not the truth”*] *said. He who refers the statement at hand to the opening clause of the Mishnah paragraph concurs with R. Hamnuna, and he who says it speaks only of the second clause does not concur.*

B. *Not at all. All parties concur in what R. Hamnuna said. And here, what is at issue is, one authority takes the view that,*

when the statement of R. Hamnuna was made, it concerned only a statement made before the husband's face, but in his absence, she would indeed be brazen, and the other authority maintains that even not in the husband's presence a woman would not be brazen.

- II.3** A. **But if the witnesses appeared [to testify that she was taken captive] after she was remarried, lo, this one should not go forth:**
- B. Said the father of Samuel, "The meaning of **after she was remarried** is not, actually remarried, but, once the court has permitted her to remarry, even though she was not actually remarried, the same rule pertains."
- C. *But the language is used lo, this one should not go forth!*
- D. The meaning is, she does not go forth from the permission to remarry that has already been granted here.

- II.4** A. *Our rabbis have taught on Tannaite authority:*
- B. **If the woman said, "I was taken captive, but I am pure, and I have witnesses to testify that I am pure," they do not say, "Let us wait until the witnesses come and permit her."**
- C. **But they permit her to return to her husband forthwith. If once she has been permitted, witnesses come and say, "We do not know," then she shall not go out.**
- D. **But if witnesses that she was made unclean should show up, even though she has many children, she shall go forth [T. Ket. 2:2E-G].**

II.5 A. *Some women who had been taken captive were brought to Nehardea. The father of Samuel set guards up for them. Said to him Samuel, "So who guarded them up to now?"*

B. *He said to him, "If they were your daughters, would you have spoken of them so lightly?"*

C. *It was "as an error that comes from before the ruler" (Qoh. 10: 5), and the daughters of Mar Samuel were taken captive, and they brought them up to the land of Israel. The daughters had their captors stand outside of the school house of R. Hanina, while they went in. This one said, "I have been taken captive, but I am clean," and that one said, "I have been taken captive, but I am clean," and they permitted them. Then their captives came in.*

D. Said R. Hanina, "These are the children of a master." Word came out that they were the daughters of Mar Samuel. Said R. Hanina to R. Shemen bar Abba, "Go, take care of your relatives."

E. He said to R. Hanina, "But lo, there are witnesses overseas [to the effect that these women had been taken captive, so we do not depend on what they say]."

F. "But now, at any rate, they're not here. If there are witnesses up north, is the woman going to be forbidden to marry?!"

G. So the operative consideration is that no witnesses had come, but if witnesses had come, she would have been forbidden. But didn't the father of Samuel say, "Once the court has permitted her to remarry, even though she was not actually remarried, she may remain married"?

H. Said R. Ashi, "That was stated with reference to witnesses that she had been made unclean." [Witnesses who testify that she was made unclean during her captivity would be able to nullify the right to marry, but if they only said she was taken captive, that would not affect that permission, and Hanina and Samuel's father concur (Daiches)].

2:6

- A. [23B] Two women who were taken captive –
- B. this one says, "I was taken captive, but I am pure,"
- C. and that one says, "I was taken captive, but I am pure" –
- D. they are not believed.
- E. And when they give evidence about one another, lo, they are believed.

I.1

- A. Our rabbis have taught on Tannaite authority:
- B. This one says, "I am unclean, but my girlfriend is clean" – she is believed.
- C. "I am clean, but my friend is unclean," she is not believed.
- D. "I and my girlfriend are unclean" – she is believed as to herself but not as to her friend.
- E. "I and my friend are clean" – she is believed as to her friend but not as to herself [T. Ket. 2:N-R].

I.2 A. The master has said: **“I am clean, but my friend is unclean” – she is not believed.**”

B. *How can we imagine such a case? If there are no witnesses, then why is she not believed about herself? All she is saying is, “I was taken captive, but I am pure.” So it’s obvious that there are witnesses. But then note the middle clause: “I and my girlfriend are unclean” – she is believed as to herself but not as to her friend. But if there are witnesses, why is she not believed? So it is obvious that there are no witnesses. And then note the final clause: “I and my friend are clean” – she is believed as to her friend but not as to herself. Now if there are no witnesses as to her own situation, why is she not believed? So it is obvious that there are witnesses. Thus it comes out that the opening and closing clauses speak of a case in which there are witnesses, but the middle clause, where there is none!*

C. *Said Abbaye, “Yes, that’s correct: the opening and closing clauses speak of a case in which there are witnesses, but the middle clause, where there is none.”*

D. *R. Pappa said, “The whole passage speaks of situations in which there are witnesses, but there is a witness who reverses what she said. If she said, ‘I am unclean and my friend is clean,’ and one witness says to her, ‘You are clean but your friend is unclean,’ she has declared herself forbidden, and her friend is permitted through her testimony. [Daiches: In regard to a captive woman, the evidence of one witness in favor of her chastity is sufficient.] If she says, ‘I am clean and my friend unclean,’ and one witness says to her, ‘You are unclean but your friend is clean,’ since there are witnesses, she is not believed as to herself, but her friend becomes permitted through the testimony of one witness. If she says, ‘I and my friend are unclean,’ and one witness says to her, ‘You and your friend are clean,’ she has declared herself forbidden, but her friend is permitted through the testimony of that one witness.”*

E. *So for what do I need this further statement, since it’s no different from the opening part?*

F. *What might you otherwise have thought? Both are clean, and the reason that she says [that they are unclean] is in line with “let me die*

with the Philistines” (Jud. 16:30), so the framer of the passage informs us that that is not the case.

G. “I and my friend are clean” – and the one witness says to her, “You and your friend are unclean,” since there are witnesses, she is not believed, but her friend is permitted through her testimony – for what do I need this further statement, since it’s no different from the opening part?

H. What might you otherwise have supposed? When she is believed, it is in a case in which she declares she is unfit; but if she says she is fit, I might have supposed that she is not believed at all. So we are informed that that is not the case.

2:7

- A. And so two men –
- B. this one says, “I am a priest,”
- C. and that one says, “I am a priest” –
- D. they are not believed.
- E. But when they give evidence about one another, lo, they are believed.

2:8

- A. R. Judah says, “They do not raise someone to the priesthood on the evidence of a single witness [vs. 2:7E].”
- B. Said R. Eleazar, “Under what circumstances [A]? When there are those who raise doubt about the matter. But when there is none who raises doubt about the matter, they do raise someone to the priesthood on the evidence of a single witness.”
- C. Rabban Simeon b. Gamaliel says in the name of R. Simeon, son of the Prefect, “They raise someone to the priesthood on the evidence of a single witness.”

I.1

- A. How come such a proliferation of cases?!
- B. All of them were required. For if the Tannaite master had stated, And R. Joshua concedes [in the case of him who says to his fellow, “This field belonged to your father, and I bought it from him,” that he is believed. For the mouth that prohibited is the mouth that permitted (M. 2: 2)], I might have supposed that in that case there is the consideration of the loss of money, but in the matter of The witnesses who said, “This is our

handwriting, but we were forced to sign,” “...we were minors,” “...we were invalid [as relatives] for testimony” – lo, these are believed, and the writ is invalid. But if there are witnesses that it is their handwriting, or if their handwriting was available from some other source, they are not believed (M. 2: 3)], *where there is no consideration of the loss of money, I might have said that that is not the case [and the principle, For the mouth that prohibited is the mouth that permitted, is not invoked]. And if the framer of the chapter had set forth the case of **The witnesses who said, “This is our handwriting,” I might have supposed that only in that case the principle pertains, since here the statement concerns third parties. But where it concerned themselves, [24A] I might have supposed that that is not the case. And if he had informed us of these two cases, I might have said that the operative consideration in both has to do with money, but in the case of a married woman, which is a matter of a prohibition, I would not have said that the rule applied.***

- C. *And what need do I have for the case of **If she said, “I was taken captive, but I am pure,” she is believed. For the testimony that imposed a prohibition is the testimony that remitted the prohibition. But if there are witnesses to the fact that she was taken captive, and she says, “I am pure,” she is not believed. But if the witnesses appeared [to testify that she was taken captive] only after she had remarried, lo, this one should not go forth [M. 2:5E-I]?***
- D. *It is because the framer of the passage wishes to teach at the end, **But if the witnesses appeared [to testify that she was taken captive] only after she had remarried, lo, this one should not go forth.***
- E. *Well, that answer poses no problems to him who refers that clause to the concluding part of the composite, but to the one who refers it to the opening part of the composite, what is to be said?*
- F. *It is because he wanted to set forth the matter of **Two women who were taken captive – this one says, “I was taken captive, but I am pure,” and that one says, “I was taken captive, but I am pure” – they are not believed. And when they give evidence about one another, lo, they are believed [M. 2:6].***
- G. *So for what do I need the passage, **Two women who were taken captive, anyhow?***

- H. *What might you otherwise have supposed? That we should take account of the possibility that they are doing one another a favor. So we are informed that that is not the case.*
- I. *And for what do I need the passage, And so two men – this one says, “I am a priest,” and that one says, “I am a priest” – they are not believed. But when they give evidence about one another, lo, they are believed?*
- J. *It is because the framer wished to set forth the dispute of R. Judah and rabbis.*

I.2

- A. *Our rabbis have taught on Tannaite authority:*
- B. *“I am a priest and my friend is a priest” – he is believed so as to confer upon the other the right to eat priestly rations, but he is not believed so as to allow him to marry a woman of solid genealogy, unless there are three witnesses, with two testifying to the status of one and two testifying to the status of the other.*
- C. *R. Judah says, “Even with respect to conferring upon him the right to eat priestly rations, that is the case only if there are three witnesses, with two testifying to the status of one and two testifying to the status of the other.”*

I.3

A. Is that to say that R. Judah takes account of the possibility of reciprocal favoritism, and rabbis do not take account of that same possibility? Lo, we have a tradition that reverses matters, for we have learned in the Mishnah: [Regarding] the ass drivers who entered the city, [and] one [of them] said, “My [produce] is new [this year’s produce, which is prohibited before the offering of the sheaf], and that of my companion is old [last year’s produce, which may be eaten before the offering of the sheaf]; “My [produce] is not tithed, and that of my companion is tithed” – they are not believed. R. Judah says, “They are believed” [M. Dem. 4:7].

B. Said R. Ada bar Ahbah said Rab, “The theories are reversed.”

C. Abbayye said, “The theories are not at all to be reversed. In the case of doubtfully tithed produce, a lenient standard is applied, for most common folk tithe their produce.”

D. Said Raba, “Is there only a contradiction between two sayings of R. Judah, but none between two sayings of rabbis? Rather, there is no contradiction between the two passages of R. Judah, for reasons we have now set forth, and also, there is no contradiction between the

two sayings of rabbis, in lie with that which R. Hama bar Uqba said, ‘We deal with a situation in which he has his tools in hand’; [24B] here, too, [in the matter of the ass drivers] we deal with a situation in which he has his tools in hand.” [The ass drivers have their measures and levelers, which shows they mean to sell their grain; therefore rabbis suspect them of reciprocal favoritism; one says the right thing here, another there, and they are not believed (Daiches)].

I.4 A. *Now in what context was that statement of R. Hama bar Uqba made?*

B. *It was in reference to the following, which we have learned in the Mishnah: The potter who left his pots and went down to drink – the innermost ones are clean. And the outermost ones are unclean. [Said R. Yosé, “Under what circumstances? When they are untied. But when they are tied up, the whole is clean.” He who gives over his key to an am haares [who does not keep the purity rules] – the house is clean, for he gave him only the charge of guarding the key [M. Toh. 7:1A-F].*

C. *But has it not been taught as a Tannaite statement: These and those are unclean?*

D. Said R. Hama bar Uqba, “We deal with a situation in which he has his tools in hand, so that everybody is going to handle them [and impart uncleanness to them].” [If he had the tools, it would mean the pots were for sale, so people are going to examine the pots (Daiches).]

E. *But has it not been taught as a Tannaite statement: These and those are clean?*

F. Said R. Hama bar Uqba, “We deal with a situation in which he has not got his tools in hand.”

G. *And what about that which we have learned in the Mishnah: The innermost ones are clean. And the outermost ones are unclean? Where shall we find a case in which this result is possible?*

H. *They are left near the public road, and the uncleanness is on account of the stones along the border of the public road.*

[Bypassers may touch the pots left near the border of the road, and these are the outermost pots (Daiches).]

I. *Or, if you wish, I shall say, R. Judah and rabbis differ on whether or not one raises a person to the priestly caste on the strength of evidence that he is seen eating priestly rations. [Daiches: Judah is strict on this matter; the issue on mutual favoritism is not raised at all; all concur we do not raise that question.]*

I.5 A. *The question was raised:* What is the rule on raising a person's genealogical standing to that of the priesthood on the strength of documents [referring to the man as a priest]?

B. *How can such a case be imagined? If I say that, in the document is written, "I, Mr. So-and-so, a priest, have signed...", who is it that testifies as to his status anyhow? So it must involve a document in which it is written, "I, Mr. So-and-so, a priest, have borrowed a maneh from Mr. Such-and-such," and witnesses sign to that. Now to what is it that they attest? Is it only to the maneh that is inscribed in the bond, or are they testifying to every detail of the document?*

C. R. Huna and R. Hisda –

D. One says, "One does raise the man to the priestly caste on the strength of such a document."

E. The other says, "One does not raise the man to the priestly caste on the strength of such a document."

I.6 A. *The question was raised:* What is the rule on raising a person's genealogical standing to that of the priesthood on the strength of his lifting up the hands in the priestly benediction?

B. *The question is to be addressed to both him who says that one raises a person on the strength of evidence that he has eaten priestly rations to the status of priest, and also him who says that one does not raise a person on the strength of evidence that he has eaten priestly rations to the status of priest. The question is to be addressed to both him who says that one raises a person on the strength of evidence that he has eaten priestly rations to the status of priest and to him who does not.*

C. *The question is to be addressed to both him who says that one raises a person on the strength of evidence that he has eaten priestly rations to the status of priest: that rule pertains in particular to food in the status of priestly rations, because it is a transgression punishable by the death penalty, but as to the raising of hands in the priestly benediction, which is only a prohibition covering an affirmative commandment, the principle does not pertain. Or perhaps, there is no difference between the one and the other.*

D. *And the question is to be addressed to him who says that one does not raise a person on the strength of evidence that he has eaten priestly rations to the status of priest: that is the case for priestly rations, which are eaten in private, but as to raising the hands in the priestly benediction, which is a highly public action, if the man were not a priest, he would hardly have the balls to do such a thing? Or perhaps there is no such distinction?*

E. R. Huna and R. Hisda –

F. One says, “One does raise the man to the priestly caste on the strength of such evidence.”

G. The other says, “One does not raise the man to the priestly caste on the strength of such evidence.”

I.7 A. Said R. Nahman bar Isaac to Raba, “What is the law on raising a person to priestly status on the strength of evidence that he has raised his hands in the priestly benediction?”

B. *He said to him, “That is subject to dispute between R. Hisda and R. Abina.”*

C. *“So what’s the decision on the law?”*

D. *He said to him, “Well, I have a Tannaite statement on that matter, for it has been taught on Tannaite authority: R. Yosé says, ‘The presumption that the status quo is to be continued is powerful, for it is said, “And the children of the priests, the children of Habaiah, the children of Hakkoz, the children of Barzillai, who took a wife of the daughters of Barzillai the Gileadite and was called after their name, these sought their register, of those that were reckoned by genealogy, and they*

were not found; therefore were they deemed polluted and put from the priesthood. And the Tirshatha said to them, that they should not eat of Most Holy Things until there stood up a priest with Urim and Thummim” (Ezr. 2:61-63). Thus the Tirshatha said to them: “Lo, you are confirmed in the status that is presumed up to now to pertain to you. So what were you eating in the Exile? Holy Things set forth in the provinces [priestly rations, but not Holy Things in the Temple]. Here, too, you will eat Holy Things set forth in the provinces.”” *Now, if it should enter your mind that, in fact, we promote someone to the genealogical status of priest on the strength of evidence that he has raised his hands in the priestly benediction, then, as to these folks, since they obviously have raised their hands in bestowing the priestly benediction, surely they ought to have been promoted. [But they weren’t, so that is not the law.]”*

E. But this case is exceptional, for the presumption concerning them had been weakened. For if you do not say that that is so, then, in line with the person who maintains of evidence that he has eaten priestly rations, since these folks have eaten priestly rations, in any event one might well promote them to the status of priests! So you must say that the operative consideration here is that the presumption affecting them has somehow been impaired [so no mistake can be made, and that would apply also to evidence of having bestowed the priestly benediction (Daiches)].

- I.8** A. **[25A]** *Then what’s the point of that statement, The presumption that the status quo is to be continued is powerful?!*
- B. *To begin with they ate priestly rations so defined by rabbis, now they ate priestly rations as defined by the Torah.*
- C. *But if you prefer, I shall say, now, too, they ate priestly rations as defined by rabbis, but they did not eat priestly rations as defined by the Torah. And in respect to our promoting*

them as to their genealogical status on the strength of their eating priestly rations, that is so if the priestly rations are as defined by the Torah, but not if the priestly rations are as defined by rabbis.

D. *Then what's the point of that statement, The presumption that the status quo is to be continued is powerful?!*

E. *It is that, even though there was the possibility of making a precautionary decree against their doing so on account of priestly rations defined by the Torah [which might be confused with priestly rations as defined by rabbis], we make no such distinction.*

I.9 A. *But didn't those under discussion eat priestly rations as defined by the Torah? And lo, it has been written, "...that they should not eat of Most Holy Things until there stood up a priest with Urim and Thummim," thus: Of Most Holy Things they did not eat, but of priestly rations as defined by the Torah they ate!*

B. *This is the sense of the statement at hand: They may eat neither of anything that is called a Holy Thing, in line with the verse, "And no stranger shall eat of a Holy Thing" (Lev. 22:10), nor anything that is called a Holy Thing, "And if a priest's daughter is married to an outsider to the priesthood, she shall not eat of the peace-offering of Holy Things" (Lev. 22:12), and a master said, "This means that which has been set aside from Holy Things is what she shall not eat [the breast and the shoulder of peace-offerings] [both items appearing in the verse in Ezra]."*

I.10 A. *Come and take note: Sufficient evidence to promote a person to the priesthood is*

constituted by the fact that in Babylonia one has raised up hands in the priestly blessing; in Syria one has eating dough-offering, which is reserved for the priesthood; and in the villages [of the Land] that one has participated in the division of the priestly gifts. *So in any event the passage encompasses the fact that in Babylonia one has raised up hands in the priestly blessing! Does this not mean that one is promoted as to one's genealogical status into the priesthood?*

B. No, the meaning is, with respect to eating priestly rations.

C. But lo, it is set forth as comparable to eating dough-offering, thus: Just as eating dough-offering suffices for promotion as to genealogy to the priesthood, so raising up one's hands in the priestly benediction serves to raise one's status as to genealogy.

D. No, eating dough-offering itself serves as evidence in respect to priestly rations, for the framer of the passage maintains that the status of dough-offering as holy in our time is merely on the authority of rabbis, but priestly rations derive from the authority of the Torah, and one may promote a person on the strength of evidence that he has eaten dough-offering, which is of rabbinical status, to the right to eat priestly rations, which is on the authority of the Torah, in accord with R. Huna b. R. Joshua's reversal of what rabbis said.

I.11 **A. Come and take note: There are two presumptive grounds for a person's being deemed to be in the priesthood in the Land of Israel: raising up hands in the priestly benediction and sharing heave-offering at**

the threshing floor; and in Syria, up to the point at which the agents announcing the new moon reach, the raising of hands in the priestly benediction constitutes adequate grounds, but not sharing heave-offering at the threshing floor. Babylonia is in the same status as Syria. R. Simeon b. Eleazar says, “Also in Alexandria at the outset, because there was a court there” [T. **Ket. 3:1A-D**]. *So in any event the passage encompasses the fact that one has raised up hands in the priestly blessing! Does this not mean that one is promoted as to one’s genealogical status into the priesthood?*

B. *No, the meaning is, with respect to eating dough-offering.*

C. *But lo, it is set forth as comparable to sharing in the division of the priestly gifts, thus: Just as sharing in the division of the priestly gifts suffices for promotion as to genealogy to the priesthood, so raising up one’s hands in the priestly benediction serves to raise one’s status as to genealogy.*

D. *No, sharing in the distribution of priestly gifts itself serves as evidence in respect to eating dough-offering, for the framer of the passage maintains that the status of priestly rations as holy in our time is merely on the authority of rabbis, but dough-offering derives from the authority of the Torah, and one may promote a person on the strength of evidence that he has eaten priestly rations, of rabbinical status, to the right to eat dough-offering, which is on the authority of the Torah. And that is in accord with what we find with respect to R. Huna b. R. Joshua’s discussion with rabbis.*

I.12 A. *For said R. Huna b. R. Joshua, “I found the household rabbis in session, saying, ‘Even in the opinion of him who says that separating heave-offering at this time rests only on the authority of rabbis, designating dough-offering, nonetheless, is on the authority of the Torah, for lo, during the seven years in which they conquered the Land of Israel and the seven years in which they divided it up, they were subject to the obligation to designate dough-offering, while they were not subject to the obligation to separate tithes.’*

B. “And I said to them, ‘Even in the opinion of one who maintains that separating heave-offering in the present day rests upon the authority of the Torah, the designation of dough-offering derives only from the authority of rabbis. For it has been taught on Tannaite authority: Since Scripture has said, “When you come” [Num. 15:18, referring to designating dough-offering], might one suppose that once the two or three spies had entered the land, the obligation is incurred? Scripture says, “When you come,” meaning, the arrival of all of you is what I meant, and not the arrival of only some of you.’ But when Ezra brought them back up to the land, [26A] not all of them went up with him.”

I.13 A. [So to answer the question raised at No. 7, said R. Nahman bar Isaac to Raba, “What is the law on raising a person to priestly status on the strength of evidence that he has raised his hands in the priestly benediction?”] *Come and take*

note: A presumption sufficient to promote one to the genealogical status of the priesthood derives from lifting up the hands in the priestly benediction, taking a share in the priestly gifts designated at the threshing floor, and testimony [of witnesses that one is a priest].

B. Does testimony constitute grounds for a presumption of that sort?

C. *Is not this the sense:* The lifting up of hands is comparable to testimony; just as testimony to the facts of the matter may serve to raise one to the status of the priesthood, so the lifting up of hands does the same?

D. Not at all. The meaning is, testimony that rests on the strength of an established presumption.

E. *It would be in line with the case of someone who came before R. Ammi. He said to him, "I have a strong presumption that this man is a priest."*

F. He said to him, "What evidence do you have on the basis of your own observation?"

G. He said to him, "He took the first position in the reading of the Torah in the synagogue."

H. "Was it in the assumption that he is a priest, or was it in the assumption that he is a prominent man?"

I. "A Levite read after him."

J. And R. Ammi promoted him to the priesthood on the strength of what that man had said."

I.14 A. *Someone came before R. Joshua b. Levi. He said to him, "I have a strong presumption that this man is a Levite."*

B. He said to him, "What evidence do you have on the basis of your own observation?"

C. He said to him, "He took the second position in the reading of the Torah in the synagogue."

D. “Was it in the assumption that he is a Levite, or was it in the assumption that he is a prominent man?”

E. “A priest read before him.”

F. And R. Ammi promoted him to the status of Levite on the strength of what that man had said.”

I.15 A. *Someone came before R. Simeon b. Laqish. He said to him, “I have a strong presumption that this man is a priest.”*

B. He said to him, “What evidence do you have on the basis of your own observation?”

C. He said to him, “He took the first position in the reading of the Torah in the synagogue.”

D. He asked him, “Did you see him take a share of the priestly gifts at the threshing floor?”

E. Said to him R. Eleazar, “So if there is no threshing floor in that locale, is the priesthood to be nullified altogether?!”

I.16 A. *Once they were in session before R. Yohanan. This case came before him. Said to him R. Simeon b. Laqish, “Did you see him take a share of the priestly gifts at the threshing floor?”*

B. Said to him R. Yohanan, “So if there is no threshing floor in that locale, is the priesthood to be nullified altogether?!”

C. *R. Simeon b. Laqish looked angrily at R. Eleazar, saying to him, “You heard this rule from Bar Nappaha [Yohanan himself] but you never reported it to me in his name!”*

I.17 A. Rabbi and R. Hiyya –

B. One promoted a man to the priesthood on the basis of evidence given by his father, and

the other promoted someone to Levitical status on the basis of evidence given by his brother.

C. *You may draw the conclusion that it was Rabbi who promoted a man to the priesthood on the basis of evidence given by his father, for it has been taught on Tannaite authority:*

D. “Lo, if someone came along and said, ‘This man is my son, and he is a priest,’ he is believed so as to confer on him the right to eat priestly rations, but he is not believed so as to confer on him the right to marry a woman [suitable for marriage into the priesthood],” the words of Rabbi.

E. Said to him R. Hiyya, “If you accept his testimony so as to confer upon him the right to eat priestly rations, then you should accept his testimony so as to confer on him the right to marry a woman [of exceptional genealogical descent], but if you don’t accept his testimony so as to allow him to marry such a woman, then don’t accept his testimony so as to allow him to eat such food.”

F. He said to him, “I accept his testimony with respect to allowing him to eat priestly rations, since he has the power to give him priestly rations to eat, but I don’t accept his testimony as to allow him to marry such a woman, since he doesn’t have the power to confer on him the right to marry such a woman.”

G. *You may draw the proposed conclusion that it is Rabbi.*

H. And since it is Rabbi who promoted a son to the priesthood on the strength of the testimony of his father, then it must be R. Hiyya who promoted someone to Levitical status on the strength of his brother's testimony.

I. *And on what basis does R. Hiyya distinguish the one from the other? Is it that son may not be promoted, since he is a relative of the father [who therefore cannot testify concerning him]? Well, the brother is also a relative of the brother!*

J. **[26A]** It is a case in which the brother is talking in all innocence [and without the intent of establishing such a fact].

I.18 A. *It is comparable to the case of which said R. Judah said Samuel, "There was a case of a man who was speaking without guile, and who said, 'I remember, when I was a child, riding on my father's shoulder, and they took me out from school and took off all my clothes and immersed me so that I could eat priestly rations that evening.'"*

B. And R. Hiyya adds:
“And my pals kept their distance from me and would call me, ‘Yohanan who eats dough-offering,’ and Rabbi raised him to the priesthood on the strength of his own testimony.”

I.19 A. *It has been taught on Tannaite authority:*

B. R. Simeon b. Eleazar says, “Just as eating food in the status of priestly rations serves as evidence in behalf of the presumption that one belongs to the priesthood, so eating first tithe serves as evidence in behalf of the presumption that one belongs to the priesthood. But he who on the authority of a court takes a share in the gifts at the threshing floor – that does not constitute presumptive evidence on his status as a priest.”

C. *Yeah, well, first tithe goes to the Levite!*

D. *He takes the view of R. Eleazar b. Azariah, as has been taught on Tannaite authority:*

E. “The [great] heave-offering goes to the priest, first tithe to the Levite,” the words of R. Aqiba.

F. R. Eleazar b. Azariah says, “The first tithe, too, goes to the priest.”

G. *Does he say, “To the priest, not to the Levite?”*

H. *Yes, because this was after Ezra had inflicted upon them an extrajudicial penalty.*

I. *But maybe it turned out that they gave it to the Levite [anyhow, so how can evidence that one has eaten first tithe prove one is a priest]?*

J. *Said R. Hisda, “Here with what situation do we deal? It was one in which we have it as an established fact that his father was a priest, but a rumor concerning him circulated that he was the son of a divorcée or of a woman who had undergone the rite of removing the shoe [and was therefore*

the child of a union improper for a priest], but they gave him tithe at the threshing floor. In such a case he obviously was not going to be regarded as a Levite, since he simply wasn't a Levite. Now what would you say in such a case? That he was the son of a divorcée or of a woman who had undergone the rite of removing the shoe [and was therefore the child of a union improper for a priest]? But in the opinion of him who says that first tithe may not be eaten by non-priests, they would not have given it to him. And as to the opinion of him who says that first tithe is permitted to non-priests, it is only to feed them, but it is not distributed to a nonpriest as part of the normal division of the priestly gifts."

I.20 A. "But he who on the authority of a court takes a share in the gifts at the threshing floor – that does not constitute presumptive evidence on his status as a priest."

B. *So if the court cannot establish a presumption as to the facts, then where in the world will there ever be such a presumption?!*

C. Said R. Sheshet, "This is the sense of the statement: He who takes a share in the estate of his father with his brothers by the authority of the court – that does not constitute presumption [as to his status as a priest]."

D. *Yeah, so what else is new!*

E. *Well, what might you otherwise have thought? Just as those get their share of priestly rations to eat, so he, too, gets his share to eat? He thus informs us that they get their share of priestly rations to eat, but he gets it only to sell.*

II.1 A. R. Judah says, "They do not raise someone to the priesthood on the evidence of a single witness [vs. 2:7E]. Said R. Eleazar, "Under what circumstances? When there are those who raise doubt about the matter. But when there is none who raises doubt about the matter, they do raise someone to the priesthood on the evidence of a single witness." Rabban Simeon b. Gamaliel says in the name of R. Simeon, son of the Prefect,

“They raise someone to the priesthood on the evidence of a single witness”:

- B. *Rabban Simeon b. Gamaliel says the same thing as R. Eliezer! And if you should say that between them is whether or not the evidence of a single witness who raises doubt about the matter is taken into account, with R. Eliezer taking the view that a single person may present such a complaint, while Rabban Simeon b. Gamaliel maintains that two persons are required for such a procedure, has not R. Yohanan said, “All parties concur that a complaint can be issued only on the strength of the evidence of two witnesses”?*
- C. *Well, here, with what case do we deal? With a case in which the father is assumed by us to be a priest, but a rumor circulated on the man that he was the son of a divorcée or of a woman who had undergone the rite of removing the shoe [and was therefore the child of a union improper for a priest]. So they demoted him from the priesthood. And then a single witness came and said, “I know as fact that he is a priest,” [26B] so they raised him back up into the priesthood. Then two more witnesses came along and said, “He is the son of a divorcée or of a woman who had undergone the rite of removing the shoe,” so they demoted him again, and then a single witness came and said, “I know as fact that he is a priest” – all parties concur that these are formed into a single testimony. What is at issue is only whether or not we take account of the possibility of bringing disrepute on the court itself [for switching positions so much]. The initial Tannaite authority takes the position that, since he has been demoted, we do not promote him again, since we take account of the disrepute of the court that this would bring, and Rabban Simeon b. Gamaliel takes the position, “We are the ones who demoted him, and we are the ones who will promote him, and we are not going to take account of the disrepute we bring upon the court.”*
- D. *Objected R. Ashi to this explanation, “If so, then why not say the same when two successive pairs of witnesses produce the same result?!”*
- E. *Rather, said R. Ashi, “At issue between them is the question of whether the testimonies of the first and final witnesses are joined together into one testimony, and at issue is what is at stake in the following conflict of Tannaite authorities, for it has been taught on Tannaite authority:*
- F. **“The testimony of witnesses is confirmed only if they had been in sight of one another.**

- G. “R. Joshua b. Qorha says, ‘Even though this one was not opposite that one.’
- H. “Under no circumstances is their testimony confirmed unless both of them are [heard] at the same time.
- I. “R. Nathan [T.: Simeon] says, ‘They hear out the testimony of this one on one day, and when his fellow comes on the next day, they give a hearing to what he has to say as well’ [T. **San. 5:5F-I**].”

2:9A-C

- A. **The woman who was taken prisoner by gentiles –**
- B. **[if it was] for an offense concerning property, she is permitted [to return] to her husband.**
- C. **[If it was for] a capital offense, she is prohibited to her husband.**

I.1

- A. Said R. Samuel bar Isaac said Rab, “This rule was repeated only in a case in which the power of Israel is greater than that of the gentiles, but if the power of gentiles is greater than that of Israel, even if she was abducted for a ransom, she is forbidden to return to her husband.”
- B. *Objected Raba*, “Testified R. Yosé the Priest and R. Zekhariah b. Haqqassab concerning a girl who was left as a pledge in Ashkelon, and the members of her family put her out, even though witnesses concerning her gave testimony that she had not been alone [with a man] or been made unclean [by a man]. Said to them sages, ‘If you believe that she was left as a pledge, you might as well believe that she was not alone with a man or made unclean, and if you don’t believe that she was not alone with a man or made unclean, you might as well not believe that she was left as a pledge’ [M. **Ed. 8:2D-H**]. Now, as a matter of fact, Ashkelon was a town in which the power of gentiles is greater than that of Israel, **[27A]** and yet it states, left as a pledge, but not when she was imprisoned.”
- C. No, the same rule applies even if she was imprisoned, but the details of the case are as they are set forth.
 - D. *There are those who say*, “Said Raba, ‘So, too, we have learned in the Mishnah: Testified R. Yosé the Priest and R. Zekhariah b. Haqqassab concerning a girl who was left as a pledge in Ashkelon, and the members of her family put her out, even though witnesses concerning her gave testimony that she had not

been alone [with a man] or been made unclean [by a man]. Said to them sages, “If you believe that she was left as a pledge, you might as well believe that she was not alone with a man or made unclean, and if you don’t believe that she was not alone with a man or made unclean, you might as well not believe that she was left as a pledge” [M. **Ed. 8:2D-H**]. *Now, as a matter of fact, Ashkelon’s case involved a monetary consideration, and yet the operative consideration in mind was that witnesses testified concerning her; but if witnesses had not done so, she would not have been permitted. And cannot we suppose that there is no difference between whether she was pledged or imprisoned? ’*”

E. *Not at all, the case of her being pledged is exceptional.*

F. *There are those who contrast the one with the other, as follows:*

G. *We have learned in the Mishnah: [If it was] for an offense concerning property, she is permitted [to return] to her husband. [If it was for] a capital offense, she is prohibited to her husband. And by way of contrast: Testified R. Yosé the Priest and R. Zekhariah b. Haqqassab concerning a girl who was left as a pledge in Ashkelon, and the members of her family put her out, even though witnesses concerning her gave testimony that she had not been alone [with a man] or been made unclean [by a man]. Said to them sages, “If you believe that she was left as a pledge, you might as well believe that she was not alone with a man or made unclean, and if you don’t believe that she was not alone with a man or made unclean, you might as well not believe that she was left as a pledge” [M. **Ed. 8:2D-H**]. Now, as a matter of fact, Ashkelon’s case involved a monetary consideration, and yet the operative consideration in mind was that witnesses testified concerning her; but if witnesses had not done so, she would not have been permitted.*

H. *And the answer? Said R. Samuel bar R. Isaac, “There is no contradiction. The one speaks of a case in which the power of Israel is greater than that of the gentiles, the other of*

a case in which the power of gentiles is greater than that of Israel.”

- II.1**
- A. **[If it was for] a capital offense, she is prohibited to her husband:**
 - B. Said Rab, “For instance, the wives of thieves” [which were confiscated].”
 - C. And Levi said, “For instance, the wife of Ben Dunai.”
 - D. Said Hezekiah, “But that rule pertains in any event only after the verdict of death has been delivered.”
 - E. R. Yohanan said, “Even though the verdict of death has not been delivered.”

2:9D-F

- D. **A city which was overcome by siege – all the priest girls found therein are invalid [to return to their husbands].**
- E. **But if they have witnesses, even a man slave or a girl slave, lo, they are believed.**
- F. **But a person is not believed to testify in his own behalf.**

- I.1**
- A. *An objection was raised: A band of gentile [raiders] which entered a town in peacetime – open jars are forbidden, closed ones, permitted. [If it was] wartime, these and those are permitted, because there is no time for making a libation [M. A.Z. 5:6].*
 - B. Said R. Mari, “For making a libation of wine, there is no opportunity, but there is plenty of opportunity for rape.”
 - C. R. Isaac bar Eleazar in the name of Hezekiah said, “The rule there [at M. A.Z. 5:6] speaks of a siege in the same kingdom [suppressing a rebellion, where the troops are restrained (Daiches)], and the passage at hand speaks of foreign troops.”

D. *But even in the case of troops of the same kingdom, is it not possible that one of the troops will take his leave from the rest of the troop [and rape someone]?*

E. Said R. Judah said Samuel, “It is a case in which there are guards within sight of one another.”

F. *But even in the case of guards within sight of one another, isn't it possible that somebody fell asleep for a moment?*

G. Said R. Levi, “It would be a case in which they surrounded the town with chains, dogs, trunks of trees, and geese.”

H. Said R. Abba bar Zabeda, “R. Judah the Patriarch and rabbis differed on this same matter. One said, ‘The rule there [at M. A.Z. 5:6] speaks of a siege in the same kingdom [suppressing a rebellion, where the troops are restrained (Daiches)], and the passage at hand speaks of foreign troops. And there is no contradiction at all. The other, by contrast, raised these various questions, answering them by saying, ‘It would be a case in which they surrounded the town with chains, dogs, trunks of trees, and geese.’”

I.2 A. Said R. Idi bar Abin said R. Isaac bar Asian, “If there is in the area a single secure hiding place, it affords protection for all the wives of priests.”

I.3 A. Asked R. Jeremiah, “If it holds only one, what is the law? *Do we maintain of each woman that she was the one who was saved, or do we not invoke that principle?*”

B. *And how is this case different from the one described in the following: Two paths, one unclean and one clean – [If] he walked in one of them and prepared clean things, and his fellow came and walked in the second and prepared clean things – R. Judah says, “If they are interrogated, this one by himself and this one by himself, they are clean. And if they are interrogated, the two of them at one time, they are unclean.” R. Yosé says, “One way or the other, they are unclean” [M. Toh. 5:5]. And said Raba, and some say, R. Yohanan, “If they come at one time, all parties concur that they are unclean; if they come sequentially, all parties concur that they are clean. The dispute concerns only a case in which someone came to ask a question concerning both his own status and his colleague’s. One authority compares the case to an inquiry that is simultaneous for both, and the other compares the case to a sequential inquiry.” Now here, too, since all women are permitted, it is comparable to the case in which they came simultaneously.*

C. But how are the cases comparable? In that case, there certainly is uncleanness, but here, who will say that uncleanness has taken place anyhow?

- I.4** A. *R. Ashi raised this question: “If a woman said, ‘I did not hide out, but I also was not made unclean,’ what is the law? Do we invoke as the governing principle, [27B] What motive does she have to lie? Or perhaps we do not invoke that argument?”*
- B. *And how is this different from the case that follows:*
- C. *Somebody rented an ass to his neighbor and said to him, “Make sure not to go by way of the Peqod canal, which is watery, but by way of Nersh, which is not watery. But he went by way of the Peqod canal and the ass died. When he came to court, he pled, “True, I took the way by the Peqod canal, but there was no water!” Said Rabbah to the owner, “Why should he lie? If he wanted, he could have said to you, ‘I took the way by Nersh.’” Said Abbayye to him, “The claim, ‘Why should he lie?’ is not valid where there are witnesses.”*
- D. *But how are these cases parallel? There, there are witnesses that there was water, here, has the woman beyond doubt been made unclean? It is only a suspicion, and in a case where there is a mere suspicion, we do invoke that argument.*

- II.1** A. **But if they have witnesses, even a man slave or a girl slave, lo, they are believed:**
- B. *And even her own slave girl is believed – contradicting the following: **She should not afterward continue together with him except in the presence of witnesses, even a slave, even a girl servant, except for her own slave girl, because she is shameless before her slave girl [M. Git. 7:4A-C].***
- C. *Said R. Pappi, “In the case of a woman taken captive sages have imposed a lenient ruling.”*
- D. *R. Pappa said, “The cited case speaks of her slave girl, but the case before us, the husband’s slave girl.”*
- E. *Then if it is her slave girl, is she not believed? Lo, it is taught as a Tannaite statement, **But a person is not believed to testify in his own behalf**, which would imply that a slave girl is believed!*
- F. *Her slave girl is classified as equivalent to herself.*

- G. *R. Ashi said, "Both this case and that case refer to her own slave girl. It is a case in which the slave girl sees but shuts up. In that case, in which the slave girl's silence is what permits the woman, she is not believed; but in this case, where her silence is what forbids her [since she says nothing, she is guilty of a silent falsehood but not of a spoken falsehood], she is believed" [if she says the mistress remained clean (Daiches)].*
- H. *But now also, the slave girl might come and lie [so why believe her one way or the other]?*
- I. *She isn't likely to commit two [such prohibited actions]. That is in line with Mari bar Isaq, and some say, Hana bar Isaq:*
- J. *To Mari bar Isaq came his brother from Be Hozai [Khuzistan], saying, "Divide father's estates with me. [Give me half of what you have inherited from our common father.]"*
- K. *He said to him, "I don't know you."*
- L. *The case came before R. Hisda, who ruled, "He [Mari] has spoken well to you, for it is written, 'And Joseph knew his brothers, but they did not know him' (Gen. 42: 8), meaning that he had gone forth without the mark of a beard but come back with the mark of a beard."*
- M. *He said to him [the brother], "Go and bring witnesses who can testify that you are his brother."*
- N. *He said to him, "I do have such witnesses, but they are afraid of him, because he is a very powerful man."*
- O. *He said to [Mari], "Then you go and bring witnesses that he is not your brother."*
- P. *He said to him, "Is this not the law: He who lays claim on his fellow bears the burden of proof?"*
- Q. *He said to him, "This is how I judge you and everybody who is powerful like you."*
- R. *He said to him, "Then [if that is how things really are] one way or the other, witnesses will come but not give testimony [as to the truth, and you will dismiss anything they say for the same reason, namely, I am supposedly so powerful as to intimidate everybody with whom I deal]."*
- S. *He said to him, "They will not do two wrongs. [Freedman, Baba Mesia 39B: Witnesses who can testify to your disadvantage may*

repress their evidence through fear of you, which is one wrong, but they will certainly not commit another by testifying falsely in your favor.]

II.2 A. *May we say that the issue [of whether or not the slave girl is believed] is what is at stake between the following Tannaite statements:*

B. This testimony [whether or not a captive woman has been raped] may be given by a man and woman, boy and girl, her mother and her father, her brother and her sister, but not her son or her daughter, her slave boy or her slave girl.

C. *And by contrast:*

D. **All are believed to give testimony about her, even her son, even her daughter, except for her and her husband [T. Ket. 3:2A-B] [but then including her slave girl].**

E. *The statements of R. Pappi and R. Ashi do represent the positions of the conflicting Tannaite rules [since they would concur with the second statement], but as to R. Pappa, would he go along with either of the two Tannaite positions [distinguishing, as he does, between her slave girl and the husband's slave girl]?*

F. *R. Pappa will say to you, "The second of the two statements is in line with a case in which the slave girl spoke without guile, in line with the case that R. Dimi when he came said R. Hanan of Qartigena'ah reported: 'There was a case that came before R. Joshua b. Levi – and some say, R. Joshua b. Levi told the case that came before Rabbi – involving a man who, speaking without guile, said, "I and my mother were taken captive by gentiles. I went out to draw water, worrying about my mother, or to gather wood, worrying about my mother." And Rabbi permitted the mother to marry into the priesthood on the strength of the son's testimony.'"*

2:9G-H

G. Said R. Zekhariah b. Haqqassab, “By this sanctuary! Her hand did not move from mine from the time that the gentiles entered Jerusalem until they left it.”

H. Said they to him, “A person cannot give testimony in his own behalf.”

I.1 A. *A Tannaite statement:*

B. And even so, he set aside a house for her by herself. She was supported by his estate. But he never was alone with her, outside of the presence of her children [T. Ket. 3:2E].

C. When she went out, she went out at the head of her children, and when she came in, she came in following her children.

I.2 A. Said Abbaye, “What is the law on doing so with his divorced wife? There, with respect to a captive woman [as in a siege], rabbis made a lenient ruling, *but in the case to which I refer, that is not the rule? Or perhaps there is no difference?*”

B. *Come and take note of that which has been taught on Tannaite authority:*

C. He who has divorced his wife – she should not remarry [and remain] in his vicinity, [28A] and if he was a priest, she should not dwell in the same alleyway with him. If it was a little town – there was a case along those lines, and sages said, “A small town is treated like a neighborhood.”

I.3 A. Who has to move out on account of whom?

B. *Come and take note of that which has been taught on Tannaite authority:*

C. She moves out on account of him, and he does not move out on account of her.

D. But if the courtyard belonged to her, he moves out on account of her.

I.4 A. *The question was raised:* If the courtyard belonged to them both, what is the law?

B. *Come and take note:* She moves out on account of him. *Now with what situation do we deal? If the courtyard belongs to him, then that is obvious. So*

does the courtyard belong to her? Then have we not learned as a Tannaite statement: But if the courtyard belonged to her, he moves out on account of her? So would the rule not refer to just such a situation as this?

C. But maybe it's a case in which they just rent the courtyard – so what's the law then?

D. Come and take note: "The Lord will hurl you away violently, as a man" (Isa. 22:17) – and said Rab, "Moving is harder for a man than a woman."

- I.5** A. *Our rabbis have taught on Tannaite authority:*
B. If he borrowed money from her through the estate of her father, she is repaid only through a third-party agent.

I.6 A. *Said R. Sheshet, "And if the two of them come before us to court, we do not deal with them [since she has to send a third-party representative]."*

B. *R. Pappa said, "We would excommunicate them [for violating these rules of strict separation]."*

C. *R. Huna b. R. Joshua said, "We would even flog them."*

I.7 A. *Said R. Nahman, "A Tannaite statement in the tractate, 'The Major Compilation of Laws of Mourning': 'Under what circumstances? If she was divorced at the stage of a fully consummated marriage. But if she was divorced at the stage of betrothal, she may collect the debt on her own, because the husband is not yet shameless before her.'"*

I.8 A. *There was a once-betrothed couple that came before Raba. R. Ada bar Mattena went into session before him. Raba set an agent between the couple. Said to him R. Ada bar Mattena, "But did not R. Nahman state, 'A Tannaite statement in the tractate, "The Major Compilation of Laws of Mourning": "Under what circumstances? If she was divorced at the stage of a fully consummated marriage. But if she was divorced at the stage of betrothal, she may collect the debt on her own, because the husband is not yet shameless before her"'"?"*

B. *He said to him, “But we see with our very eyes that they are quite shameless together.”*

C. *There are those who say, Raba did not set an agent between the couple.*

D. *Said to him R. Ada bar Mattena, “But will the master not set an agent between the couple?”*

E. *He said to him, “Lo, R. Nahman said, ‘A Tannaite statement in the tractate, “The Major Compilation of Laws of Mourning”: “Under what circumstances? If she was divorced at the stage of a fully consummated marriage. But if she was divorced at the stage of betrothal, she may collect the debt on her own, because the husband is not yet shameless before her.”’ But in this case we see with our very eyes that they are quite shameless together.”*

2:10

- A. And these are believed to give testimony when they reach maturity about what they saw when they were minors:
- B. A man is believed to say, (1) “This is the handwriting of Father,” and (2) “This is the handwriting of Rabbi,” and (3) “This is the handwriting of my brother” –
- C. (4) “I remember about Mrs. So-and-so that she went forth to music with her hair flowing loose [when she was married]” [M. 2:1] –
- D. (5) “I remember that Mr. So-and-so would go forth from school to immerse to eat food in the status of priestly rations,” (6) “That he would take a share [of food in the status of priestly rations] with us at the threshing floor” –
- E. (7) “This place is a grave area” –
- F. (8) “Up to here did we walk on the Sabbath.”
- G. But a man is not believed to say, (9) “Mr. So-and-so had a right of way in this place,” (10) “So-and-so had the right of halting and holding a lamentation in this place.”

- I.1** A. [And these are believed to give testimony when they reach maturity about what they saw when they were minors:] Said R. Huna b. R. Joshua, “But that is the case only if there was an adult with him.”

- II.1** A. [A man is believed to say, (1) “This is the handwriting of Father,” and (2) “This is the handwriting of Rabbi,” and (3) “This is the handwriting of my brother”:] *All three cases were required.*
- B. *For had we been given only the case of the father, we might have supposed that that is because the son is constantly around, but as to his master, where that is not the case, I might have supposed that that is not the rule.*
- C. *And if we had been told the rule about the master, I might have thought that that is because he is in awe of his master, but as to his father, I might have thought that that is not the case.*
- D. *And if we had been told these two classifications, with the considerations that, in the case of his father, he is always around, and in the case of his master, he is in awe of him, then, in respect to his father, to whom neither consideration applies, I might have thought that the rule does not apply.*
- E. *So we are informed that, since the validation of documents derives only from the authority of rabbis, rabbis had it in their power to accord credence to a procedure in which, to begin with, their own authority is principal.*

- III.1** A. **“I remember about Mrs. So-and-so that she went forth to music with her hair flowing loose [when she was married]”:**
- B. *How come he’s believed?*
- C. *Since most women when they get married are virgins, what he says is simply a statement as to facts.*

- IV.1** A. **“I remember that Mr. So-and-so would go forth from school to immerse to eat food in the status of priestly rations,” (6) “That he would take a share [of food in the status of priestly rations] with us at the threshing floor”:**
- B. *But maybe he’s merely the slave of a priest?*
- C. *This supports the view of R. Joshua b. Levi, for said R. Joshua b. Levi, “It is forbidden for someone to teach the Torah to his slave.”*
- D. *But is that so? And has it not been taught on Tannaite authority: If his master borrowed from him, or his master appointed him [28B] as a guardian, or if in the presence of his master he put on prayer boxes containing verses of Scripture or in the synagogue read three verses of the Torah, he does not go free? [But clearly, he has been taught enough to do these things.]*
- E. *In that case, the slave studied the Torah on his own initiative, but we state our rule in a case in which he treats him as his own son.*

- V.1** A. ...to immerse to eat food in the status of priestly rations:
B. *That is the case only with respect to food assigned by rabbis the status of priestly rations.*

- VI.1** A. **“That he would take a share [of food in the status of priestly rations] with us at the threshing floor”:**
B. *But maybe he’s merely the slave of a priest?*
C. *Our Mishnah passage has been formulated in accord with him who says, “A share of priestly rations is accorded to a slave only if his master is with him.”*
D. *For it has been taught on Tannaite authority:*
E. **“A share of priestly rations is accorded to a slave only if his master is with him,” the words of R. Judah.**
F. **R. Yosé says, “He may say to him, ‘If I am a priest, give it to me on my own account, and if I am a priest’s slave, then give it to me on the count of my lord’ [T. Yeb. 12:6G-H].”**
G. In the locale of R. Judah, they would promote someone to the status of priest on account of evidence that a person had eaten priestly rations. But in the locale of R. Yosé they would not promote someone to the status of priests on account of having eaten food in the status of priestly rations.

- VI.2** A. *It has been taught on Tannaite authority:*
B. Said R. Eleazar b. R. Sadoq, “In my entire life I gave testimony on a matter of genealogy only one time, and through my testimony they ended up promoting a slave to the priesthood.”

- VI.3** A. *Do you really think that “they promoted” is what happened? Now, if through the beasts of the righteous, the Holy One, blessed be He, does not allow disorder to come about, through the righteous themselves all the more so!*
B. Rather: “They wanted to promote a slave to the priesthood on the strength of my testimony.”
C. *He saw the event where R. Yosé lived, but he gave his evidence where R. Judah lived.*

- VII.1** A. **“This place is a grave area”:**
B. *How come? It is because the uncleanness of a grave area is merely the decree of rabbis.*

- C. *For* said R. Judah said Samuel, “In a grave area of dubious status, one puffs away before him as he walks along [to blow the small bones out of the way].”
- D. And R. Judah bar Ammi said in the name of R. Judah, “A grave area that has been trodden down is regarded as not affected by corpse uncleanness.”
- E. How come it is clean? It’s impossible that a bone the size of a barley grain was not trodden down by walking.

VIII.1 A. **“Up to here did we walk on the Sabbath”:**

- B. *He takes the view that the rule governing Sabbath limits derives from the authority of rabbis.*

IX.1 A. **But a man is not believed to say, “Mr. So-and-so had a right of way in this place,” “So-and-so had the right of halting and holding a lamentation in this place”:**

- B. *How come?*
- C. *On the strength of such testimony we do not take away the other party’s property.*

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

- B. **A child is believed when he testifies, “This is what Father told me: ‘This family is clean, this family is unclean.’”**
- C. “Clean” or “unclean” do you say! Rather: **“This family is fit, this family is unfit.”**
- D. **“That we ate at the cutting-off ceremony, [marking the marriage of a man or woman to someone beneath his or her genealogical rank] of the daughter of So-and-so to So-and-so,” “That we used to present dough-offering and the priestly gifts to the priest, Mr. So-and-so.” But he may not make such a statement if the gifts were delivered through a third party.**
- E. **And in all cases, if he was a gentile and converted, or a slave and was a friend, he is not believed [as to the prior memories].**
- F. **But a man is not believed to say, “Mr. So-and-so had a right of way in this place,” “So-and-so had the right of halting and holding a lamentation in this place.”**
- G. **R. Yohanan b. Beroqa says, “They are believed” [T. [Ket. 3:3A-I](#)].**

IX.3 A. *To what prior clause does R. Yohanan b. Beroqa make reference?*

- B. *Should I say that it is to the final clause? But this pertains to taking away the other party's property.*
- C. *So it refers to the opening clause, that is:*
- D. **And in all cases, if he was a gentile and converted, or a slave and was a friend, he is not believed [as to the prior memories].**
- E. **R. Yohanan b. Beroqa says, "They are believed."**
- F. *Then what is at issue between these two positions?*
- G. *The initial statement takes the position that, since he was a gentile at that time, he would not have taken the precise measure of the situation, and R. Yohanan b. Beroqa maintains that, since he was considering conversion, he would take the measure of the situation with great precision.*

IX.4

- A. *What is the meaning of **the cutting-off ceremony**?*
- B. *It is in line with that which our rabbis have taught on Tannaite authority:*
- C. *What is the cutting-off ceremony? If one of the brothers married a woman that was not appropriate in genealogy to him, the members of the family come and bring a jug full of produce, and they break it in the middle of the street, and they say, "Our brethren, house of Israel, give ear! Our brother, Mr. So-and-so, has married a woman who is not genealogically fit for him, and we are afraid that his offspring will get mixed up with our offspring. Come and take for you a token for future generations, that his offspring is not to mix up with our offspring," and this is the cutting-off ceremony concerning which a child is believed when he gives testimony.*