

III.

BAVLI QIDDUSHIN CHAPTER THREE

FOLIOS 58B-69A

3:1

- A. He who says to his fellow, “Go and betroth Miss So-and-so for me,” and he went and betrothed her for himself –
- B. she is betrothed.
- C. And so:
- D. He who says to a woman, “Lo, you are betrothed to me after thirty days [have passed],” and someone else came along and betrothed her during the thirty days –
- E. she is betrothed to the second party.
- F. [If] it is an Israelite girl betrothed to a priest, she may eat heave-offering.
- G. [If he said,] “...as of now and after thirty days,” and someone else came along and betrothed her during the thirty days,
- H. she is betrothed and not betrothed.
- I. [If it is either] an Israelite girl betrothed to a priest, or a priest girl betrothed to an Israelite, she should not eat heave-offering.

- I.1**
- A. He who says to his fellow, “Go and betroth Miss So-and-so for me,” and he went and betrothed her for himself – she is betrothed:
 - B. *A Tannaite statement:* What he has done is done, but he has treated the other deceitfully.
 - C. *And our Tannaite authority?*

D. *When he says, **he went**, his sense is, he went in a deceitful manner.*

- I.2** A. *What differentiates the present case, in which the language is used, **He who says to his fellow, [59A]** from the parallel, [**He who says to his messenger, “Go and betroth Miss So-and-so for me, in such-and-such a place,” and he went and betrothed her for him in some other place, she is not betrothed**], in which the language, **He who says to his messenger**, is used?*
- B. *In the present case, we are informed of an important point, and in the other passage, we also are informed of an important point.*

C. *In the present case, we are informed of an important point: For if the Tannaite authority had used the language, **his messenger**, I might have supposed that if it were his agent, then he would have been classified as a deceiver, since the other relied on him, thinking, “He will carry out my commission,” but if it were his fellow, in which case he need not have relied on him, I might have supposed that the other would not be classified as a deceiver.*

D. *And in the other passage, we also are informed of an important point: For if in that context the Tannaite framer had used the language, **his fellow**, then I might have supposed that it would be specifically a case in which it was his fellow who had betrothed the woman in another place that she was not betrothed, because he was thinking that he didn’t want to take the trouble, but in the case of his agent, who would have taken the trouble, I might have supposed that he was just indicating to him the place where she was located. So we are informed to the contrary.*

I.3 A. *Rabin the Pious went to betroth a woman for his son. He betrothed her for himself.*

B. *But has it not been taught on Tannaite authority: What he has done is done, but he has treated the other deceitfully?*

C. *They wouldn’t give her to his son.*

D. *So why didn’t he tell him anyhow?*

E. *He was thinking, in the interim someone else will come along and betroth her.*

I.4 A. *Rabbah bar bar Hannah gave money to Rab. He said, “Buy for me that plot of land.” He went and bought it for himself.*

- B. *But has it not been taught on Tannaite authority: What he has done is done, but he has treated the other deceitfully?*
- C. *It was a stretch of ground that belonging to high-handed folk. Rab they treated with respect, Rabbah bar bar Hannah they didn't treat with respect.*
- D. *So why didn't he tell him anyhow?*
- E. *He was thinking, in the interim someone else will come along and buy it.*

I.5

- A. *R. Giddal was involved with buying a certain field. R. Abba went and bought it. R. Giddal went and complained about him to R. Zira. R. Zira went and complained about him to R. Isaac Nappaha. He said to him, "Wait until he comes up to us for the festival."*
- B. *When he came up, he came across him. He said to him, "If a poor man is involved in looking over a cake, and someone else comes and grabs it from him, what is the law?"*
- C. *He said to him, "He is called wicked."*
- D. *"So how come the master has acted as he has?"*
- E. *"I didn't know."*
- F. *"So now sell it to him."*
- G. *"I won't sell it to him, because it's the first field that I've ever bought, and it wouldn't be a good omen to resell it. But if he wants to take it as a gift, let him have it."*
- H. *R. Giddal wouldn't set foot into the property: "He who hates gifts shall live": (Pro. 15:27). R. Abba wouldn't set foot into the property, because R. Giddal had been negotiating for it. So neither this master nor that master would set foot in it, and it was called, "the rabbis' field."*

II.1

- A. **And so: He who says to a woman, "Lo, you are betrothed to me after thirty days [have passed]," and someone else came along and betrothed her during the thirty days – she is betrothed to the second party:**
- B. *If someone else didn't come along and betroth her during the thirty days, what is the law?*
- C. *Both Rab and Samuel said, "She is betrothed, and that is the case even if the money that was given has already been used up."*

D. *How come? The money is not comparable to a loan nor is it comparable to a bailment.*

E. *To a bailment the money is not comparable, for as to a bailment, the money would have been used up in the domain of the owner, who would bear the loss, while in this case, the money has been used up in her domain.*

F. *The money is also not comparable to a loan, for a loan is given to be spent, and this money was given to her for a token of betrothal.*

- II.2** A. If no one else came along to betroth her, but she retracted her agreement in the interim, what is the law?
- B. R. Yohanan said, “She may retract: Words can come and wipe out words.”
- C. R. Simeon b. Laqish said, “She may not retract: Words can’t come and wipe out words.”
- D. *R. Yohanan objected to R. Simeon b. Laqish: “[In a case in which one] gave permission to a member of his household, to his slave, or to his maidservant to separate heave-offering – that which that individual separates is [valid] heave-offering. [If he] retracted [the permission] – if he retracted [it] before [the other individual] separated heave-offering – that which [that individual] has separated is not [valid] heave-offering. But if he retracted [it] after [the other individual] separated heave-offering – that which [that individual] has separated is [valid] heave-offering [M. Ter. 3:4D-H]. Now here is a case in which it is merely a matter of one act of speech as against another, and yet here words can come and wipe out words.”*
- E. *Handing over money into a woman’s hand is exceptional, because it is tantamount to an action, and obviously words can come and wipe out actions.*
- F. *An objection was raised: He who sends a writ of divorce to his wife, and overtakes the messenger, or who sent a messenger after him, and said to him, “The writ of divorce which I gave you is null” – lo, this is null [M. Git. 4:1A-D]. Handing over a writ of divorce into the agent’s hand is tantamount to an action, and the Tannaite formulation is lo, this is null, [so here, obviously, words can come and wipe out actions].*
- G. *In that case too, so long as the writ of divorce has not reached the woman’s hand, it is simply an act of speech, so words can come and wipe out words.*
- H. *R. Simeon b. Laqish objected to R. Yohanan, “All utensils descend into the power of their uncleanness with thought but do not ascend from the*

power of their uncleanness except by an act which changes them. [59B] For the act cancels both an act and intention, but intention does not cancel either an act or intention [M. Kel. 25:8C-D]. Now there is no problem understanding that intention cannot nullify a deed, for words can't come and wipe out words. But why shouldn't it nullify another intention!"

- I. *Intentionality in the context of uncleanness is exceptional, because in that case, it is tantamount to action, in line with R. Pappa's view. For R. Pappa contrasted verses of Scripture: "It is written, 'and if one put water,' while we read, 'and if water be put' [at Lev. 11:38, in the context of rendering food susceptible to uncleanness by putting water on it]. How so? 'If it be put' must be equivalent to 'if one put,' namely, just as when puts the water because he wants it, so when it is put, it must be because he wants it [so thought is tantamount here to action]."*

II.3 A. R. Zebid repeated this tradition in connection with the following:

B. And so: A woman who gave the power to her agent to accept tokens of betrothal in her behalf, and then she herself went and accepted tokens of betrothal in her own behalf – if hers came first, her act of betrothal is valid. And if those of her agent came first, his act of betrothal is valid [M. 4:9F-H]. If she effected her own betrothal but then retracted, what is the law?

C. R. Yohanan said, "She may retract."

D. R. Simeon b. Laqish said, "She may not retract."

E. R. Yohanan said, "She may retract: Words can come and wipe out words."

F. R. Simeon b. Laqish said, "She may not retract: Words can't come and wipe out words."

G. R. Yohanan objected to R. Simeon b. Laqish: "[In a case in which one] gave permission to a member of his household, to his slave, or to his maidservant to separate heave-offering – that which that individual separates is [valid] heave-offering. [If he] retracted [the permission] – if he retracted [it] before [the other individual] separated heave-offering – that which [that individual] has separated is not [valid] heave-offering. But if he retracted [it] after [the other individual] separated heave-offering – that which [that individual] has separated is [valid] heave-offering [M. Ter. 3:4D-H]."

H. *Said Raba, “Here, with what situation do we deal? It is a case in which the householder went ahead and designated heave-offering from his grain pile. Then you have a deed [not merely an act of speech].”*

I. *R. Simeon b. Laqish objected to R. Yohanan, “ All utensils descend into the power of their uncleanness with thought but do not ascend from the power of their uncleanness except by an act which changes them. For the act cancels both an act and intention, but intention does not cancel either an act or intention [M. Kel. 25:8C-D]. Now there is no problem understanding that intention cannot nullify a deed, for words can’t come and wipe out words. But why shouldn’t it nullify another intention!”*

J. *Intentionality in the context of uncleanness is exceptional, because in that case, it is tantamount to action, in line with R. Pappa’s view. For R. Pappa contrasted verses of Scripture: “It is written, ‘and if one put water,’ while we read, ‘and if water be put’ [at Lev. 11:38, in the context of rendering food susceptible to uncleanness by putting water on it]. How so? ‘If it be put’ must be equivalent to ‘if one put,’ namely, just as when puts the water because he wants it, so when it is put, it must be because he wants it [so thought is tantamount here to action].”*

K. *R. Yohanan objected to R. Simeon b. Laqish, “He who sends a writ of divorce to his wife, and overtakes the messenger, or who sent a messenger after him, and said to him, ‘The writ of divorce which I gave you is null’ – lo, this is null [M. Git. 4:1A-D]. That is certainly a refutation of the position of R. Simeon b. Laqish.”*

L. *It certainly is.*

I.4 A. *The decided law accords with the position of R. Yohanan, and that is so even in respect to the first of the two disputes, for even though we may invoke the argument, “Handing money into the woman’s hand is tantamount to an action,” even so, words can come and wipe out words.*

B. *Then there is a conflict between two decided laws. For you have stated that the decided law accords with R. Yohanan, but it is an established fact that the decided law also accords with R. Nahman, who in that other context raised the question as follows:*

C. *What is the rule on his using the same writ to effect a divorce?*

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

- E. R. Sheshet said, "He may not go and use it for a writ of divorce."
- F. *And it is an established fact for us that, in that matter, the decided law is in accord with R. Nahman.*
- G. *Well, granting that he has nullified the document so far as use by the messenger is concerned, he didn't nullify the document for use as a writ of divorce.*

III.1 A. She is betrothed to the second party:

- B. Said Rab, "She is permanently betrothed to the second party."
- C. And Samuel said, "She is betrothed to the second party only for thirty days. *After thirty days have passed, the betrothal of the second party is dissolved, and the betrothal of the first party takes effect.*"

III.2 A. In session R. Hisda raised this difficulty: "But how has the act of betrothal of the second party been removed?"

B. *Said to him R. Joseph, "The master refers this statement to the first clause, which yields a difficulty; R. Judah refers it to the second and finds no problem, namely, [If he said,] "...as of now and after thirty days," and someone else came along and betrothed her during the thirty days, she is betrothed and not betrothed, thus:*

C. "Said Rab, 'She is permanently betrothed and not betrothed only to the second party.'

D. "And Samuel said, 'She is betrothed and not betrothed to the second party only for thirty days. *After thirty days have passed, the betrothal of the second party is dissolved, and the betrothal of the first party takes effect.*'"

E. "Rab then is in doubt whether the statement represents a stipulation or a retraction; to Samuel it is self-evident that it is a stipulation."

III.3 A. What is at issue is what is subject to dispute between the following Tannaite authority, for it has been taught on Tannaite authority:

B. **He who says to his wife, "Lo, this is your writ of divorce effective today, after death" –**

C. **"It is a writ of divorce and it is not a writ of divorce," the words of sages.**

D. Rabbi says, “Such a document as this is a valid writ of divorce” [cf. T. [Git. 5:3](#)].

E. *If that were so, then let Rab say, “The decided law accords with rabbis,” and let Samuel say, “The decided law accords with Rabbi”!*

F. *It was necessary to spell matters out, for if Rab had said, “The decided law accords with rabbis,” I might have supposed that it is in that case, in which the husband comes to put the wife away, that that is the case, but in this case, in which the man comes to bring her near into marriage, he might concur with Samuel that it is a mere stipulation. And if Samuel had said in that case that the law accords with Rabbi, I might have supposed that it is there in particular that he takes that position, for a writ of divorce cannot be issued after death, but in this case, in which there can be a rite of betrothal after thirty days, I might suppose that he concedes Rab’s position. So it was necessary to spell out both disputes in full.*

III.4 A. *Said Abbaye, “Within the theory of Rab, if somebody came along and said to her, ‘Behold, you are betrothed to me from now and after thirty days,’ and then someone else came along and said to her, ‘Behold, you are betrothed to me from now and after twenty days,’ [\[60A\]](#) and then someone else came along and said to her, ‘Behold, you are betrothed to me from now and after ten days,’ from the first and third parties she requires a writ of divorce, but from the second party she does not require a writ of divorce. For which way do you want to go? If it was a stipulation, then that of the first is a valid act of betrothal, but not the acts of the second and the third; if it is a withdrawal, then the state of the final party is a valid act of betrothal, but not of the first or the second parties.”*

B. *Yeah, yeah, so what else is new?*

C. *Well, what might you otherwise have imagined? The language that has been used bears the sense of both a stipulation and a retraction, so she should*

require a writ of divorce from all three. So are we informed to the contrary.

III.5 A. Ulla said R. Yohanan [said], “Even the betrothals of a hundred men may take effect on her.”

B. And so said R. Assi said R. Yohanan, “Even the betrothals of a hundred men may take effect on her.”

C. Said R. Mesharshayya b. R. Ammi to R. Assi, “I shall explain to you the operative consideration behind the position of R. Yohanan: They have turned themselves into a row of bricks, each leaving room for the action of the next.”

D. Objected R. Hanina, “[If he said, ‘Lo, this is your writ of divorce] effective now and after death,’ it is a writ of divorce and not a writ of divorce. If he dies, [the widow] performs the rite of removing the shoe but does not enter into levirate marriage [M. Git. 7:3F-G]. Now from Rab’s perspective, that supports his view. And Samuel, too, has no problem, since he can simply assign responsibility to rabbis, while maintaining, ‘I make my ruling in accord with Rabbi.’ But from R. Yohanan’s perspective, who has said, ‘There is an opening here, then any writ of divorce that leaves an open space so that she can in some aspect remain tied to the husband is wholly invalid, so let the couple enter levirate marriage!’”

E. Said Raba, “The writ of divorce serves to put the woman away, and death likewise serves the same purpose, so what the writ of divorce has omitted, death has completed.”

F. Said to him Abbayye, “But are the matters really comparable? The writ of divorce removes the woman from the domain of the levir, while death brings the woman into the domain of the levir.”

G. Rather, said Abbayye, “In that case, what is the operative consideration? It is a precautionary decree because of the use of the language, ‘from today, if I die, lo, this is a writ of divorce,’ which is without doubt a valid writ of divorce” [and levirate marriage would be forbidden; if he used the language, “from today and after my death,” people may confuse that language with valid language, so rabbis forbade levirate marriage in both cases (Freedman)].

H. Well, shouldn’t we then make a precautionary decree in the case of the use of the language, “From today, if I die,” in which case she

should undertake the rite of removing the shoe, because of the possibility of confusion with the language, “from today and after death”?

I. If you say she should enter the rite of removing the shoe, she may end up entering into levirate marriage.

J. *Well, here too*, if you say she should enter the rite of removing the shoe, she may end up entering into levirate marriage.

K. *Then let her, and so what, since the prohibition of levirate marriage is merely a precaution taken by rabbis.*

3:2

- A. He who says to a woman, “Behold, you are betrothed to me, on condition that I pay you two hundred zuz” –
- B. lo, this woman is betrothed, and he must pay [her what he has promised].
- C. “...On condition that I pay you within the next thirty days,” and he paid her during the thirty days, she is betrothed.
- D. And if not, she is not betrothed.
- E. “...On condition that I have two hundred zuz,” lo, this woman is betrothed, and [if] he has that sum.
- F. “...On condition that I shall show you two hundred zuz,”
- G. lo, this woman is betrothed, and [if] he will show her that sum.
- H. But if he showed her the money on the table of a money changer, she is not betrothed.

I.1

- A. *It has been stated:*
- B. R. Huna said, “And she will give the money to him.”
- C. R. Judah said, “When she gives the money to him.”
 - D. R. Huna said, “And he will give the money to him – *it is a stipulation, and all he has to do is carry it out.*”
 - E. R. Judah said, “When he gives the money to her – *the betrothal takes effect when he does so, but at the time, there was no betrothal.*”
 - F. *What is at issue between them? At issue between them is a case in which she put out her hand and took a token of betrothal from someone else. In R. Huna’s opinion, this is not a valid betrothal, and in R. Judah’s, it is a valid tradition.*

G. *And we have learned in the Mishnah in respect to writes of divorce precisely the same matter:*

H. **“Lo, this is your writ of divorce on condition that you pay me two hundred zuz,”**

I. **lo, this one is divorced, and she should pay the money [M. Git. 7:5A-B].**

J. *It has been stated:*

K. R. Huna said, “And she will give the money to him.”

L. R. Judah said, “When she gives the money to him.”

M. R. Huna said, “And he will give the money to him – *it is a stipulation, and all he has to do is carry it out.*”

N. R. Judah said, “When he gives the money to her – *the betrothal takes effect when he does so, but at the time, there is no valid writ of divorce.*”

O. **[60B]** *What is at issue between them?*

P. *At issue between them is a case in which the writ was torn or lost. In R. Huna’s opinion, it is a valid writ of divorce, in R. Judah’s, it is not.*

Q. *And it was necessary to state the matter in both contexts. For had we learned the explanation solely with respect to the matter of betrothal, it might have been that it is in particular in that context in which R. Huna has said, “And he will give...,” since he has the intention of bringing her to himself, but with respect to the divorce, in which case he intends to put her away, I might say that he concurs with R. Judah. And had we learned the rule solely with respect to divorce, it might have been supposed that in that matter in particular R. Huna said, “He shall give,” because he wouldn’t be diffident about asking her, while in the matter of betrothal, where she might be bashful with him, I might have supposed that he concurs with R. Judah. And had the matter been stated only in the context of betrothal, I*

might have supposed that it is in that case in particular that the sense is, "when she gives," since she is bashful about asking him, but in the case of a writ of divorce, in which case he would not be too shy to ask her, I might have supposed that he concurs with R. Huna. And if the rule had been stated only in the context of divorce, I might have supposed that, in that case in particular, R. Judah says it means, "when she gives," because his intention is to put her away, but in the case of betrothal, where he wants to draw her near to himself, I might have thought that he concurs with the position of R. Huna. So both are required.

R. *An objection was raised: "Lo, here is your writ of divorce, on condition that you give me two hundred zuz," even though the writ of divorce was torn or lost, she is divorced, but she may not marry anybody else until she pays him [T. Git. 5:5E-F].*

S. *And it has further been taught on Tannaite authority: "Lo, here is your writ of divorce, on condition that you give me two hundred zuz," and then he died, if she give him the money, she is not subject to the levir; if not, she is subject to the levir. And it has further been taught on Tannaite authority: "Lo, here is your writ of divorce, on condition that you give me two hundred zuz," and then he died, if she give him the money, she is not subject to the levir; if not, she is subject to the levir. Rabban Simeon b. Gamaliel says, "Let her pay his father or brothers or one of his relatives" [T. Git. 5:5A-D].*

T. *Now to this point the two authorities differ only in that one holds "give me" means "me but not my heirs," the other, "me or even my heirs," but both hold that it is a mere stipulation. Wouldn't that refute R. Judah?*

U. *R. Judah may say to you, "Lo, who is the authority behind this formulation? It is Rabbi. For said R. Huna*

said Rabbi, ‘Whoever says “on condition that...,” *is as though* he says, “as if from now.”’ *Rabbis differ from him, and I concur with rabbis.*”

I.2 A. *Reverting to the body of the foregoing:* Said R. Huna said Rabbi, “Whoever says ‘on condition that...,’ *is as though* he says, ‘as if from now’”:

B. *Said R. Zira, “When we were in Babylonia, we would state that with regard to what R. Huna said Rabbi said, namely, ‘Whoever says “on condition that...,” is as though* he says, “as if from now,”” rabbis took a contrary position. But when I came up there [to the Land of Israel], I found R. Assi in session and stated this rule in the name of R. Yohanan: All concur, ‘Whoever says “on condition that...,” *is as though* he says, “as if from now.”’ They differ only with reference to the use of the language, ‘from today and after death.’”

C. *But hasn’t it been taught on Tannaite authority: He who says to his wife, “Lo, this is your writ of divorce effective today, after death” – “It is a writ of divorce and it is not a writ of divorce,” the words of sages. Rabbi says, “Such a document as this is a valid writ of divorce” [cf. T. Git. 5:3]? With respect to the position of R. Judah, who holds that there is a dispute with regard to the language, “on the stipulation that...,” instead of disputing about the language “from today and after my death,” let them have a dispute on the language, “on the stipulation that”!*

D. It is to show you the full extent to which Rabbi is prepared to go, even in the case of the use of the language, “from today and after death,” it is a valid divorce.

E. *Well, then, why not formulate the dispute in terms of “on the stipulation that...,” to show you how far rabbis are prepared to go?*

F. *It is more important to show the full extent to which leniency is supposed to extend.*

II.1 A. “...On condition that I pay you within the next thirty days,” and he paid her during the thirty days, she is betrothed. And if not, she is not betrothed:

B. *Yeah, big deal, so what else is new?*

C. *What might you otherwise have imagined? That this isn’t really a stipulation but rather an inducement? So we are informed that that’s wrong.*

III.1 A. “...On condition that I have two hundred zuz,” lo, this woman is betrothed, and [if] he has that sum:

B. *But shouldn’t we take account of the possibility that he really does have the money, and, furthermore, it is taught on Tannaite authority: We take account of the possibility that he has the money?*

C. *No problem, the one speaks of an act of betrothal that is certain, the other, an act of betrothal that is subject to doubt [Freedman: if he is not publicly in possession of the stipulated sum, she is not betrothed with certainty].*

IV.1 A. “...On condition that I shall show you two hundred zuz,” lo, this woman is betrothed, and [if] he will show her that sum:

B. *A Tannaite statement: She intended only to see money that was his.*

V.1 A. But if he showed her the money on the table of a money changer, she is not betrothed.

B. *Yeah, big deal, so what else is new?*

C. *No, it was necessary to make the point that even though he holds the money in an investment [trading with someone else’s capital with a fixed share of profit and loss], she still is not betrothed [unless he has that much capital to his own name].*

3:3

A. “...On condition that I have a kor’s space of land,”

B. lo, this woman is betrothed, and [if] he has it.

C. “...On condition that I have that land in such-and-such a place,”

D. if he has it in that place, she is betrothed, and if not, she is not betrothed.

- E. **“...On condition that I show you a kor’s space of land,”**
- F. **lo, this woman is betrothed, and [if] he will show it to her.**
- G. **But if he showed her [land] in a plain [which was not his], she is not betrothed.**

- I.1** A. **[“...On condition that I have a kor’s space of land,” lo, this woman is betrothed, and [if] he has it:]** *But shouldn’t we take account of the possibility that he really does have the money, and, furthermore, it is taught on Tannaite authority: We take account of the possibility that he has the money?*
- B. *No problem, the one speaks of an act of betrothal that is certain, the other, an act of betrothal that is subject to doubt.*

- I.2** A. *Why do I have to be given a Tannaite statement with respect both to real estate and ready cash?*
- B. *It was necessary to cover both items. For had we been informed of the rule with respect to ready cash, it is because people will commonly hide what cash they have, but as to land, I might say, if he has land, everyone [including the woman in question, who has gone ahead with her action based on full knowledge of the facts] is going to know about it. So we are informed that that is not the case.*

- II.1** A. **“...On condition that I have that land in such-and-such a place,” if he has it in that place, she is betrothed, and if not, she is not betrothed:**
- B. *Well, that’s pretty obvious!*
- C. *What might you otherwise have thought? He can say to her, “What difference does it make to you? I’ll go to the trouble of bringing you the produce wherever you want me to bring it.” So we are informed that that is not a valid argument.*

- III.1** A. **“...On condition that I show you a kor’s space of land,” lo, this woman is betrothed, and [if] he will show it to her:**
- B. *A Tannaite statement: This woman had the intention only of seeing what belongs to him.*

- IV.1** A. **But if he showed her [land] in a plain [which was not his], she is not betrothed:**
- B. *Obviously!*

- C. *It was necessary only to cover a case in which he holds the land as a tenant farmer [paying a fixed proportion of the crops as rent].*

- IV.2** A. *In respect to consecrated property, we have learned in the Mishnah: [61A] He who sanctifies his field at the time of the Jubilee's [being in effect] pays the fifty sheqels of silver [for every part of a field that suffices for] the sowing of a homer of barley. [If] there were there crevices ten handbreadths deep or rocks ten handbreadths high, they are not measured with it. [If they were in height] less than this, they are measured with it [M. Ar. 7:1E-H]. And in that connection we reflected: Granted that they are not sanctified along with the field, at any rate let them be considered as sanctified as autonomous areas [of the field, since they are not regarded as part of the arable field for purposes of redemption, and let them be redeemed on their own]. And if you wish to propose that, since they do not take a kor of seed, they are not subject to consecration, has it now been taught [to the contrary]: "A field..." (Lev. 27:16). Why does Scripture say, "A field"? Since it is said, "Fifty sheqels of silver for every part of a field that suffices for the sowing of a homer of barley" (Lev. 27:16), I know only that [the law applies] to a case such as is specified [in Scripture, that is, to a field of the specified size]. How do I know that the law encompasses a field suitable for sowing only a letekh of seed or a half-letekh, a seah of seed or a tirqab or a half-tirqab? Scripture says, "A field" – of any dimensions.*
- B. *Said Mar Uqba bar Hama, "Here we deal with crevices filled with water, which are not available for sowing seed anyhow. You may closely examine the language of the Mishnah to see that point, since it speaks of things that are similar to rocks.*
- C. *That does indeed prove it.*
- D. *But then, if that is the case, smaller [areas than ten handbreadths] should be subject to redemption as well.*
- E. *They are called small clefts of the earth or spines of the earth [and are taken into account as part of the field].*

- IV.3** A. *With respect to a sale we have learned in the Mishnah: He who says to his fellow, "I am selling you a kor's area of arable land – [if] there were there crevices ten handbreadths deep, or rocks ten handbreadths high, they are not measured with [the area]. [If they were] less than [the stated measurements], they are measured with [the area] [M. B.B. 7:1A-D], and*

said Mar Uqba bar Hama, "That is so even if the crevices are not filled with water."

- B. *How come?*
- C. *Said R. Pappa, "Because a man doesn't want to put down his money for one field which looks like two or three plots."*

- IV.4** A. *So what's the rule here? Do we invoke the analogy of what has been consecrated or what has been sold?*
- B. *It stands to reason that we draw the analogy to a field that has been consecrated, since he can say to you, "I'll go to the trouble of sowing the field as is and bringing you the crop."*

3:4

- A. **R. Meir says, "Any condition which is not stated as is the condition of the sons of Gad and the sons of Reuben [that is, in both negative and positive formulations], is no condition,**
- B. **"since it says, 'And Moses said to them, "If the children of Gad and the children of Reuben will pass over" (Num. 32:29). And it is written, "And if they will not pass over armed" (Num. 32:20)."**
- C. **R. Hananiah b. Gamaliel says, "The matter had to be stated in just that way, for if not, it would have been implied that even in the Land of Canaan they would not inherit land."**

- I.1** A. *So did R. Hananiah b. Gamaliel give a good reply to R. Meir?*
- B. *R. Meir can say to you, "If it should enter your mind that it is not for the purpose of teaching the rule of a double stipulation that Scripture has formulated matters, then Scripture should say simply, 'If the children...will pass over.' [61B] Why add, 'and if they will not pass over armed...in the land of Canaan'? It is to show that a double stipulation is required."*
- C. *And R. Hananiah b. Gamaliel?*
- D. *He will say to you, "If the All-Merciful had not written, 'in the land of Canaan,' I might have supposed that the language, 'they shall have possession among you' referred to the land of Gilead, but not at all to the land of Canaan."*
- E. *And R. Meir?*
- F. *The language, "among you" implies, "anywhere you have possessions."*

- I.2** A. *It has been taught on Tannaite authority:*

- B. Said R. Hanina b. Gamaliel, “A parable: To what is the matter comparable? To the case of a man who was dividing up his estate among his sons. He said, ‘So-and-so, my son, will inherit such-and-such a field, and So-and-so, my son, will inherit such-and-such a field, and So-and-so, my son, will pay two hundred zuz and inherit such-and-such a field, but if he doesn’t pay, he will inherit a share with his other brothers in the rest of my estate.’ Now what causes him to inherit a share with the brothers in the rest of the estate? The father’s doubling of the stipulation effects it for him.” [Freedman: But for the second statement, it might be said that if he doesn’t give the two hundred zuz, he can claim a share only in the third field but receives nothing from the other two fields assigned to his brothers; similarly, in the verses under discussion, but for the second statement, it would be assumed that the Gaddites and Reubenites in the case of their not carrying out of the condition would share with the rest of the tribes the district of Gilead, while forfeiting all claim to the land of Canaan.]
- C. *But the case really is not comparable to that in our Mishnah paragraph. There it is said, **for if not, it would have been implied that even in the Land of Canaan they would not inherit land**, therefore doubling the stipulation served a purpose also in regard to Gilead as well; here by contrast, he says, Now what causes him to inherit a share with the brothers in the rest of the estate? The father’s doubling of the stipulation effects it for him. Therefore doubling the stipulation served a purpose with respect to the other property alone.*
- D. *No problem, the former is worked out prior to R. Meir’s telling him the sense of “then they shall have possession therein” the latter formulation came afterward he told him the sense of, “then they shall have possession therein.”*

I.3 A. *Now from R. Meir’s perspective, this is in line with the verse, “If you do well, shall you not be rewarded, and if you don’t do well, sin couches at the door” (Gen. 4: 7), but from the perspective of R. Hanina b. Gamaliel, what need is there for the duplicated stipulation?*

B. *Otherwise I might have supposed, if you do well, there is a reward, but if you don’t do well, there is neither reward nor punishment. So we are informed to the contrary.*

I.4 A. *Now from R. Meir’s perspective, this is in line with the verse, “Then you shall be clear from this my oath” (Gen. 24: 8), but from the perspective of R. Hanina b. Gamaliel, what need is there for the duplicated stipulation?*

B. *It is necessary, for otherwise I might have supposed, if she were willing but her family was not, he was to bring her against their will; so we are informed to the contrary.*

C. *And what's the point of "and if the woman be not willing" (Gen. 24: 8)?*

D. *It's necessary, since otherwise I might suppose that if her family was willing but she wasn't, he should bring her willy-nilly; so we are informed to the contrary.*

I.5 A. *Now from R. Meir's perspective, this is in line with the verse, "If you shall walk in my statutes...but if you shall reject my statutes..." (Lev. 26:3, 15), but from the perspective of R. Hanina b. Gamaliel, what need is there for the duplicated stipulation?*

B. *It is necessary, for otherwise I might have supposed, "If you shall walk in my statutes" there will be a blessing, "but if you shall reject my statutes..." there will be no blessing but no curse. So we are informed to the contrary.*

I.6 A. *Now from R. Meir's perspective, this is in line with the verse, "If you be willing and obedient...but if you refuse and rebel..." (Isa. 1:19-20), but from the perspective of R. Hanina b. Gamaliel, what need is there for the duplicated stipulation?*

B. *It is necessary, for otherwise I might have supposed, "If you be willing and obedient," well and good, "but if you refuse and rebel..." it will be neither good nor bad. So we are informed to the contrary.*

I.7 A. *What is the meaning of [62A] "You shall be fed with the sword" (Isa. 1:20)?*

B. *Said Raba, "Coarse salt, hard baked barley bread, and onions."*

C. *For a master has said, "Stale bread baked in a large oven with salt and onions is as hard on the body as swords."*

I.8 A. *Now from R. Hanina b. Gamaliel's perspective, this is in line with the verse, "If no man has lain with you, and if you have not gone aside to uncleanness, you shall be free" (Num. 5:19) [without the contrary stipulation]. But from the perspective of R. Meir, shouldn't it also state, "...you shall be strangled"?*

B. Said R. Tanhum, “What is written is ‘you shall be clear’ [which can also bear the sense, you shall be strangled].”

I.9 A. *Now from R. Meir’s perspective, this is in line with the reading, “you shall be clear,” but from the perspective of R. Hanina b. Gamaliel, what need is there for the duplicated stipulation?*

B. *It is necessary, for otherwise I might have supposed, “If no man has lain with you, and if you have not gone aside to uncleanness, you shall be free,” and if a man has lain with you, you shall not be free, but you also shall not be strangled. You will be guilty merely of violating a prohibition. So we are informed to the contrary.*

I.10 A. *Now from R. Meir’s perspective, this is in line with the verse, “He shall purify himself therewith on the third day and on the seventh day, then he shall be clean, but if he doesn’t purify himself...” (Num. 19:12), but from the perspective of R. Hanina b. Gamaliel, what need is there for the duplicated stipulation?*

B. *It is necessary, for otherwise I might have supposed, the religious duty of sprinkling is on the third and seventh days, but in a case in which one did it on one of those days, it is done. So we are informed to the contrary.*

I.11 A. *And what is the need for “And the clean person shall sprinkle upon the unclean person on the third and on the seventh day” (Num. 19:19)?*

B. *It is necessary, for otherwise I might have supposed, the mention of the third day is to exclude the second, and of the seventh to include the sixth, since one thereby diminishes the number of days of purification; but if the act was done on the third and eighth days, so increasing the period of purification, I might suppose it is all right. So we are informed to the contrary.*

I.12 A. *And what is the need for “and on the seventh day he shall purify him”?*

B. *It is necessary, for otherwise I might have supposed, this is the rule so far as Holy Things are concerned, but as to eating priestly rations, sprinkling on only one day is enough. So we are informed that that is not the rule.*

3:5

- A. He who betroths a woman and said, “I was thinking that she is a priest, and lo, she is a Levite,” “...a Levite, and lo, she is a priest,”
- B. “A poor girl, and lo, she is a rich girl,” “A rich girl, and lo, she is a poor girl,”
- C. lo, she is betrothed,
- D. for she has not deceived him.
- E. He who says to a woman, “Lo, you are betrothed to me after I convert to Judaism,” or “after you convert,”
- F. “...after I am freed” or “after you are freed,”
- G. “...after your husband died,” or “...after your sister dies,”
- H. “after your levir will have performed the rite of removing the shoe with you” –
- I. she is not betrothed.
- J. And so he who says to his fellow, “If your wife gives birth to a girl-child, lo, [the baby] is betrothed to me” – she is not betrothed.
- K. If the wife of his fellow indeed was pregnant and the foetus was discernible, his statement is confirmed, and if she produced a girl-child, the baby is betrothed.

- I.1** A. *There we have learned in the Mishnah: They do not separate heave-offering from that which is picked for that which is not picked; and not from that which is not picked for that which is picked. And if they separated heave-offering, that which they have separated is not [valid] heave-offering [M. Ter. 1:5].*
- B. *R. Assi asked R. Yohanan, “If one said, ‘The produce of this furrow that is detached be heave-offering for the produce of that furrow that is attached to the ground or the produce of that furrow that is attached to the ground be heave-offering for the produce of this furrow when it is detached, when it is plucked’ – and then it is plucked?”*
- C. *He said to him, “Anything that is in one’s power to carry out is not classified as an act that is as yet incomplete [since the farmer has the power to harvest the produce, it is regarded as already harvested, so his declaration in this case is valid].”*
- D. *An objection was raised: He who says to a woman, “Lo, you are betrothed to me after I convert to Judaism,” or “after you convert,” “...after I am*

freed” or “after you are freed,” “...after your husband died,” or “...after your sister dies,” “after your levir will have performed the rite of removing the shoe with you” – she is not betrothed. Now there is no problem in the most of these items, since it is not in his power to fulfil the stated condition, but surely it is in his power to convert!

- E. *It also is not in his power to convert, for* said R. Hiyya bar Abba said R. Yohanan, [62B] “A proselyte has to have three [Israelites to supervise the conversion, that is, a full court]. *How come?* ‘Judgment’ is stated in connection with that rite, as with a lawsuit.” *So who can say that three will accept the obligation of his project?”*
- F. *Objected R. Abba bar Mamel, “But what about this possibility: He who gives a penny to his slave girl and said to her, ‘Lo, you are betrothed to me after I shall have freed you,’ in such a case, too, should this be regarded as a valid act of betrothal? [It is not valid, even though he has the power to do what he has said.]”*
- G. *But how are the cases comparable? In that case, she was nothing more than a beast, but now after emancipation she has a mind of her own.*
- H. *Well, how about what R. Oshayya said, “He who gives a penny to his wife and said to her, ‘Lo, you are betrothed to me after I shall have divorced you’ – she is not betrothed?” Accord to what R. Yohanan has said, she should be betrothed!*
- I. *Granting that it’s in his power to divorce her, is it in his power to betroth her? [She has to agree.]*

I.2 A. *Well, then, on that basis, solve the problem that R. Oshayya raised: “He who gives two pennies to a woman – with one he said to her, ‘Be betrothed to me today,’ and with one he said to her, ‘Be betrothed to me after I shall have divorced you’” – on this basis settle the question that it is not a valid act of betrothal.*

B. *But maybe, just as the betrothal can take effect now, it also can take effect afterwards.*

I.3 A. *It has been taught on Tannaite authority in accord with the position of R. Yohanan:*

B. **They do not separate heave-offering from that which is picked for that which is not picked; and not from that which is not picked for that which is picked. And if they separated heave-offering, that which they have separated is not [valid] heave-offering. How**

so? If he said, “The produce of this furrow that is detached be heave-offering for the produce of that furrow that is attached to the ground,” or “the produce of that furrow that is attached to the ground be heave-offering for the produce of this furrow when it is detached,” he has said nothing at all. But if he said, “When it is plucked,” and it was plucked, what he has said is entirely valid.

C. More than this did R. Eliezer b. Jacob say: “Even if he said, ‘The already picked produce of this bed shall serve as priestly rations for the already picked produce of that other bed,’ or, ‘The unharvested produce of this bed shall serve as priestly rations for the already picked produce of that other bed when it will have grown to a third of maturity and been picked’ – his words take effect when the produce grows to a third of maturity and is picked” [T. Qid. 2:7].

D. Said Rabbah, “R. Eliezer b. Jacob made that statement only in respect to fodder, but not of leek-like plants.”

E. R. Joseph said, “It applies even to leek-like plants.”

F. *Where do we find it implied that the word in question speaks of leek-like plants?*

G. Said R. Eleazar, “Said Scripture, ‘is it to bow down his head as a rush’ (Isa. 58: 5).”

H. *In accord with which authority is that which we have learned in the Mishnah: And so he who says to his fellow, “If your wife gives birth to a girl-child, lo, [the baby] is betrothed to me” – she is not betrothed,* on which R. Hanina observed, “This rule was repeated only if his wife was not pregnant, but if she was, what he has said is entirely valid”? *In accord with which of the two preceding authorities is this statement?* If it accords with Rabbah, it means that her child was discernible, if according to R. Joseph, that would be so, even if her child was not discernible. [Freedman: Discernible and not discernible are comparable to fodder, which can be put to use, and soft plants, which cannot, before they are a third grown; on both views, however, Hanina’s interpretation implies that one can transmit the title of an object which is yet non-existent, and hence agrees with Eliezer b. Jacob.]

I. *There are those who say, “Said Rabbah, ‘R. Eliezer b. Jacob made that statement only in respect to fodder of a naturally watered field, but not a fodder of an artificially irrigated field.’ [Freedman: The former is more certain than the latter, which permits human error and neglect.]*

J. *“R. Joseph said, ‘Even a fodder of an artificially irrigated field.’*

K. *“In accord with which authority is that which we have learned in the Mishnah: **And so he who says to his fellow, ‘If your wife gives birth to a girl-child, lo, [the baby] is betrothed to me’ – she is not betrothed,** on which R. Hanina observed, ‘This rule was repeated only if his wife was not pregnant, but if she was, what he has said is entirely valid’? In accord with which of the two preceding authorities is this statement? It means that her child was discernible, and it accords with both parties” [Freedman: since the development of the embryo does not depend on artificial means, it is similar to the fodder of a naturally watered field].*

I.4 A. *Said Abbaye, “R. Eliezer b. Jacob, Rabbi, and R. Meir all concur in the theory that one may transfer title to a being that has not yet come into the world.*

B. *“R. Eliezer b. Jacob: as we have just now said.*

C. *“Rabbi, as has been taught on Tannaite authority”:*

D. **[63A]** *“You shall not deliver unto his master a bondman” (Deu. 23:16) –*

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

F. *What circumstances can be contemplated here?*

G. *Said R. Nahman bar Isaac, “The purchaser writes a deed for him: ‘When I have purchased you, lo, title to you is assigned to you yourself as from this moment.’”*

H. *As to R. Meir, it is as has been taught on Tannaite authority:*

I. *He who says to a woman, “You are betrothed to me after I convert to Judaism,” “...after you convert to Judaism,” “...after I am emancipated,” “...after you are emancipated,” “...after your husband dies,” “...after your levirate connection performs*

the act of removing the shoe with you [and so frees you of the levirate bond],” “...after your sister dies [and it becomes legal for you to marry me]” – the woman is not deemed betrothed.

J. R. Meir says, “She is deemed betrothed.”

K. R. Yohanan the Sandal-Maker says, “She is not betrothed.”

L. R. Judah the Patriarch says, “She is betrothed. What is the reason behind the ruling that she is not betrothed? Because of ill will” [in the heart of the sister and the husband whose death is anticipated; the patriarch refers to these two cases, in the others agreeing with Meir (Freedman)].

M. *So why not count R. Judah the Patriarch?*

N. *He is the same as Rabbi.*

O. *So why not count R. Aqiba, for it has been taught on Tannaite authority:*

P. **[If she said, “Qonam if I work for you,” he need not annul [that vow, which is null to begin with]. R. Aqiba says, “Let him annul it lest she do more work for him than is required” [and that excess would indeed be subject to her vow, even though the work has not yet been done] [M. Ned. 11:4B-D].**

Q. *But lo, it has been stated in this connection:* Said R. Huna b. R. Joshua, “This rule pertains to a case in which she says, ‘Let my hands be sanctified to Him who has made them,’” *for the hands are indeed something that exists in the world.*

3:6A-C

- A. **He who says to a woman, “Lo, you are betrothed to me, on condition that I speak in your behalf to the government” or, “That I work for you as a laborer,”**
- B. **[if] he spoke in her behalf to the government or worked for her as a laborer, she is betrothed.**
- C. **And if not, she is not betrothed.**

I.1 A. Said R. Simeon b. Laqish, “But that is the case only if he gave her something worth at least a penny.”

B. *But not as a fee for service such as described her? Then has it not been taught on Tannaite authority: “...for the fee for having driven you*

on an ass,” or “for seated you in the carriage” or “...the ship” – she is not betrothed. [If he said, “Lo, you are betrothed to me] for the fee for driving you on an ass [in the future],” or “for seating you in the carriage” or “...the ship,” she is betrothed? *And should you say, “Here too, it is a case in which he also handed over to her something worth a penny,” lo, the language is specifically used, for the fee. And furthermore, it has been taught on Tannaite authority:* [If a woman said to a man,] “Sit with me as company, and I’ll become betrothed to you,” “play the clown before me,” “dance before me,” “do as was done [Freedman:] in this public game,” we make an assessment: If in the action is the value of a penny, she is betrothed, and if not, she is not betrothed. *And should you say, “Here too, it is a case in which he also handed over to her something worth a penny,” lo, the language is specifically used, we make an assessment. So doesn’t this refute R. Simeon b. Laqish’s position?*

C. R. Simeon b. Laqish may say to you, “The Tannaite authority responsible for this Tannaite rule external to the Mishnah takes the position, the fee that is owing to the work does not grow continuously from the beginning to the end of the work process, while our Tannaite authority [in the Mishnah paragraph here] maintains, the fee that is owing to the work grows continuously from the beginning to the end of the work process.” [Freedman: Wages are a liability from beginning to end.]

D. So what forced R. Simeon b. Laqish to assign to our Mishnah paragraph the positions [1] the fee that is owing to the work grows continuously from the beginning to the end of the work process, and [2] that the rule at hand is the case only if he gave her something worth at least a penny?

E. Said Raba, “The alternative is that our Mishnah paragraph would present him with this problem: Why use the language, **on condition that**, when the language, ‘as a fee for...,’ would have worked better? So it must follow, the use of **on condition that** must signify a case in which he has given her something of value over and above the act of service.”

3:6D-G

- D. **“...On condition that father will concur,”**
- E. **[if] father concurred, she is betrothed. And if not, she is not betrothed.**
- F. **[If] the father died, lo, this woman is betrothed.**
- G. **[If] the son died, they instruct the father to state that he does not concur.**

I.1

- A. *What is the sense of, “...on condition that father will concur”? Should I say, on the condition that father explicitly said, “Yes”? Then note the middle clause: **[If] the father died, lo, this woman is betroth.** And lo, the father never said yes! So it must mean, [63B] “on condition that father keeps silent.” But then notice the concluding clause, **[If] the son died, they instruct the father to state that he does not concur!** So why would that matter, since he had kept silence! So it must mean, “on condition that father does not object in so many words.” But in that case, the opening clause presupposes one theory, the middle and concluding clauses, another theory!*
- B. *Said R. Yannai, “Yup.”*
 - C. *Said R. Simeon b. Laqish, “That proves that in R. Yannai’s opinion, we may well choose to take the difficult route of assigning to a Mishnah paragraph two distinct premises, within the framework of the authority of a single Tannaite figure, but we don’t assign to the same Mishnah paragraph two Tannaite authorities, who concur on the same premise!”*
 - D. *R. Joseph bar Ammi said, “In point of fact, a single premise prevails, and what is the meaning of, ‘...on condition that father will concur’? It is, on condition that father won’t object between now and the end of a span of thirty days.”*

3:7

- A. **“I have betrothed my daughter, but I don’t know to whom I have betrothed her,”**
- B. **and someone came along and said, “I have betrothed her,”**
- C. **he is believed.**
- D. **[If] this one said, “I betrothed her,” and [at the same time], that one said, “I betrothed her,” both of them give her a writ of divorce.**
- E. **But if they wanted, one of them gives her a writ of divorce and one of them consummates the marriage.**

- I.1**
- A. Said Rab, **“He is believed** – so as to give her a divorce, but he is not believed so as to consummate the marriage.
 - B. **“He is believed** – so as to give her a divorce: Nobody sins for nothing.
 - C. “But he is not believed so as to consummate the marriage: *One might say*, his lust is what motivates him.”
 - D. R. Assi said, “He is also believed so as to consummate the marriage.”
 - E. But R. Assi concurs in the case of a woman who said, “I have been betrothed but I don’t know to whom I have been betrothed,” and someone came along and said, “I am the one who betrothed her,” that he is not believed so as to consummate the marriage.
 - F. *We have learned in the Mishnah: But if they wanted, one of them gives her a writ of divorce and one of them consummates the marriage, which surely refutes the position of Rab!*
 - G. *Rab will say to you, “No, that situation is exceptional, for since there is someone else with him, he would be afraid to lie [lest he be exposed].”*

- I.2**
- A. *It has been taught on Tannaite authority in accord with the position of R. Assi:*
 - B. **“I have betrothed my daughter and I don’t know to whom I have betrothed her,” and someone came along and said, “I have betrothed her” – he is even believed to consummate the marriage.**
 - C. **If he consummated the marriage and someone else came along and said, “I betrothed her,” he does not have the power to forbid her to the first husband.**
 - D. **The woman who said, “I have been betrothed and I don’t know to whom I have been betrothed,” and someone came along and said, “I betrothed her,” he is not believed to consummate the marriage, because she will cover for him [being eager to marry just anyone at all] [T. Qid. 4:10].**

- I.3**
- A. *The question was raised: “What is the law on stoning her [should she commit adultery] on the strength of his statement [that is, the father’s, that he betrothed her, without producing witnesses to that effect?” [Is she then a married woman, so that, if she commits adultery, she is stoned to death? (Freedman)].*
 - B. Rab said, “They do not stone her under such circumstances.”
 - C. R. Assi said, “They do stone her under such circumstances.”

D. Rab said, “They do not stone her under such circumstances”: *The All-Merciful has accorded to the father the power to forbid her to other man, but not to put her to death under these circumstances.*

E. R. Assi said, “They do not stone her under such circumstances”: *The All-Merciful has accorded credence to the father for the entire transaction.*

F. *Said R. Assi, “But I concede in the case of her saying, ‘I was betrothed,’ that they do not stone her under such circumstances.”*

G. *And said R. Assi, “These traditions of mine break down the every sheltering roof [by their paradoxes]. For now, if in a case in which if someone who comes to consummate the marriage may do so, you say that we stone her should she commit adultery, how much the more so should she be subject to stoning when someone comes along to consummate the marriage but may not do so? [Freedman: When she herself declares she doesn’t know to whom she was betrothed; the claimant then may not consummate the marriage, so we regard her as a married woman, then surely we should stone her for unchastity!] But that’s really not a propos: The All-Merciful has accorded credence to the father, but to her it has not accorded credence.”*

H. And R. Hisda said, “All the same are the one and the other: She would not be stoned in such a situation.”

I. *And R. Hisda is consistent with reasoning expressed elsewhere, for said R. Hisda, “[If a man said,] ‘This son of mine is nine years and a day old,’ ‘this daughter of mine is three years and a day old’ – he is believed in regard to their having to present an offering [should they have sexual relations that are inadvertently adulterous or incestuous], but he is not believed in respect to flogging or any other penalty.”*

J. *It has been taught on Tannaite authority in accord with R. Hisda:*

K. [If a man said,] “This son of mine is thirteen years old,” “this daughter of mine is twelve years and a day old” – **[64A]** he is believed in regard to vows, declarations of herem, acts of consecration, and vows of

valuation, but not in respect to flogging or any other penalty.

3:8A-G

- A. [If the father said,] “I have betrothed my daughter,” “...I have betrothed her and I have accepted her writ of divorce when she was a minor” –
- B. and lo, she is yet a minor –
- C. he is believed.
- D. “I betrothed her and I accepted her writ of divorce when she was a minor,” and lo, she is now an adult –
- E. he is not believed.
- F. “She was taken captive and I redeemed her,” whether she is a minor or whether she is an adult,
- G. he is not believed.

I.1

- A. *So what's the difference between the first and the second cases [A-C, D-E]?*
- B. *In the first situation, he has the power to do what he said, in the second, he doesn't.*
- C. *So he doesn't, doesn't he? But lo, he has the power to marry her off to a priest who has been profaned, in which case he would invalidate her for marriage into the priesthood!*
- D. *No problem, he takes the position of R. Dosetai b. Judah, who has said, “Israelite women constitute an immersion-pool for the purpose of purification of priests who have been profaned” [so if the marriage is valid, the profaned priest's daughter may marry into the priesthood; since his daughter is fit, his widow also is fit, in which case, you may marry the widow of any man whose daughter you may marry (Freedman)].*
- E. *But lo, he has the power to marry her off to a mamzer!*
- F. *The rule accords with the position of R. Aqiba, who has said, “Betrothal does not take effect in the case of those who, by marrying, violate a negative commandment.”*
- G. *But lo, he has the power to marry her off as a widow to a high priest!*
- H. *The rule accords with the position of R. Simai, for it has been taught on Tannaite authority: R. Simai says, “Of all offspring of unions that violate a negative commandment, R. Aqiba declares them to be mamzerim, except for the offspring of a widow and a high priest, in which connection says, ‘he shall*

not take...he shall not profane...' (Lev. 21:14, 15) – the offspring he profanes, but he does not make the offspring mamzerim.”

- I. *It accords with R. Yeshebab, who has said, “Come and let us raise a cry against Aqiba b. Joseph, who would say, ‘In the case of any union that is not legitimate in Israel, the offspring is a mamzer,’” what is at issue between them?*

J. *At issue between them* are marriages of an Egyptian or an Edomite woman, in which case the violation of the law concerns a positive commandment.

K. *That poses no problem to R. Yeshebab, if the statement was on his own account, but if it is to exclude the consideration of R. Simai that he has come, then lo, it is in his power to marry her off to someone with whom marriage would constitute grounds for liability for violating a positive commandment!*

L. *Said R. Ashi, “Well, do you think it stands to reason that the opening clause maintains that he is believed because he has the power to do what he says he has gone? True, he has the power to betroth her, but does the divorce lie under his control? And, moreover, if the person to whom he wants to betroth her says he doesn’t want her, can he then betroth her against his will?”*

M. *Rather, said R. Ashi, “In connection with the opening clause, it is the All-Merciful that has accorded him credence, in line with what R. Huna said.”*

N. *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]. When he said, ‘this...,’ he frees her. So the All-Merciful has accorded the father credence in respect to marriage, but not in respect to her having been taken captive.”*

3:8H-I

H. He who said at the moment of his death, “I have children,” is believed.

I. [If he said,] “I have brothers,” he is not believed.

- I.1 A. *It follows that he is accorded credence when the result of his action is to release the wife from the levirate bond, but he is not believed to impose upon her the levirate connection. So may we say that the Mishnah rule does not accord with the position of R. Nathan? For it has been taught on Tannaite authority:*
- B. “If at the time of a betrothal, someone said that he had children, while at the time he was dying, he said he had no children, or at the time of the betrothal he said he had no brothers, while at the time he was dying, he said that he had brothers, he is accorded credence when the result of his action is to release the wife from the levirate bond, but he is not believed to impose upon her the levirate connection,” the words of Rabbi.
- C. R. Nathan says, “He also is believed to impose upon her restrictions [for example, of levirate marriage].”
- D. *Said Raba, “That case is exceptional, since it was at the time he was dying that he reversed himself, so I should say that he was telling the truth.”*
- E. *Said to him Abbaye, “Isn’t it an argument a fortiori?! If in a situation in which though he contradicts what he has said, you say he may be telling the truth, then all the more so in our Mishnah paragraph, where he does not contradict his former statement, should we not believe him?!”*
- F. *Rather, said Abbaye, “Our Mishnah paragraph addresses a case of someone who is not assumed to have either brothers or children, in which case we rule, since he is not assumed to have either brothers or sons, if he said, ‘I have children,’ he is believed, ‘I have brothers,’ he is not believed. He doesn’t have the power to impose upon her a prohibition to marry anyone of her choice. But the external Tannaite tradition [64B] treats of a case in which he is assumed to have brothers but no children. So we invoke the argument, why in the world should he lie? What’s his intent in making such a statement? Is it to free her from the levirate connection? Then he could as well say, ‘I will free her from that connection through a writ of divorce written prior to my death.’ So Rabbi takes the view that the argument, why in the world should he lie? has the power of testimony, so valid testimony comes along and invalidates the prevailing assumption. R. Nathan, by contrast, takes the view,*

the argument, why in the world should he lie? is only in the status of a prevailing assumption, and one assumption cannot come along and invalidate another.”

3:8J

- J. He who betroths his daughter without specification – the one past girlhood is not taken into account.

3:9

- A. He who has two groups of daughters by two wives [in succession], and who said,
- B. “I have betrothed my oldest daughter, but I do not know whether it is the oldest of the older group or the oldest of the younger group, or the youngest of the older group, who is also older than the oldest of the younger group” –
- C. “all of them are prohibited [to marry without a writ of divorce], except for the youngest of the younger group,” the words of R. Meir.
- D. R. Yosé says, “They are all permitted, except for the oldest of the older group.”
- E. “I betrothed my youngest daughter, but I do not know whether it was the youngest of the younger group, or the youngest of the older group, or the oldest of the younger group, who is younger than the youngest of the older group” –
- F. “all of them are prohibited except for the oldest of the older group,” the words of R. Meir.
- G. R. Yosé says, “All of them are permitted, except for the youngest of the younger group.”

- I.1 A. *Since the minors are included in this statement of his, it follows that an act of betrothal that cannot lead to sexual intercourse is a valid act of betrothal.*
- B. *Here with what case do we deal? It is a situation in which there is only one who is past girlhood and one minor.”*
- C. *But the language that is used is **the ones past girlhood!***
- D. *What is the meaning of **the ones past girlhood?** It is, **the ones past girlhood** in general.*
- E. *If so, then what’s the point of the statement? What are the ones past girlhood doing here anyhow?*

- F. *Here with what case do we deal? It is a situation in which the daughter past girlhood has appointed her father as her agent [to accept tokens of betrothal]. What might you have supposed? When he accepts the tokens of betrothal, it is with her full knowledge and consent that he does so? So we are informed that someone will not give up something that gives a benefit [that is, the tokens of betrothal of the minor daughter, which he gets to keep].*
- G. *But don't we deal here with a case in which she said to him, "Let my tokens of betrothal belong to you"?*
- H. *Nonetheless, a man is not going to abandon a religious duty that falls upon himself and carry out a religious duty that doesn't fall upon himself.*

II.1 A. He who has two groups of daughters by two wives [in succession], and who said:

- B. *It was necessary for both cases to be set forth, for had we been informed only of the first of the two, I might have supposed that it is in that case in particular that R. Meir took the position that he did, for, since there is still a younger daughter than this one, he might call this one "older," but in the latter clause, I might suppose that he concurs with R. Yosé that he calls only the youngest of them all "young." And if the latter clause alone were stated, I would have imagined that it is only in that instance does R. Yosé take the position that he does, but in the former, he will concur with R. Meir. So both had to be set forth in full.*

II.2 A. *Does this dispute bear the implication that R. Meir takes the view that a person will place himself in situation of doubt, while R. Yosé maintains that a person will not place himself in a situation of doubt? But we have a tradition of their opinions that reverses matters, as we have learned in the Mishnah:*

- B. **[If he said], "To Passover," he is prohibited until it comes.**
- C. **[If he said,] "Until it will be [Passover]," he is prohibited until it is over.**
- D. **[If he said,] "Until before Passover,"**
- E. **R. Meir says, "He is prohibited until it comes."**
- F. **R. Yosé says, "He is prohibited until it is over" [M. [Ned. 8:2](#)].**
- G. *Said R. Hanina bar Abdimi said Rab, "The assignments of theoretical positions are to be reversed. And so, too, it has been taught on Tannaite authority: This is the governing rule: as to any*

occasion whose time is fixed and he said, ‘...until it’ – R. Meir says, ‘He is prohibited until it passes.’ R. Yosé says, ‘He is prohibited until it comes’ [T. Ned. 4:7D-F].”

II.3

A. Said Abbayye, “The dispute concerns a case in which there are two groups of daughters. But in the case in which there is only a single set of daughters, all parties concur that ‘elder’ and ‘younger’ are meant literally [the oldest, the youngest daughter, respectively], and the one in the middle will be referred to by name.”

B. *Said R. Ada bar Mattena to Abbayye, “Then what about the following proposition: [65A] [Freedman: with reference to the first clause, in which the middle daughter can be called elder only by comparison with the youngest of all, which is the same as in the case of one group only,] the middle one of the younger group should be permitted!”*

C. *With what situation do we deal here? A case in which there is only one older and one younger daughter [in the junior group (Freedman)], and that surely stands to reason, for if there is a middle daughter, she should be mentioned in so many words!*

D. *But from your viewpoint, the middle one of the senior group, who is certainly subject to doubt and therefore forbidden [being senior in comparison to those in the second group (Freedman)] – is she mentioned anyhow?*

E. *But how are the cases parallel? In that case, even the daughter younger than she is specified as forbidden, and the same is so of the middle one, who is older than she; here, if it were the case that there is a middle daughter, she should be mentioned.*

F. *Said R. Huna b. R. Joshua to Raba, “Lo, there is the case of the Passover, which is equivalent to a single group, and there is an argument in that connection too!”*

G. *He said to him, “In that case in general they differ on the use of language in general: the one authority takes the view that the language “To Passover,” means, until just prior to Passover, the other, until afterward.”*

3:10

- A. He who says to a woman, “I have betrothed you,”
- B. and she says, “You did not betroth me” –
- C. he is prohibited to marry her relatives, but she is permitted to marry his relatives.
- D. [If] she says, “You betrothed me,” and he says, “I did not betroth you” –
- E. he is permitted to marry her relatives, and she is prohibited from marrying his relatives.
- F. “I betrothed you,”
- G. and she says, “You betrothed only my daughter,”
- H. he is prohibited from marrying the relatives of the older woman, and the older woman is permitted to marry his relatives.
- I. He is permitted to marry the relatives of the young girl, and the young girl is permitted to marry his relatives.

3:11

- A. “I have betrothed your daughter,”
- B. and she says, “You betrothed only me,”
- C. he is prohibited to marry the relatives of the girl, and the girl is permitted to marry his relatives.
- D. He is permitted to marry the relatives of the older woman, but the older woman is prohibited from marrying his relatives.

- I.1** A. He who says to a woman, “I have betrothed you,” and she says, “You did not betroth me” – he is prohibited to marry her relatives, but she is permitted to marry his relatives:
- B. *It was necessary to list all of these situations. For had we been informed of the rule with respect to his statement [that if he said, I betrothed you, his relatives are not forbidden to her,] since to a man such a situation makes no difference, so that is how he talks; but as to her, I might suppose, if she were not sure of herself, she would not have made such a statement, so her relatives would be forbidden to him. So we are informed that that is not the case.*

- II.1** A. “I betrothed you,” and she says, “You betrothed only my daughter,” he is prohibited from marrying the relatives of the older woman, and the older woman is permitted to marry his relatives:

- B. *So what do I need more of the same for?*
- C. *It was necessary to list all of these situations. For it might have entered your mind to suppose that, since on the strength of the authority of the Torah, the father is believed, on the strength of the authority of rabbis, she should be believed, so her daughter should be forbidden on the strength of what she has said. So we are informed that that is not the case.*

III.1 A. **“I have betrothed your daughter,” and she says, “You betrothed only me,” he is prohibited to marry the relatives of the girl, and the girl is permitted to marry his relatives:**

- B. *So what do I need more of the same for?*
- C. *Since the Tannaite formulation included the one, it symmetrically included the other as well.*

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

- B. Rab said, “We force him to issue a writ of divorce.”
- C. And Samuel said, “We induce him to do so.”

III.3 A. *To which of the foregoing cases does this dispute make reference? Should I say that it refers to the opening case? But then there is an issue neither of compulsion nor inducement. If it is to the middle clause [“You have betrothed me”], then, as to inducement, there is no problem, but as to compulsion, on what basis? He can object, “But I don’t want to be forbidden to marry her relatives [as the relatives of a woman he has divorced]!”*

B. *Rather, these statements are given with reference to one another in the context of the second clause. Thus it has been stated:*

C. Said Samuel, “They induce him to give a writ of divorce.”

D. Said Rab, “If he gave a writ of divorce on his own volition, they force him to pay off a marriage contract.”

E. *So, too, it has been stated:*

F. Said R. Aha bar Ada said Rab, and some say, said R. Aha bar Ada said R. Hammuna said Rab, “They both compel and induce.”

G. *What! Two items?*

H. *This is the sense of the statement:* He is induced to give a writ of divorce, but if he gave a writ of divorce

on his own volition, they force him to pay off a marriage contract.

III.4 A. Said R. Judah, “He who betroths a woman in the presence of only a single witness – they do not take account of the possibility that his act of betrothal is valid.”

B. *They asked R. Judah, “But if both parties concur, what is the law?”*

C. *“Well, um, yes – but no...ah...um...” – anyhow, he really wasn’t sure of himself.*

III.5 A. *It has been stated:*

B. said R. Nahman said Samuel, “He who betroths a woman in the presence of only a single witness – they do not take account of the possibility that his act of betrothal is valid, and that is the case even if both parties concur.”

C. *Raba objected to R. Nahman: “He who says to a woman, ‘I have betrothed you,’ and she says, ‘You did not betroth me’ – he is prohibited to marry her relatives, but she is permitted to marry his relatives. Now, if there are witnesses to the matter, why is it the fact that she is permitted to marry his relatives? And if there are no witnesses, why is it the fact that he is prohibited to marry her relatives? So isn’t this a case in which there is only a single witness?”*

D. *Here with what situation do we deal? It is a case in which he said to her, “I betrothed you in the presence of Mr. So-and-so and Mr. Such-and-such,” but they went overseas.*

E. *An objection was raised:*

F. **He who divorced his wife and spent a night with her in an inn –**

G. **the House of Shammai say, “She does not require a second writ of divorce from him.”**

H. **And the House of Hillel say, “She requires a second writ of divorce from him.” Under what circumstances? When she was divorced following consummation of the marriage. But they concur in the case of one divorced after betrothal alone, that she does not require a second writ of divorce from him. For he is not yet shameless before her [M. **Git. 8:9A-G**].**

I. *Now how are we to imagine the situation? If there are witnesses, then what can possibly explain the position of the House of Shammai? And if there are*

no witnesses, then what is the operative consideration in the mind of the House of Hillel? So isn't this a case in which there is only a single witness?

- J. *Well, from your perspective, what about what comes at the end: **But they concur in the case of one divorced after betrothal alone, that she does not require a second writ of divorce from him. For he is not yet shameless before her!** Now if it should enter your mind that a single witness in such a situation would be accorded credence, then what difference does it make to me whether the relationship was one of betrothal or one of a consummated marriage? Rather, with what situation do we deal here? It is one in which there are witnesses to the fact that the couple has been alone together, but no witnesses to the fact that they have had sexual relations. The House of Shammai take the view that we do not [65B] invoke the argument, witnesses to their having been alone together are tantamount to witnesses that they have had sexual relations, and the House of Hillel maintain that we do invoke the argument, witnesses to their having been alone together are tantamount to witnesses that they have had sexual relations. But they most certainly do concur that, if she was divorced at the stage of betrothal, we do not invoke the argument, witnesses to their having been alone together are tantamount to witnesses that they have had sexual relations, **for he is not yet shameless before her.***

III.6 A. *Said R. Isaac bar Samuel bar Marta in the name of Rab, "He who betroths a woman in the presence of only a single witness – they do not take account of the possibility that his act of betrothal is valid, and that is the case even if both parties concur."*

III.7 A. *Said Rabbah bar R. Huna, "He who betroths a woman in the presence of only a single witness – the high court rules, 'they do not take account of the possibility that his act of betrothal is valid.'"*

B. *What is this "high court"?*

C. *It is Rab.*

D. *And there are those who say, said Rabbah bar R. Huna, "He who betroths a woman in the presence of only a single witness – the high court rules, 'they do not take account of the possibility that his act of betrothal is valid.'"*

E. *What is this "high court"?*

F. *Rabbi.*

- G. *Objected R. Ahadeboi bar Ammi*: “To those who returned from overseas with a woman with them as well as goods with them –
- H. “This one says, ‘This is my wife, this is my slave, and these are my goods,’
- I. “and that one says, ‘This is my wife, this is my slave, and these are my goods,’
- J. “and the woman says, ‘These two men are my slaves, and the goods are mine,’
- K. “she has to get a writ of divorce from both of them, and she collects the settlement of her marriage contract from the goods.
- L. “*Now how are we to imagine this situation? If one of the claimants had witnesses and so, too, the other, then can the woman enter the claim at all, ‘These two men are my slaves, and the goods are mine’? So isn’t this a case in which there is only a single witness?’*”
- M. *But do you really suppose that one witness believes when he is contradicted!* [Freedman: Surely not! Even if she only denies it, he is disbelieved, and no writ of divorce is necessary.] *But as for permitting her to remarry, all parties concur that she is permitted. Here, however, this is the sense of the statement: She has to get a writ of divorce from both of them, so that she can collect the settlement of her marriage contract from the goods. And this stands for the opinion of R. Meir, who has said, “Movables are treated as mortgaged so far as collecting the marriage settlement is concerned.”*
- N. *So anyhow, what’s the upshot of this item?*
- O. R. Kahana said, “They do not take account of the possibility that his act of betrothal is valid.”
- P. R. Pappa said, “They do take account of the possibility that his act of betrothal is valid.”
- Q. *Said R. Ashi to R. Kahana, “But isn’t it your opinion that we derive the rule from the analogy governing via the verbal analogy created by the occurrence of the word ‘matter’ both here and in connection with civil law [Deu. 24: 1 uses ‘matter,’ and Deu. 19:15 on civil suits uses the same word], with the result: Just as there, the admission of a party to the case is equivalent to a hundred witnesses, here too, the admission of a contending party is equivalent to a hundred witnesses [in which case, both parties concurring that the betrothal has taken place, the betrothal is confirmed]?”*
- R. *He said to him, “In that case [monetary matters], the admission does no injury to third parties, in this case, it does [the consanguineous relatives being cut off].”*

III.8 A. *Mar Zutra and R. Ada the Elder, sons of R. Mari bar Issur, divided their property between them. They came before R. Ashi. They said to him, "...At the mouth of two witnesses...shall the matter be established' (Deu. 19:15) is what the All-Merciful has said, so that if they wanted to retract, they can do so, but we don't want to retract [so the issue is null], or is it possible that the transaction to begin with can be established [as a legal fact] only if there are two witnesses?"*
B. *He said to them, "Witnesses are called into being only because of liars [but are not needed to establish a transaction as a legal fact]."*

III.9 A. Said Abbaye, "If a single witness said to someone, 'You ate forbidden fat,' and the other remains silent, the witness is believed."

B. *There is a Tannaite statement that supports that opinion: [If] a witness says, "He ate," and he says, "I did not eat" – he is exempt [from bringing an offering] [M. Ker. 3:1E]. The operative consideration then is that he has denied the matter. But had he remained silent, he would have been liable.*

III.10 A. And said Abbaye, "If a single witness said to someone, 'Your foods requiring preparation in conditions of cleanness have been made unclean,' and he remains silent, the witness is believed."

B. *There is a Tannaite statement that supports that opinion: If one witness said to a man, "You have become unclean," and he says, "I have not been made unclean," he is exempt. The operative consideration then is that he has denied the matter. But had he remained silent, he would have been liable.*

III.11 A. And said Abbaye, "If a single witness said to someone, [66A] 'Your ox has been subjected to an act of bestiality,' and the other party remains silent, the witness is believed."

B. *There is a Tannaite statement that supports that opinion: [Deriving from the following exegesis: "When any man of you brings an offering to the Lord, you shall bring your offering of cattle] from the herd [or from the flock]" (Lev. 1:32) – thus excluding the one which has sexual relations with a human being and the one with whom a human being has sexual relations. "When any man of you brings an offering to the Lord, you shall bring your offering of cattle from the herd or from the*

flock” (Lev. 1:32) – “from the flock” – this serves to exclude from use on the altar the one which is set aside [for idolatrous worship]. “From the flock” – this serves to exclude from use on the altar a goring ox [that killed a man, where the evidence derives only from a single witness; this beast is not stoned to death] – as to a beast with which a human being has had sexual relations or a goring ox that killed a man, where the evidence derives only from a single witness or from the owner himself – the single witness is believed. Now as to this evidence deriving from a single witness, *how are we to imagine the situation? If the owner concurs, then it is testimony that derives from the owner! So isn't it a case in which the owner kept silent?*

III.12 A. *And it was necessary to give the opinions in all three items. For if we had been informed of the rule in the first case only, then I would have thought, if the man himself were not certain, he otherwise would be in the position of bringing unconsecrated beasts into the Temple court, and he would not want to bring an offering, so he is surely certain of his obligation. But as to the case in which he was told, “your food requiring preparation in conditions of cleanness,” we might have said that the reason he kept silence is that the food is fit for his use when he himself is unclean. And if we had that item, we might have thought that that is because in any event he suffers a loss from the testimony of the single witness when the man is in a state of cleanness. But as for the matter of bestiality’s having been committed upon his ox, he may say to himself, Well, not all oxen are going to the altar [so he would have kept silent]. So all the several cases are required to make each its own point.*

- III.13** A. *The question was raised: If on the testimony of a single witness it was said that one’s wife had committed adultery, and he remained silent, what is the law?*
- B. Abbaye said, “The single witness is believed [and the husband has to divorce the wife].”
 - C. Raba said, “The single witness is not believed, since this is a matter having to do with illicit sex, and a matter involving illicit sex cannot be established with less than two witnesses.”

D. Said Abbayye, *“On what basis do I make my statement? Because there was a certain blind man who would lay out Mishnah teachings before Mar Samuel. One day it got late and he didn’t come, so the master sent a messenger for him. While the messenger was going through one route, he came along through another. When the messenger came back, he said, ‘His wife has committed adultery.’ When he came before Mar Samuel, he said to him, ‘Well, if you believe him, go, divorce her, but if not, don’t divorce her.’ Now isn’t the language, ‘if you believe him,’ equivalent to, ‘he’s not a robber’ [ineligible to testify, and since the blind man didn’t rebut the witness but kept silent, he must divorce the wife]?”*

E. And Raba?

F. *“If you believe him as you would two witnesses, go, divorce her, and if not, don’t divorce her.”*

G. And said Abbayye, *“On what basis do I make my statement? Because it has been taught on Tannaite authority [along these lines]:”*

H. There was the case of King Yannai, who went to Kohalit in the wilderness and conquered sixty towns there, and when he came back, he was just delighted, and he invited all the sages of Israel. He said to them, “Our ancestors ate mallows [such as poor folk eat] when they were busy with the building of the house of the sanctuary. So we, too, shall eat mallow, in memory of our ancestors.” So they served them mallows on golden tables, and they ate. Now there was there a scornful man of ill will and worthless, named Eleazar b. Poirah. And said Eleazar b. Poirah to King Yannai, “King Yannai, the hearts of the Pharisees are set against you.”

I. “What should I do?”

J. “Test them by the frontlet that is between your eyes [which indicates you are both high priest and also king].”

K. He tested them by the frontlet that was between his eyes.

L. There was present an elder named Judah b. Gedidiah, and said Judah b. Gedidiah to King Yannai, “King Yannai, sufficient for you is the royal crown; give up the priestly crown to the [authentic and valid] seed of Aaron [which you’re not],” for people maintained that Yannai’s mother had been taken captive in Modiim [and was therefore assumed to have been raped and so ineligible for marriage into the priesthood].

M. The matter was investigated, and nothing came of it.

N. The sages of Israel left outraged.

O. And said Eleazar b. Poirah to King Yannai, "King Yannai, if that's the law for any Israelite commoner, is that going to be the law for you too? And you are both king and high priest?"

P. "What should I do?"

Q. "Well, if you want to listen to my advice, crush them."

R. "So what will come of the Torah?"

S. "There it is, rolled up and lying in the corner. So anyone who wants to come can come and study."

T. Said R. Nahman bar Isaac, "Right off the bat heresy poured over him, *for he should have said to him, 'Well, that's no problem with the Torah that is preserved in writing. But what will come of the Torah that is preserved only in memory [by sages]?'*"

U. Forthwith, evil broke out through the intervention of Eleazar b. Poirah, and all the sages of Israel were put to death. The world was desolate until Simeon b. Shatah came along and restored the Torah to its glory.

V. [Reverting to Abbayye's exposition, with special reference to the clause, "The matter was investigated, and nothing came of it":] "*Now how shall we imagine this case? Should we say that two witnesses came along and said that the mother had been kidnapped, and two testified that she hadn't been kidnapped? Then how come you rely on the latter? Rely on the former! So it must mean that there was only one witness that she had been kidnapped, and the basis to reject his testimony was that there were two witnesses to the contrary, but if that were not the case, he would have been believed!*"

W. And Raba?

X. *In point of fact it was a case in which there were two conflicting sets of two witnesses, and that is in line with what R. Aha bar R. Minyumi said, "It refers to two witnesses to the proposition that the others were a conspiracy." Here too, there were witnesses to prove a conspiracy. Or, if you wish, it accords with R. Isaac, who said, "They substituted a slave girl for the mother" [and the kidnappers didn't know about it].* [Freedman: Thus there is no contradiction, two

witnesses attested the kidnapping of one they thought to be the king's mother, another two said it was a slave girl.]

Y. *Said Raba, [66B] "On what basis do I make my statement? Because it has been taught on Tannaite authority [to that effect]."*

Z. [The following is Raba's precedent:] **Said R. Simeon, "There was the case of the water reservoir of Discus in Yavneh, which was assumed to be full. They measured it and it turned out to be lacking [the requisite volume of water for it to serve as an immersion pool for the purpose of removing uncleanness]. All the things requiring cleanness that had been prepared in dependence on that pool did R. Tarfon declare clean, but R. Aqiba, unclean."**

AA. **Said R. Tarfon, "This immersion pool is assumed to be whole. So on the basis of doubt are you coming to declare it lacking? Don't declare it lacking on the basis of a matter of doubt."**

BB. **Said R. Aqiba, "This man is assumed to be unclean. On the basis of doubt are you going to come along and declare him clean? Don't declare him clean by reason of a matter of doubt."**

CC. **Said R. Tarfon, "A parable: It is like the case of a priest who is standing and making offerings at the altar and it is discovered that he is the son of a divorcée or a woman who has performed the rite of removing the shoe, in which case the act of service that he has performed remains valid."**

DD. **Said R. Aqiba, "A parable: It is like the case of a priest who is standing and making offerings at the altar and it is discovered that he is blemished, in which case the act of service that he has performed is retroactively invalidated."**

EE. **Said R. Tarfon, "You invoke the analogy of a blemished priest, I invoke the analogy of the son of a divorcée or a woman who has performed the rite of removing the shoe. So let's see which is the appropriate analogy? If this case runs parallel to the one of the son of a divorcée or a woman who has performed the rite of**

removing the shoe, then let us draw the rule that governs the case of the son of a divorcée or a woman who has performed the rite of removing the shoe. If the governing analogy is the case of the blemished priest, then we shall invoke the rule governing the case of the blemished priest.”

FF. R. Aqiba commenced with this logical argument: “As to an immersion pool, a single person giving testimony suffices to invalidate it, and as to a blemished priest, a single person testifying that he has a blemish suffices to invalidate him. But let not the case of the son of a divorcée or a woman who has performed the rite of removing the shoe prove the matter, since only two witnesses can serve to invalidate him from the priestly caste. Another matter: An immersion pool is invalidated as to its own character, and a blemished priest is invalidated as to his own bodily traits, but let not the the case of the son of a divorcée or a woman who has performed the rite of removing the shoe, since the source of invalidation derives from third parties.”

GG. Said to him R. Tarfon, “Aqiba! Whoever departs from you is as though he departed from life itself” [T. [Miq. 1:17-20](#)].

HH. [Raba now resumes:] “*Now how are we to imagine the case of this blemished priest, who is established as unfit by the testimony of a single witness? If the man contradicts the witness, then is the witness believed? So it must be a case in which he shut up. And along these same lines in the case of the son of a divorcée or a woman who has performed the rite of removing the shoe, he must likewise have kept silence. And the Tannaite formulation goes, As to an immersion pool, a single person giving testimony suffices to invalidate it, and as to a blemished priest, a single person testifying that he has a blemish suffices to invalidate him. But let not the case of the son of a divorcée or a woman who has performed the rite of removing the shoe prove the matter, since only two witnesses can serve to invalidate him from the priestly caste.*”

II. And Abbayye?

JJ. *He will say to you, "In point of fact, it does mean that he did contradict the single witness. And as to your claim, 'Then why is he believed,' the answer is simple: The single witness can say to the other, 'Strip and I'll show you the blemish.' And that's in line with the Tannaite formulation, an immersion pool is invalidated as to its own character, and a blemished priest is invalidated as to his own bodily traits, but let not the the case of the son of a divorcée or a woman who has performed the rite of removing the shoe, since the source of invalidation derives from third parties."*

III.14 A. *So how do we know that the act of service of the son of a divorcée or a woman who has performed the rite of removing the shoe is valid?*

B. Said R. Judah said Samuel, "Said Scripture, 'And it shall be for him and his seed after him [the covenant of an everlasting priesthood] (Num. 25:13) – that is, both fit and unfit progeny."

C. Samuel's father said, "*It comes from the following*: 'Bless, Lord, his substance and accept the work of his hands' (Deu. 33:11) – accept even the profaned seed in his midst [since the letters for the word substance can yield profaned seed]."

D. R. Yannai said, "*It comes from the following*: 'And you shall come to the priest who shall be in those days' (Deu. 26: 3) – and should it enter your mind that someone will go to a priest who does not exist in his time? But this refers to a priest who was assumed to be valid but then become profane." [Freedman: He is assumed to be valid until he is proved to be profane.]

III.15 A. *So how do we know that the act of service of a priest who is blemished is retroactively invalidated?*

B. Said R. Judah said Samuel, "Said Scripture, 'Wherefore say, behold I give to him my covenant of perfection' (Num. 25:12) – when he is perfect, not when he is lacking."

C. *But the word that is written is "peace" [not whole]!*

D. Said R. Nahman, "The letter that converts the word to peace from whole is broken [and so the meaning is ambiguous]."

3:12

- A. In any situation in which there is a valid betrothal and no commission of a transgression, the offspring follows the status of the male,
- B. What is such a situation?
- C. It is [in particular] the situation in which a priest girl, a Levite girl, or an Israelite girl was married to a priest, a Levite, or an Israelite.
- D. And any situation in which there is a valid betrothal, but there also is the commission of a transgression, the offspring follows the status of the impaired [inferior] party.
- E. And what is such a situation?
- F. It is a widow married to a high priest, a divorcée or woman who has undergone the rite of removing the shoe married to an ordinary priest, a mamzer girl, or a Netin girl married to an Israelite, an Israelite girl married to a mamzer or a Netin.
- G. And in any situation in which a woman has no right to enter betrothal with this man but has the right to enter into betrothal with others, the offspring is a mamzer.
- H. What is such a situation?
- I. This is a man who had sexual relations with any of those women prohibited to him by the Torah.
- J. But any situation in which a woman has no right to enter into betrothal with this man or with any other man – the offspring is in her status.
- K. And what is such a situation?
- L. It is the offspring of a slave girl or a gentile girl.

- I.1** A. In any situation in which there is a valid betrothal and no commission of a transgression, the offspring follows the status of the male:
- B. *Said R. Simeon [b. Laqish] to R. Yohanan, “Is it then a governing principle that in any situation in which there is a valid betrothal and no commission of a transgression, the offspring follows the status of the male? Lo, there is the case of [67A] proselyte who marries a mamzer girl, in which case there is a valid act of betrothal and no transgression, but the offspring follows the status of the inferior partner. For it has been taught on Tannaite authority: ‘A proselyte who married a mamzer girl – the offspring is a mamzer,’ the words of R. Yosé [T. Qid. 5:2A].”*

- C. *He said to him, “So do you imagine that our Mishnah paragraph represents the position of R. Yosé? It represents the position of R. Judah, who has said, ‘A proselyte should not marry a mamzer girl’ [T. Qid. 5:2B]. So there is a valid act of betrothal. But there also is a transgression, in which case the offspring follows the status of the inferior partner.”*
- D. *Then let the Tannaite formulation of our Mishnah paragraph cover this item, too, [among those cases that are listed here]!*
- E. *Well, the Tannaite formulation uses the language in the second clause, **any situation in which**, and that serves to extend the law [to other cases besides those listed].*
- F. *Or, if you prefer, I shall say, “In point of fact it really does represent the position of R. Yosé, but the language, **It is [in particular] the situation**, serves to eliminate [other cases, besides those that are listed].”*
- G. *So is the meaning of, **It is [in particular] the situation**, then, but there are no other cases? Then what about the case of a priest of profaned seed who marries an Israelite girl, in which case there is a valid betrothal and no transgression, and yet the offspring follows the status of the male?*
- H. *No problem, that accords with the position of R. Dosetai b. R. Judah [the daughter may marry a priest, so she is in the status of her mother].*
- I. *Then what about the case of an Israelite who married a woman of profaned priestly status, in which case there is a valid betrothal and no transgression, and yet the offspring follows the status of the male?*
- J. *The language, **in any situation**, used in the opening clause is meant to extend the law to such a case.*
- K. *So why not state it in so many words as part of the Tannaite formulation?*
- L. *Because it would be difficult to formulate it, for how is it to be done? The daughter of a priest, Levite, or Israelite, or a woman of impaired status in the priesthood, who marries a priest, Levite or Israelite? But the woman of impaired priestly status can’t marry a priest!*
- M. *Then what about the case of what Rabbah bar bar Hannah said, for said Rabbah bar bar Hannah said R. Yohanan, “An Egyptian of the second generation who married an Egyptian woman of the first generation – the offspring is of the third generation”?*
- N. *The language, **in any situation**, used in the opening clause is meant to extend the law to such a case.*

O. *And from the perspective of R. Dimi, who said, “An Egyptian of the second generation who married an Egyptian woman of the first generation – the offspring is of the second generation”?*

P. *The Tannaite authority’s language, **It is [in particular] the situation**, serves to eliminate [other cases, besides those that are listed].*

Q. *Then what about the case of Rabin, who when he came said R. Yohanan said, “In the case of the nations, follow the status of the male; if they converted, follow the status of the inferior member of the couple”?*

R. *The Tannaite authority’s language, **It is [in particular] the situation**, serves to eliminate [other cases, besides those that are listed].*

I.2 A. *Now if you say that our Mishnah paragraph follows the position of R. Judah, then it must follow, the language, **in any situation**, used in the opening clause is meant to extend the law to the case of an Israelite who married a woman of profaned priestly status, and the case of Rabbah bar bar Hannah, and the language, **It is [in particular] the situation**, serves to eliminate the case of what R. Dimi and Rabin said. Moreover, **[67B]** the language, **in any situation**, used in the second clause serves to extend the law to a proselyte who marries a mamzer girl. But if you maintain that the Mishnah paragraph follows the position of R. Yosé, then while the language **in any situation**, used in the opening clause is for the purpose that we have said, and likewise, **in any situation** is as we have said, but as to the language, **in any situation** used in the later clause, what case is it meant to encompass?*

B. *Well, following your reasoning, from R. Judah’s perspective, as to the language, **in any situation** used in the later clause, what case is it meant to encompass? Rather, because the first clause uses the language, **in any situation**, the second clause uses that same language; and here too, by way of balance, because the*

first clause uses the language, in any situation, the second clause uses that same language.

I.3 A. *Reverting to the body of the foregoing: Rabin, who when he came said R. Yohanan said, “In the case of the nations, follow the status of the male; if they converted, follow the status of the inferior member of the couple” – what is the meaning of that statement?*

B. *It is in line with that which has been taught on Tannaite authority:*

C. How do we know that, in the case of one among all the nations of the land who had sexual relations with a Canaanite woman and produced a son from her, you are permitted to purchase the offspring as a slave?

D. Scripture says, “Moreover of the children of the strangers that sojourn among you, of them you shall buy” (Lev. 25:45).

E. Is it possible to take the view that if, further, a Canaanite male had sexual relations with a woman belonging to any of the nations and produced a son from her, you are permitted to purchase the offspring as a slave?

F. Scripture says, “Which they have begotten in your land” (Lev. 25:45), meaning, [you shall purchase slaves] of those that are born in your land, and not of those who are resident aliens in your land.

I.4 A. *[Reverting to the body of the foregoing:] ...If they converted, follow the status of the inferior member of the couple: Under what circumstances? If we say that it is an Egyptian who married an Ammonite woman, then how could we speak of “the more tainted of*

the two,” when Scripture is explicit, “An Ammonite” but not a female Ammonite?

B. *Rather, it is an Ammonite man who married an Egyptian woman. If the offspring is male, it is assigned to the Ammonite [and can never enter the congregation, were he assigned to the mother, he could have entered after the third generation]; if it is a female, she is assigned the status of her Egyptian mother.*

- II.1** A. **And in any situation in which a woman has no right to enter betrothal with this man but has the right to enter into betrothal with others, the offspring is a mamzer:**
- B. *How on the basis of Scripture do we know this fact?*
- C. *Said R. Hiyya bar Abba said R. Yohanan, the matter reaching the authority of R. Yannai, or R. Aha b. Raba, the matter reaching the authority of R. Yosé the Galilean, “Said Scripture, ‘And when she has departed out of his house, she may go and marry an unrelated man’ (Deu. 24: 2) – an unrelated man, but not a relation [forbidden by the law of incest; she may not marry a consanguineous relation].”*
- D. *Objected R. Abba, “But might one say, ‘...to a third party,’ but not to a son [of her ex-husband]?”*
- E. *The prohibition of marrying a son is stated in so many words: “A man shall not take his father’s wife” (Deu. 23: 1). So what am I to make of “...unrelated man” (Deu. 24: 2) – an unrelated man, but not a relation.*
- F. *Well, maybe both verses refer to her husband’s son, one prohibiting such a marriage before, the other after the fact?*
- G. *The prohibition before the fact is derived from the prohibition of marrying a wife’s sister: If one may not betroth a wife’s sister, and the penalty of doing so is extirpation, how much more so this party, on account of whose doing so death by the earthly court is incurred!*
- H. *But maybe both then refer to marrying the wife’s sister, one before the fact, the other after the fact?*
- I. *True enough. Then we have found that the wife’s sister is forbidden. How on the basis of Scripture do we know that the same applies to other*

consanguineous relations? In fact, it derives from the prohibition of the wife's sister, namely: Just as the wife's sister is characterized by the fact that she is a consanguineous relationship and one is liable for knowingly having sexual relations with her to extirpation and unwittingly to a sin-offering, and a betrothal with her is null [even if it has been carried out, not only before but after the fact], so too, all those classes of female relations who stand in a consanguineous relationship and on account of sexual relations with whom one is liable for knowingly having sexual relations to extirpation and unwittingly to a sin-offering are not available for a valid betrothal.

- J. *Now there are no problems with all these other classes of women; they may be derived in this way. But what about a married woman and a brother's wife? For there is the possibility of raising the following argument against the proof just now given, so far as it applies to them: What explains [the invalidity of betrothal with] the sister's wife is that she is not permitted even where there is a religious duty to marry her [Freedman: if A and B, two brothers, are married to C and D, two sisters, and A dies childless, B may not take C, though if she were not his wife's sister, it would be a religious duty for him to do just that], will you say the same of the brother's wife, in which case, it is permitted to marry her when it is a religious duty to do so? So, too, with respect to the married woman, it is possible to raise the following argument against the proof just now given: What characterizes these other classes of women [with whom betrothal is invariably null] is that none is subject to permission to marry while those who prohibit her from doing so are still alive, will you say the same of a married woman, who [if she is divorced] most certainly can be permitted to marry during the lifetime of him who at this moment renders her forbidden? [So how do we know that betrothal is null with consanguineous relations?]*
- K. Rather, said R. Jonah, and some say, R. Huna b. R. Joshua, "Said Scripture, 'For whosoever [that is, any consanguineous relation] shall do any of these abominations, even the souls that do them shall be cut off' (Lev. 18:29) – Scripture thus forms a single category of all consanguineous relations along with the wife's sister. Just as with the wife's sister, betrothal does not take effect. so in respect to all of these other consanguineous relations, betrothal does not take effect."
- L. *If so, [68A] then even a menstruating woman also should be covered by the same rule, so how come Abbaye said, "Everybody agrees that he who has sexual relations with a menstruating woman or with a wife accused of adultery – the offspring is not a mamzer"?*

- M. Said Hezekiah, “Said Scripture, ‘And if any man lie with her, and her menstruation be upon him’ (Lev. 15:24) – even at the time that she is menstruating, there is a marital relationship in effect upon him.”
- N. *Well, now, notice this: There is the possibility of comparing all other consanguineous relations to a menstruating woman, and one can do the same with the wife’s sister [who also occurs in Lev. 18], so how come you prefer to assimilate them to the wife’s sister, when you can as well assimilate them to a menstruating woman?*
- O. *Where there is a choice in this context between a lenient and a strict ruling, we draw the analogy so as to invoke the strict ruling.*

II.2 A. R. Aha bar Jacob said, “The same result derives by an argument a fortiori from the levirate wife: Just as in the case of a levirate wife, who is forbidden to marry a third party, not the levir, by a negative prohibition, betrothal does not take effect, those with whom the relationship is penalized by the death penalty or by extirpation all the more so [should not be subject to betrothal]!”

B. *If so, then the same should apply to all other relationships prohibited merely by a negative commandment.*

C. *Said R. Pappa, “[That valid betrothal may be effected with those marrying whom involves violation of a negative commandment,] is expressly stated in Scripture, since it is written, ‘If a man have two wives, one loved the other hated’ (Deu. 21:15). Now is there the possibility of love or hatred before the Omnipresent [that these should be regarded as loved or hated by God]? Rather, the meaning of ‘loved’ is loved in her marriage, and ‘hated’ means hated in her marriage; and yet the All-Merciful has said, ‘If a man have...,’ meaning, stand in a valid betrothal with such as these.”*

D. From the perspective of R. Aqiba, who has said, “Betrothal does not take effect in the case of relationships prohibited by a negative commandment,” *how is the language “if a man have two wives, one loved the other hated” (Deu. 21:15) to be interpreted?*

E. It would pertain to the case of a widow married to a high priest, *and that would accord with R. Simai, for it has been taught on Tannaite authority: R. Simai says, “Of all offspring of unions that violate a negative commandment, R. Aqiba declares them to be mamzerim, except for the offspring of a widow and a high priest, in*

which connection says, ‘he shall not take...he shall not profane...’ (Lev. 21:14, 15) – the offspring he profanes, but he does not make the offspring mamzerim.”

F. *And it also at accords with R. Yeshebab, who has said, “Come and let us raise a cry against Aqiba b. Joseph, who would say, ‘In the case of any union that is not legitimate in Israel, the offspring is a mamzer,”*

G. *O.K., no problems, if R. Yeshebab’s intention is to dispute the allegation of R. Simai, but if he has stated his own position, so that even those forbidden by a positive commandment are covered, then what sense will he make of the language, one loved the other hated?*

H. It would then refer to a non-virgin married to a high priest.

I. *So what would distinguish that item from all the others?*

J. *It is because that would constitute an affirmative commandment that does not apply to all persons equally [and is not so stringent therefore].*

K. *And as to rabbis, rather than explain the verse, “and if there be” to speak of those forbidden by negative commandments, why not let them refer the verse to those forbidden by positive ones?*

L. So what might those affirmative commandments be? If they are both Egyptian women, both fall into the class of “hated,” and if one is an Egyptian woman and the other an Israelite, well, *we require that* the two wives derive from the same people; and if one is a non-virgin married to a high priest, *then is it written*, “If there be two wives to a priest”?

M. And R. Aqiba?

N. *You are forced to allow the verse to explain itself* [Freedman: it cannot refer to those who are forbidden by negative commandments, since the analogy with the levirate widow teaches otherwise, so it must refer only to one of those just mentioned, even though they are improbable].

III.1 A. But any situation in which a woman has no right to enter into betrothal with this man or with any other man – the offspring is in her status:

- B. *How on the basis of Scripture do we know that that is the case with a Canaanite slave girl [that betrothal with her is null]?*

C. Said R. Huna, “Said Scripture, ‘Stay here with the ass’ (Gen. 22: 5) – the word for ‘with’ can be given vowels to yield ‘people,’ hence, ‘a people that is comparable to an ass [with whom, obviously, betrothal is null].”

D. *So we have found the proof that betrothal with her is null. [68B] As to her offspring, how on the basis of Scripture do we know that the offspring is in her classification?*

E. Said Scripture, “The wife and her children shall be her master’s” (Exo. 21: 4) [the children remain slaves when the father is freed, so they bear the mother’s status].

F. *How do we know that betrothal with a gentile woman is null?*

G. Said Scripture, “You shall not make marriages with them” (Deu. 7: 3).

H. *So we have found the proof that betrothal with her is null. As to her offspring, how on the basis of Scripture do we know that the offspring is in her classification?*

I. Said R. Yohanan in the name of R. Simeon b. Yohai, “Said Scripture, ‘For he will turn away your son from following me’ (Deu. 7:4 – who comes from an Israelite woman is called your son, but your son who is descended from a gentile woman is classified as not your son but her son.”

III.2 A. Said Rabina, “That implies that the son of your daughter by a gentile man is called ‘your son.’”

B. *May one then propose that Rabina takes the view that if a gentile or a slave has sexual relations with an Israelite woman, the offspring is valid?*

C. *Granting that it is not a mamzer, it also is not valid, but is regarded as a blemished Israelite.*

D. *But does not the cited verse [Deu. 7: 4] refer specifically to the seven nations [in that*

context]? *[How come it now is applied to all nations?]*

E. *The language “for he will turn...” serves to encompass all those who may entice Israelites to idolatry.*

F. *That poses no problem to R. Simeon, who is willing to interpret a verse on the basis of its sense and gist, but as to rabbis who oppose this, what is the reason?*

G. Scripture says, “And after that, you shall go in unto her and be her husband” (Deu. 21:13) – *afterward betrothal takes effect, so it must follow that before hand, that is not the case.*

III.3 A. *So we have found that betrothal does not take effect with her. How do we know that her offspring is subject to the same rule?*

B. Said Scripture, “if a man have two wives, one loved the other hated, and they bear him...” (Deu. 21:15) – *in any case in which we can invoke the possibility of betrothal, such as the language, “if there be” contains, we can also invoke the possibility of “and they bore to him,” but where there is no “if there be...,” there also is no, “and they bore to him,” [meaning that the offspring are not assigned to him].*

C. *If so, then isn’t that the same of a gentile slave girl?*

D. *Absolutely right!*

E. *Then what need do I have for the clause, “The wife and her children shall be her master’s” (Exo. 21: 4) [which we earlier utilized to prove that the children*

remain slaves when the father is freed, so they bear the mother's status]?

F. It is in line with that which has been taught on Tannaite authority:

G. **[69A]** "He who says to his slave girl, 'Lo, you are free, but your offspring is a slave' – her offspring is in her own status," the words of R. Yosé the Galilean.

H. And sages say, "His statement is valid, since it is said, 'The wife and her children shall be her master's' (Exo. 21: 4)."

I. *Now how is the verse of Scripture to be read in support of the position of rabbis [since it seems to confirm the view of Yosé]?*

J. *Said Raba, "The verse of Scripture serves, in fact, to sustain the view of R. Yosé the Galilean, who has said, 'her offspring is in her own status,' since it is said, 'The wife and her children shall be her master's' (Exo. 21: 4). When the woman belongs to her master, the offspring belongs to her master."*

3:13

- A. **R. Tarfon says, "Mamzerim can be purified [from the taint of bastardy]. How so? A mamzer who married a slave girl – the offspring is a slave girl. [If] he then freed him, the son turns out to be a free man."**
- B. **R. Eliezer says, "Lo, this is a slave who also is in the status of a mamzer."**

- I.1** A. *The question was raised: Does R. Tarfon take the position that he does before the fact, or merely after the fact?*

- B. *Come and take note:* They said to R. Tarfon, “You have purified the males, but not the females” [since only a male will go and conceal his identity to marry in such a way; a woman would never do it]. *Now if you take the view that he made his statement even before the fact, then a mamzer girl should be able to marry a slave. [Nothing is stopping her.]*
- C. A slave has no genealogy [conferring nothing on his offspring; the children remain hers, so the children remain mamzers].
- D. *Come and take note:* The innkeeper of R. Simlai was a mamzer. He said to him, “If I had known you before, I would have been able to purify your sons.” *Now, if you say that the ruling was before the fact, there is no problem here. But if you say that it applies only post facto, then what sort of advice could he have given him [since to begin with he would not advise him to do a forbidden deed]!*
- E. *He could have advised him along these lines, “Go, steal, and get yourself sold as a Hebrew slave.” [The slave girl is then permitted to him as a slave boy.]*
- F. *Yeah, well, in the time of R. Simlai was there such a thing as a Hebrew slave? And didn’t a master say, “The law of a Hebrew slave applies only when the law of the Jubilee Year applies”?*
- G. *So doesn’t that bear the implication that R. Tarfon made his statement not only post facto but up front?*
- H. *Yes, it proves it.*
- I. Said R. Judah said Samuel, “The decided law accords with R. Tarfon.”

II.1

- A. **R. Eliezer says, “Lo, this is a slave who also is in the status of a mamzer”:**
- B. *Said R. Eleazar, “What’s the scriptural foundation for the ruling of R. Eliezer? Said Scripture, ‘A mamzer even to the tenth generation shall none enter to him into the assembly of the lord’ (Deu. 23: 3).”*
- C. *And rabbis?*
- D. *That verse of Scripture refers to an Israelite who married a mamzer girl. For it might have entered your mind to suppose, “by their families, by their father’s house” (Num. 4: 2) [so the child has the status of the father]. So this verse comes along and removes that possibility.*
- E. *And R. Eliezer?*
- F. *“Even though it is written, ‘by their families, by their father’s house’ (Num. 4: 2), ‘to him’ comes and forms an exclusionary particle; here too,*

though it is written, 'The wife and children shall be her master's,' 'to him' comes and forms an exclusionary particle."

G. *And rabbis?*

H. Any offspring in the belly of a Canaanite slave girl is like an offspring in the belly of a beast.