

III.

BAVLI YEBAMOT CHAPTER THREE

FOLIOS 26A-35A

3:1-3

3:1

- A. Four brothers —
- B. two of them married to two sisters —
- C. and those who are married to the sisters died —
- D. lo, these [surviving, childless widows] perform a rite of removing the shoe and do not enter into levirate marriage [with the other two brothers].
- E. And if they [the other two brothers] went ahead and married [the two sisters], they must put them away.
- F. R. Eliezer says, “The House of Shammai say, ‘They may remain wed.’
- G. “And the House of Hillel say, ‘They must put them away.’”

3:2

- A. [If] one of them [the sisters] was prohibited to one of the men by reason of being a forbidden degree [M. 2:3-4],
- B. he is prohibited to marry her. But he is permitted [to enter into levirate marriage] with her sister.
- C. And the second [brother] is prohibited [to enter into levirate marriage] with either of them.
- D. [If one of them was prohibited] by reason of being prohibited as a commandment or prohibited by reason of sanctity [M. 2:3-4], [the sister] performs the rite of removing the shoe but does not enter into levirate marriage.

3:3

- A. [If] one [of the sisters] was prohibited to one of the brothers by reason of being a forbidden degree, and the second was prohibited to another [of the brothers] by reason of being a forbidden degree,
- B. the one who is prohibited to this one is permitted to the other, and the one who is prohibited to the other one is permitted to this one.
- C. This is a case in which they have stated [M. 2:3]: [In a case in which] her sister also is her sister-in-law awaiting levirate marriage, she either performs

the rite of removing the shoe or enters into levirate marriage [there being no prohibition in such a case by reason of a woman's being the sister of one who is subject to levirate marriage with the surviving brother].

- I.1 A.** [Four brothers — two of them married to two sisters — and those who are married to the sisters died — lo, these surviving, childless widows perform a rite of removing the shoe and do not enter into levirate marriage with the other two brothers:] *That rule bears the implication that there is a levirate connection at all, for if there were no levirate relationship, since the two widows come from two different houses [widows of different husbands, neither standing in any marital relationship with a surviving brother (Slotki)], let one brother enter into levirate marriage with one, and the other with the other [Slotki: so a levirate bond does exist].*
- B. *In point of fact, I shall say to you, there is no levirate bond, and the rule here is because the framer takes the position that it is forbidden to nullify the religious duty of the levirate connection. For it may happen that while one of the brothers is married to one of the widowed sisters in a levirate marriage, the other brother will die [and the surviving brother now will be unable to marry the widow], with the result that the the religious duty of the levirate connection will be nullified. [Slotki: because the surviving brother would then not be able either to marry or to enter the rite of removing the shoe with the second widow, who now is his wife's sister; but if only the rite of removing the shoe were performed with the one brother and the death of the other takes place before the second widow had performed the rite of removing the shoe with him, no difficulty would arise, since the first brother could then participate in the rite of removing the shoe with the second widow as well.]*
- C. *If that is the case, then the same rule should apply to the case of three brothers! [Slotki: if two of them died childless and both widows were subject to levirate marriage or the rite of removing the shoe with the surviving one; the third brother too should only engage in the rite of removing the shoe, for if he marries one of the sisters, the other is forbidden, as sister of his wife, to marry him or perform the rite of removing the shoe with him, should occasion arise.]*
- D. *We formulate matters along lines of, "it goes without saying." That is to say, it goes without saying that, in the case of three brothers, in which instance there is no doubt that the religious duty of levirate marriage may be annulled, the rule is what has been stated, but there may be the consideration that, in the case of four, we do not take account of the possibility of a sudden death. So we are informed that that is not the case [but in the instance of four brothers, levirate marriage does not take place].*
- E. *If so, [26B] then the same rule should pertain to five brothers too! [Slotki: two of the five were married to two sisters and died, three survived; here too, if provision is to be made against the possibility of death, no levirate marriage should be allowed to any of the three survivors, since two of them might die, and the only surviving brother would not be able to carry out the levirate obligation, because the widows would be his wife's sisters.]*
- F. *We do not take into account the possibility of death when two are involved.*

- I.2.** A. Rabbah bar R. Huna said Rab [said], “Three sisters who are widows of deceased childless husbands who fell to the lot of two brothers who are their levirs — this one performs the rite of removing the shoe with one of them, and that one performs the rite of removing the shoe with one of them, and the omitted one in the middle performs the rite of removing the shoe with them both.”
- B. *Said to him Rabbah, “Since you have said, the omitted one in the middle performs the rite of removing the shoe with them both, it must follow that you maintain that there is a levirate connection, and the rite of removing the shoe is impaired, for a woman subject to an impaired rite of removing the shoe has to make the rounds of all the brothers [Slotki: since each brother may only participate in the rite of removing the shoe with the widow but since she is the sister of a woman with whom he has performed a rite of removing the shoe, he may not marry her, and that rite of removing the shoe is not of the same validity as one which is the alternative of a permitted levirate marriage.] But if so, the same rule should apply also to the first two sisters as well [Slotki: since they, like the third, are subject to the levirate bond, and with them also only a rite of removing the shoe, but not levirate marriage, may take place, and the rite of removing the shoe done with them also is of an impaired character; hence the same rule should apply to all three sisters alike].”*
- C. *If the three sisters were to have fallen to the levirs simultaneously, that indeed would have been the law [and each of them would have performed the rite of removing the shoe with each of the brothers]. But the rule of our Mishnah is necessary to deal with a case in which the levirate connection to the levirs took place sequentially. When the first sister entered into the levirate connection, Reuben [brother number one] participate in the rite of removing the shoe with her; when the second fell into the levirate relationship, Simeon did it with her; when the third came under the same obligation, if the one brother participated in the rite of removing the shoe with her, he dissolved his own levirate relationship, and when the other did, he also did the same.*
- D. But didn’t Rab say that there is no levirate relationship at all?
- E. *He made his statement here in accord with the position of him who says that there is a levirate relationship.*
- F. And Samuel said, “One of the brothers performs the rite of removing the shoe with them all.”
- G. *But since we have in hand a tradition for Samuel that he has said, “We require a completely proper rite of removing the shoe,” for said Samuel, [27A] “If he [Slotki: a levir whose two deceased childless brothers were survived by two widows who were sisters, each of whom has a co-wife] performed the rite of removing the shoe with the sisters, the co-wives are not exempt [from the levirate connection, the rite of removing the shoe being defective, for the levir cannot marry either of them],” how could Reuben participate in an impaired rite of removing the shoe where the rite of removing the shoe of Simeon has the power of an entirely valid rite of removing the shoe? [Slotki: Simeon did not participate in a rite of removing the shoe, so the second sister is not the sister of a woman with whom he has performed that rite. In the case of Reuben, who has already participate in the rite of removing the shoe with one sister, the rite of removing the*

shoe with the second is a rite performed by the sister of a woman with whom he has performed the rite, and that is not valid.]

- H. *What is the meaning of the statement, "One of the brothers performs the rite of removing the shoe with them all"? It means, also the third widow.*
- I. *But the language with them all is used!*
- J. *Since the majority of the sisters is at his side [Simeon has participate in the rite of removing the shoe of two of the three widows], it is classified as with them all.*
- K. *And if you prefer, I shall say, when Samuel made the statement that he did, namely, "We require a completely proper rite of removing the shoe," that statement pertained to exempting the co-wife, but in regard to exempting herself, any act of removing the shoe, even an invalid one, suffices to free her from the levirate connection. [Slotki: and in the case of the three widows, where there are no co-wives, the defective rite of removing the shoe is valid, even from Samuel's perspective.]*

I.3. A. Reverting to the body of the prior discussion:

- B. Said Samuel, "If he [Slotki: a levir whose two deceased childless brothers were survived by two widows who were sisters, each of whom has a co-wife] performed the rite of removing the shoe with the sisters, the co-wives are not exempt [from the levirate connection, the rite of removing the shoe being defective, for the levir cannot marry either of them]. If one performed the rite of removing the shoe with the co-wives, the sisters are exempt from the levirate connection. If the levir performed the rite of removing the shoe with the one of the two sisters-in-law, widows of the same childless brother, who had been divorced [by the levir prior to the rite of removing the shoe], her rival is not exempt [since the performance of the rite of removing the shoe after a divorce is invalid, the levirate bond having been severed by the divorce that preceded it. If he entered the rite of removing the shoe with the sister-in-law to whom he had already conducted a rite of bespeaking, her co-wife is not exempt [since the rite of removing the shoe on its own does not exempt the widow, for, once the bespeaking has taken place, a writ of divorce is now required]. If he performed the rite of removing the shoe with the co-wife, the widow to whom the bespeaking has taken place is now exempt."
- C. *What differentiates the sisters [with regard to their having performed the rite of refusal] that their co-wives are not exempted from the levirate bond through their rite of refusal? The reason is that each of them is "his wife's sister" through the levirate bond [Slotki: in consequence of which he may marry neither of them, and the rite of removing the shoe in which he participates is therefore impaired]. But then, if he performed the rite of removing the shoe with the co-wives, that too should not exempt the sisters, for they too are to be classified as "co-wives of his wife's sister" through the levirate bond!*
- D. *Samuel takes the view that no levirate bond is present.*
- E. *Yeah, well Samuel has just said that a levirate bond is present!*
- F. *He made his statement within the position of him who says that a levirate bond is present.*
- G. *If so, then if the levir performed the rite of removing the shoe with the sisters, why are the co-wives not exempt from the levirate bond from that point onward? We*

can make sense of the situation with the co-wife of Rachel, that she should not be exempted, for since the levir has performed the rite of removing the shoe with Leah and then did it with Rachel, this was in the case of Rachel an act of removing the shoe that was invalid. But the co-wife of Leah should be exempt from the levirate bond!

- H. *When Samuel said, “the co-wives are not exempt,” what he meant was the co-wife of Rachel.’*
- I. *Yeah, but he said co-wives!*
- J. *That was, co-wives in general.*
- K. *If so [Slotki: if co-wives refers only to co-wives of the sister who was second to perform the rite of removing the shoe, and not to those of the first also,] then if he performed the rite of removing the shoe with the co-wives, how could the sisters be exempt? Has Rachel been exempted by reason of the rite of removing the shoe done by her co-wife? [Slotki: would the sister of a woman with whom one has performed the rite of refusal be exempted by the rite of refusal carried out by her co-wife?] Surely we have learned in the Mishnah: **[A man is permitted to marry the kinswoman of the co-wife of a woman with whom he has performed the rite of removing the shoe], but is prohibited from marrying the co-wife of the kinswoman of a woman with whom he has performed the rite of removing the shoe [M. 4:7K-L].** [Slotki: as he cannot marry the co-wife of Rachel, who is the sister of a woman with whom he has performed the rite of removal, his performance of the rite of removal with her would be impaired and therefore would not exempt Rachel from the relationship].*
- L. *Samuel takes the same view, but he made his statement distinguishing between the way in which one began or did not begin: if the brother began with the sisters [performing the rite of removing the shoe with one of them], he must not finish with the co-wives [e.g., performing the rite of removing the shoe with the co-wife of the second center, which would not exempt the sister], for we have learned in the Mishnah, **but is prohibited from marrying the co — wife of the kinswoman of a woman with whom he has performed the rite of removing the shoe.** But if he began with the co-wives, he may finish even with the sisters [participating in the rite of removing the shoe not only with the co-wife of the second sister, so exempting the sister herself, but also with the second sister, thus exempting her co-wife], for we have learned in the Mishnah: **A man is permitted to marry the kinswoman of the co-wife of a woman with whom he has performed the rite of removing the shoe.***
- M. *R. Ashi said, “In point of fact matters are as you initially stated [co-wives are not exempted by the rite of removing the shoe performed by the sisters,] but the operative consideration is that the levirate bond itself is not sufficiently strong to make the co-wife equal to the forbidden relative herself.” [Slotki: the prohibition of marriage with a woman who is subject to the levirate bond does not extend to her co-wife, and the rite of removing the shoe performed by the co-wife is more valid and exempts the former].*
- N. *So too it has been taught on Tannaite authority in accord with the position of R. Ashi: if one has performed the rite of removing the shoe with the sisters, their co-wives are not exempt; but if he did it with the co-wives, the*

sisters are thereby exempt. *What is the operative consideration? Is it not that he takes the view that while there is a levirate bond, the levirate bond itself is not sufficiently strong to make the co-wife equal to the forbidden relative herself?*

I.4. A. Said R. Abba bar Mammel, “Lo, who is the authority behind that ruling? It is the house of Shammai, for we have learned in the Mishnah: **The House of Shammai declare the co-wives permitted [to enter into levirate marriage with] the other brothers [M. 1:4A].**

B. *If so [that the cited passage stands for the House of Shammai], then let the co-wives enter into levirate marriage as well [not only perform the rite of removing the shoe]?*

C. *It is in accord with R. Yohanan b. Nuri, who has said, “Come and let us ordain for the co-wives that they perform the rite of removing the shoe but do not marry the levir.”*

D. But did not a master say, “**But they did not have a moment in which to complete the matter before the times prevented it**” [T. Yeb. 1:9A-G, 1:10A].

E. Said R. Nahman bar Isaac, “Later on they went and made the ordinance.”

I.5. A. *The question was raised: [27B] As between [two widows of the same husband, with a single surviving brother-in-law], one of whom has received a writ of divorce [from the surviving brother], and the other of whom has been subjected to a bespeaking by him, which is to take precedence [in the rite of removing the shoe, if that rite is to exempt the co-wife?] [Slotki: neither of the widows may enter into levirate marriage, the one because of the divorce, the other as the co-wife of the former; but which one should perform the rite of removing the shoe and exempt the other?] Is the one who has the writ of divorce the preferable choice for the rite of removing the shoe, or perhaps it is the one to which the act of bespeaking has been addressed is preferable, because she is nearer to him in regard to sexual relations?*

B. *Said R. Ashi, “Come and take note: Rabban Gamaliel concedes that a writ of divorce [to one of the widows of the deceased childless brother] issued after an act of bespeaking [to the other widow] or an act of bespeaking made after a writ of divorce is valid. Now if a writ of divorce takes precedence over the act of speaking, the act of bespeaking should be null, and if the act of bespeaking takes precedence, then the writ of divorce must be null. So it must be concluded that they are of equal weight.”*

C. *That is decisive.*

I.6. A. Said R. Huna said Rab, “If there were two sisters who were widows of a deceased childless brother who fell to a single surviving brother-in-law, if the levir performed the rite of removing the shoe with the first of the two brothers, the other has been freed of the connection; if he performed the rite of removal with the second, the first is permitted. If the first widow died [the one who was subject to the levirate connection prior to the other, before she performed the rite of

removing the shoe with the levir], the levir may marry the second [Slotki: since death has severed his levirate bond with the first, and the surviving widow is no longer the sister of a woman subject to the levirate bond with him], and, it goes without saying, if the second died [the widow of the brother who died after the first, and who became subject to the levirate connection after the first widow did], the first is permitted, since, as a levirate widow who was permitted [to the levir, when she became a widow, there being no other levirate connection at that moment] then forbidden [when the sister's husband died], and then permitted again [when her sister died], she reverts to her initial status of being permitted."

- B. R. Yohanan said, "If the second [the widow of the brother who died second in line, who became subject to levirate marriage after the first did (Slotki)] died, the levir may marry the first [because when she became subject to the levirate connection, she was permitted to him], but if the first died, he may not marry the second. How come? The reason is that any levirate widow to whom the law, 'her husband's brother shall go into her' (Deu. 25: 5) does not apply when she enters the obligation of the levirate connection [Slotki: as in this case, where she was forbidden to the levir as sister of a woman who was subject to a levirate bond to him, at the time she became obligated to levirate marriage when her husband died], lo, such a one is regarded as equivalent to the wife of a brother who has children and so is forbidden."
- C. *But doesn't Rab take this view? And did Rab not say, "Any levirate widow to whom the law, 'her husband's brother shall go into her' (Deu. 25: 5) does not apply when she enters the obligation of the levirate connection — lo, such a one is regarded as equivalent to the wife of a brother who has children and so is forbidden"?*
- D. *That is the case when the woman faces the prohibition of "a wife's sister," which derives from the law of the Torah [e.g., three brothers, two married to two sisters, in which context Rab made this statement], but in a case in which the prohibition of the levirate bond is only on the authority of rabbis [the bond ends as soon as one of the sisters dies (Slotki)].*
- E. *Objected R. Yosé b. R. Hanina to R. Yohanan, " **Four brothers — two of them married to two sisters — and those who are married to the sisters died — lo, these [surviving, childless widows] perform a rite of removing the shoe and do not enter into levirate marriage [with the other two brothers]. But why should this be the case? Let one of them go and undertake the rite of removing the shoe with the second widow, so that the first woman should stand in relation to the second as the deceased childless brother's widow who was permitted, then forbidden, then permitted, in which case she reverts to her initial state of permissibility?**"*
- F. *He said to him, "As to the rule of the statement on the sisters, how in the world should I know who is the one who repeated it [since it's wrong]?"*
- G. *But why should he not reply to him, "What is the meaning of the language **perform a rite of removing the shoe?** It means, that only one of them is to perform the rite of removing the shoe"?*
- H. *Because the language that is used is plural: **those...perform a rite of removing the shoe.***

- I. *Then let him reply, “What is the meaning of **perform a rite of removing the shoe**? This refers to women in general who perform the rite of removing the shoe under such circumstances”?*
- J. *Then why not let him reply, “This is the case when the rite of removing the shoe has already been performed by the first [Slotki: so that the other, who is not exempted by the rite done by the first, also must perform the rite of removing the shoe]?”*
- K. *The language, **those...perform a rite of removing the shoe [28A]** speaks of what is to be done to begin with [as entirely right and proper, and not what is done in certain eventualities (Slotki)].*
- L. *But why should he not say to him, “It is a precautionary decree, to take account of the possibility that the levir may first undertake a rite of removing the shoe with the first of the two widows”? [Slotki: and then he would marry the second, assuming wrongly that, just as he may participate in the rite of removing the shoe with the second and then marry the first, so he may do it with the first and marry the second; but that does not imply that if he already did it with the second, after she dies he may not marry the first; in that case the reason for the marriage with the first would be obvious and leave no room for error.]*
- M. *But the language that is used is, **and do not enter into levirate marriage!** The meaning is that the law of levirate marriage does not apply at all.*
- N. *But let him say to him, “It [that both of the widows perform the rite of removing the shoe and neither may enter levirate marriage] is a precautionary decree, to take account of the possibility that he [a surviving brother] may die [Slotki: after the second brother had married the second widow, and had thus become disqualified from marrying or participating in the rite of removing the shoe of the other sister, who now is forbidden to him as the sister of his wife], since it is forbidden to nullify the possibility of carrying out the religious duty of levirate marriage”?*
- O. *R. Yohanan does not make precautionary decrees on account of the possibility of death.*
- P. *Then let him say to him, “It represents the [rejected] position of R. Eleazar, who has said, ‘So long as she was forbidden to him for a single moment, she is forbidden to him for all time’”?*
- Q. *Since the concluding clause stands for the view of R. Eleazar [to whom it is attributed], the opening clause cannot represent his view as well.*
- R. *Then let him say to him, “It is a case in which both of them came under the levirate obligation simultaneously, and that before us is the position of R. Yose the Galilean, who takes the view that we can indeed ascertain precisely when two things have taken place at one and the same time”?*
- S. *The framer of the passage cannot present without attribution a formulation in accord with R. Yose the Galilean.*
- T. *And why not say to him that we deal with a case in which we do not know which of the two widows entered into the levirate relation prior to the other [there then being no second widow with whom to participate in the rite of removing the shoe (Slotki)]?*

- U. *If that were the case [Slotki: that the prohibition in our Mishnah-paragraph to marry the two widowed sisters is entirely due to the fact that it is not known which of them was the first to become a widow and which was second, and that, had the fact been known, the first would have been permitted to enter levirate marriage,] then how could the passage state, **And if they [the other two brothers] went ahead and married [the two sisters], they must put them away?** In the case of the first [the levir who married the first], we can make sense of the reason that he has to divorce her, namely, they say to him, “Who in the world permitted you to marry her anyhow [Slotki: before the marital bond between him and her sister was severed, since you were forbidden to her, she being the sister of a woman obligated to you under the levirate connection]?” But as to the second, why can’t the levir when he is ordered to divorce her claim, “My colleague here has taken the second in levirate marriage [namely, the sister who became widow second], and I take the first” [she was permitted to him because of the prior marriage of her sister, who was the second widow; the marriage of the second severs the bond between the sister and the levirs and liberates the first from the prohibition of “the sister of a woman to whom one is subject to a levirate bond, so she is permitted, forbidden, and permitted again (Slotki)].*
- V. *So that’s why he had to resort to the argument, “As to the rule of the statement on the sisters, how in the world should I know who is the one who repeated it [since it’s wrong]?”*

I.7. A. *We have learned in the Mishnah: [If] one of them [the sisters] was prohibited to one of the men by reason of being a forbidden degree, he is prohibited to marry her. But he is permitted [to enter into levirate marriage] with her sister. And the second [brother] is prohibited [to enter into levirate marriage] with either of them. Assuming that his mother-in-law was the one who entered the levirate obligation first [her husband dying before the other brother], why should both sisters be forbidden? Let the son-in-law go and enter into levirate marriage with the widow who is not his mother in law first of all, and then his mother in law in regard to the other levir would be in the class of a sister-in-law who was permitted, forbidden, and permitted again, who refers to her former status of being permitted?*

B. *Said R. Pappa, “We refer her to a case in which the one who was not his mother-in-law came first of all into the levirate connection.”*

II.1 A. *If one of them was prohibited by reason of being prohibited as a commandment or prohibited by reason of sanctity, the sister performs the rite of removing the shoe but does not enter into levirate marriage:*

B. *It has been taught on Tannaite authority:*

C. **R. Eliezer says, “The House of Shammai say, they may remain wed.’ And the House of Hillel say, ‘They must put them away.’”**

D. **R. Simeon says, “They may remain wed.”**

E. **Abba Saul says, “In this matter the House of Hillel took the lenient position [and ruled they remain wed] while the House of Shammai take the strict position that they must be put away” [T. **Yeb. 5:1F-I**].**

- F. *In accord with whom does R. Simeon rule? If it is the view of the House of Shammai, well, that is just what R. Eliezer has said, and if it is the view of the House of Hillel, then that is what Abba Saul said!*
- G. *This is the sense of his statement: "The House of Shammai and the House of Hillel had no dispute on this matter."*

III.1 A. **[If] one of them [the sisters] was prohibited to one of the men by reason of being a forbidden degree [M. 2:3-4], he is prohibited to marry her. But he is permitted [to enter into levirate marriage] with her sister. And the second [brother] is prohibited [to enter into levirate marriage] with either of them:**

B. *Lo, we already have learned this rule as a Tannaite formulation: [If] her sister is [also] her sister-in-law [widow of her childless brother-in-law], she either executes the rite of removing the shoe or is taken into levirate marriage [M. 2:3D].*

C. *It was necessary to make this point here, for had we been given the rule in that context, we might have supposed that the rule applied there alone, because in that case, there is no need to take a precautionary measure on account of a second brother [Slotki: who might marry a sister of a woman obligated to him for the levirate connection, by mistaking the reason for the levirate marriage of his brother], but here, where there is no need to take such a preventive measure against a second brother [there being only one brother], I might have thought that that is not the case. And had the law been given only here, I might have supposed that the rule pertains here alone, because there is a second brother who proves it [Slotki: that there is a special reason why his brother may marry one of the sisters], but not in the case where there is no second brother [so people might draw the wrong inference]. So it was necessary to state the same rule in two contexts.*

IV.1. A. **This is a case in which they have stated [M. 2:3]: [In a case in which] her sister also is her sister-in-law awaiting levirate marriage, she either performs the rite of removing the shoe or enters into levirate marriage [there being no prohibition in such a case by reason of a woman's being the sister of one who is subject to levirate marriage with the surviving brother]:**

B. *This too we have already learned as a Tannaite statement: [28B] [If] she is prohibited [to her brother-in-law] by reason of a prohibition on account of a commandment or a prohibition on account of sanctity [e.g., the levir may not marry a woman of her caste], she executes the rite of removing the shoe but is not taken in levirate marriage.*

C. *There, what is at stake is only the case of one forbidden by reason of a commandment, but here, there is a prohibition by reason of a commandment and also because of her sister [Slotki: since two sisters, widows of two brothers, are involved here, one of them is forbidden not only as the sister of a woman subject to the levirate relationship with him but also by virtue of a commandment].*

D. *It might have entered your mind to suppose that the prohibition by reason of a religious duty is treated as equivalent to the prohibition by reason of incest [as the one is not classified as a woman in levirate relationship to him, so the same*

applies to the other], the sister should be taken into levirate marriage. Thus we are informed that that is not the case.

IV.2. A. *But how could the sister of a woman forbidden by reason of a commandment enter into levirate marriage? Since by the law of the Torah the sister-in-law forbidden by reason of a commandment is to enter into levirate marriage with him [the prohibition being only on the authority of rabbis], he would then enter into relationship with the sister of a woman obligated to him to enter into a levirate connection [and that is forbidden]!*

B. *You might have imagined that the permission to marry the sister of one who is subject to a levirate bond with him was made by the rabbis on account of the religious duty of levirate marriage [so as to fulfill that duty, in cases in which the woman is not forbidden by the law of incest but only by virtue of a religious duty, they removed the prohibition of the marital bond that rabbis have enacted (Slotki)]. So we are informed that that is not the case.*

V.1 A. **[If] one [of the sisters] was prohibited to one of the brothers by reason of being a forbidden degree, and the second was prohibited to another [of the brothers] by reason of being a forbidden degree, the one who is prohibited to this one is permitted to the other, and the one who is prohibited to the other one is permitted to this one:**

B. *Why say this point again? Lo, it's the same as the other [where one sister-in-law is forbidden to one levir and he is permitted to marry her sister (Slotki)]! Why is there any difference whether a woman is forbidden to one or to two brothers?*

C. *It was necessary to state the rule governing both situations. For had we the rule there, one might have supposed that the law applies there because there is a second brother to indicate the reason [one brother is forbidden to marry either sister, so the brother who can do so is subject to a special consideration (Slotki)], but that would not be the case here, where there is no second brother [Slotki: since both brothers marry the two sisters, it might be assumed that any levir may marry the sister of a woman subject to the levirate bond with him]. And if the statement were made only here, it might have been supposed to the contrary that both brothers provide proof in respect to each other [each brother can marry one particular sister, not the other, so it is obvious that the other is forbidden, and there can be no error about whether or not one may marry the sister of a woman who is subject to the levirate bond with him (Slotki)]. So we are informed that both are required.*

VI.1 A. **This is a case in which they have stated [M. 2:3]: [In a case in which] her sister also is her sister-in-law awaiting levirate marriage, she either performs the rite of removing the shoe or enters into levirate marriage [there being no prohibition in such a case by reason of a woman's being the sister of one who is subject to levirate marriage with the surviving brother]:**

B. *What case does the language **This is a case [in particular]** mean to exclude?*

C. *It serves to exclude the case in which one sister is forbidden by reason of a commandment to one brother, and the other by reason of a commandment to another.*

- D. *Yeah, well then why say this again? Isn't this just what was said before: [If one of them was prohibited] by reason of being prohibited as a commandment or prohibited by reason of sanctity [M. 2:3-4], [the sister] performs the rite of removing the shoe but does not enter into levirate marriage [M. 3:2D]? What difference does it make to me whether there is one or two?*
- E. *What might you otherwise have imagined? When we do not invoke the principle of a relationship prohibited by reason of a commandment, it is in the case of a prohibition by reason of the law of incest [to which it is not comparable in rank], but in a case in which there is no concern about not entering into a relationship with a second brother, we do say that where one brother is prohibited by reason of a commandment, that is of the same force as the prohibition by reason of incest; and also, in the case in which the other brother is prohibited by reason of a commandment, it is given the same force as the law of incest, with the result that the sisters may be taken in levirate marriage. Now we are informed that that reasoning is not accepted.*

- VI.2.** A. Said R. Judah said Rab, and so R. Hiyya repeated as a Tannaite formulation: "In the case of all of these [fifteen] cases, I maintain that one who is forbidden to one brother may be permitted to another, and one who is forbidden to another brother may be permitted to the one, and her sister who is her sister-in-law may be required to either carry out the rite or removing the shoe or enter into levirate marriage." And R. Judah interpreted that statement of Rab to speak of the items on the list from **the mother-in-law** onwards, but not to the first six items on the list! How come? Because in the case of the daughter, this [statement of Rab] applies only with one born from a woman who had been raped, but not one born from a legal marriage [for the latter would be forbidden to all the brothers], [and the author of our Mishnah] addresses only the cases of legal marriages and not those of women who have been raped [Slotki: who would be forbidden to all the brothers].
- B. *But Abbaye interpreted the statement of Rab to refer also to the daughter from a woman who had been raped by the father, because, since the application of Rab's statement is possible in her case, it makes no difference whether she was born from a woman who was legally married or from one who had been raped; but not to the wife of a brother who was not his contemporary. How come? Because the application of Rab's statement here is possible in accord only with the position of R. Simeon and not of rabbis, and the author of our Mishnah-paragraph does not deal with any matter that is subject to dispute.*
- C. *And R. Safra interprets Rab's statement to speak also of the case of the wife of a brother who was not his contemporary, and in his view, Rab's statement can encompass the case of six brothers, in accord with the view of R. Simeon. And the mnemonic for the whole is: died, born, and performed levirate marriage; died, born and performed levirate marriage.*
- D. [For example:] Reuben and Simeon were married to two sisters, and Levi and Judah were married to two women not related to them. Reuben died, Issachar was born, and Levi took the widow in levirate marriage. Simeon died, Zebulun was born, and Judah entered into a levirate marriage with the second widow. Levi and Judah died childless, and their widows became obligated to levirate marriage with

Issachar and Zebulun. The one who is forbidden to the one [the widow of Levi to Issachar, because he was born before the marriage of Levi had removed the levirate bond between Reuben's widow and the other brothers and thus came under the prohibition of marrying the wife of his brother who was not his contemporary (Slotki)] is permitted to the other [Slotki: to Zebulun, who was born after she had married Levi, and the levirate bond between her and the other brothers had been removed]; and she [the wife of Judah] who was forbidden to the other [Zebulun [Slotki: to whom the widow of Simeon stands in the same relation as the widow of Reuben to Issachar] is permitted to the first [Slotki: Issachar, who was Simeon's contemporary].

- E. In the example of "her sister who is her sister-in-law," why do I have Judah enter into levirate marriage? *Even if Judah did not do so, it is also possible.* [Slotki: for one sister to be forbidden to one brother and permitted to the other and vice versa; since the point may be illustrated by five brothers, why introduce six?]
- F. *It is because of the co-wife* [Slotki: it was desired to give an illustration that may be applicable to co-wives as well as forbidden relatives].
- G. *That poses no problem in respect to the co-wife, but what can you say about the co-wife of the co-wife* [Slotki: how is it possible that one co-wife's co-wife shall be forbidden to one brother and permitted to the other, and vice versa?]
- H. *It would involve a case in which Gad and Asher subsequently married them.*

3:4

- A. **Three brothers —**
- B. **two of them married to two sisters —**
- C. **or to a woman and her daughter —**
- D. **or to a woman and the daughter of her daughter —**
- E. **lo, these women perform the rite of removing the shoe and do not enter into levirate marriage.**
- F. **And R. Simeon declares exempt [from rite of removing the shoe and levirate marriage].**
- G. **[If] one of them was prohibited to him by reason of being a forbidden degree, he is prohibited to that one but permitted to [marry] her sister.**
- H. **[If the prohibition was] a prohibition deriving from a commandment or a prohibition of sanctity, the sisters perform the rite of removing the shoe but do not enter into levirate marriage.**

I.1 A. *It has been taught on Tannaite authority:* R. Simeon declares exempt in the case of both of them both as to performing the rite of removing the shoe and as to entering into levirate marriage, since it is said, "And you shall not take a woman to her sister to be a co-wife to her" (Lev. 18:18) — when they become co-wives, you may not marry even any one of them [even the first widow; so the exemption applies to all; he sees no distinction on the question of the levirate bond between one levir]."

II.1 A. **[If] one of them was prohibited to him by reason of being a forbidden degree, he is prohibited to that one but permitted to [marry] her sister:**

- B. *So here we go again! Why repeat the same rule that we have already been given: [If] one of them [the sisters] was prohibited to one of the men by reason of being a forbidden degree [M. 2:3-4], he is prohibited to marry her. But he is permitted [to enter into levirate marriage] with her sister. And the second [brother] is prohibited [to enter into levirate marriage] with either of them. [If one of them was prohibited] by reason of being prohibited as a commandment or prohibited by reason of sanctity [M. 2:3-4], [the sister] performs the rite of removing the shoe but does not enter into levirate marriage [M. 3:2]!*
- C. *It was necessitated by the position of R. Simeon. Since R. Simeon ruled that the two sisters do not undertake the rite of removing the shoe nor enter into levirate marriage, one might have supposed that there should be a precautionary measure against two sisters generally [forbidding levirate marriage even where the prohibition of one is due to the law of incest]. [Slotki: if permission to marry one of the sisters were given where one is forbidden by the law of incest, it might be mistakenly concluded that the levirate marriage is allowed even when none was forbidden by the law of incest.] So we are informed that that is not the case.*

III.1 A. [If the prohibition was] a prohibition deriving from a commandment or a prohibition of sanctity, the sisters perform the rite of removing the shoe but do not enter into levirate marriage:

- B. **[29A]** But lo, said R. Simeon, “The two sisters do not undertake the rite of removing the shoe and do not enter into levirate marriage”! [Slotki: owing to the levirate bond which, on the law of the Torah, binds both sisters to the levir. Why then should there be a rite of removing the shoe here, where on the law of the Torah both sisters are subject to levirate marriage, and each is therefore forbidden as the sister of a woman who is subject to the levirate relationship to the man?]
- C. *This is a precautionary decree against any other case in which the prohibition is due to a commandment. [Slotki: were the rite of removing the shoe to be omitted in this case, the false conclusion might be formed that it is to be omitted in all cases where the prohibition is due to a commandment, even if the question of the sister of a woman subject to the levirate connection did not arise.]*
- D. *Well, that poses no problem in respect to the woman herself [the sister forbidden by a commandment], but what about her sister [why should she have to carry out the rite of removing the shoe, since she is the sister of a woman subject to the levirate connection (Slotki)]?*
- E. *It is a precautionary decree as a preventive measure covering the woman herself.*
- F. But lo, with respect to a case in which one is forbidden by reason of incest, we make no such precautionary decrees [e.g., M. 3:4G: **If one of them was prohibited to him by reason of being a forbidden degree, he is prohibited to that one but permitted to marry her sister!**]
- G. *The case of incest is exceptional, because it's something that people will know, and the prohibition involved is well known.*

3:5

- A. Three brothers —**
- B. two of them married to two sisters —**

- C. and one [the third] of them is unmarried —
 - D. one of the husbands of the sisters died, and this one who was unmarried bespoke her [the surviving sister] —
 - E. and afterward his other brother died —
 - F. the House of Shammai say, “His wife [the bespoken woman] remains with him. And that other [sister] goes forth on the grounds of being the sister of his wife.”
 - G. And the House of Hillel say, “He divorces his wife with a writ of divorce and with the rite of removing the shoe, and the wife of his brother with a rite of removing the shoe.
 - H. “This is the sort of case concerning which they have stated, ‘Woe is him because of his wife, and woe is him because of the wife of his brother!’”
- I.1** A. [“This is the sort of case concerning which they have stated, ‘Woe is him because of his wife, and woe is him because of the wife of his brother!’”:]
What does the language This is the sort of case mean to exclude?
- B. *It is meant to exclude what R. Joshua said [R. Joshua says, “Woe to the man on account of his wife, and woe to the man on account of the wife of his brother! He puts away his wife with a writ of divorce, and the wife of his brother with a rite of removing the shoe” (M. Yeb. 13:7L-M)], indicating that we do not act in accord with his position but rather in accord with the view of either Rabban Gamaliel or R. Eliezer.*
- I.2.** A. *Said R. Eleazar, “You should not suppose that in the view of the House of Shammai, an act of bespeaking effects a complete acquisition of the woman as a wife, so that, if the husband then wishes to get rid of her, a mere writ of divorce is enough. Rather, from the perspective of the House of Shammai, an act of bespeaking suffices only so as to eliminate her co-wife” [Slotki: her co-wife who is her sister does not cause her to be forbidden to the levir as the sister of a woman who is subject to the levirate relation with him].”*
- B. *Said R. Abin, “So we too have learned the same thing in the formulation of the Mishnah’s rule: the House of Shammai say, “His wife [the bespoken woman] remains with him. True enough, she may remain with him, but to begin with they may not marry the women. [Slotki: because each one is the sister of a woman subject to the levirate connection with him]. [29B] Now if you should suppose that, in the view of the House of Shammai, an act of bespeaking effects a complete acquisition of the woman as a wife, then let the one levir undertake an act of bespeaking, which will thereby effect a complete act of acquisition, and let the other do the same [so the prohibition of the sister of a woman subject to the levirate connection would be removed, and both levirs could marry the respective sisters-in-law (Slotki)].*
 - C. *But what are you thinking? That a permitted act of bespeaking [Slotki: one addressed to a sister in-law in a case where levirate marriage with her was permissible at the time] keeps the co-wife out while one that is forbidden does not? So here too, even according to him who holds that an act of bespeaking effects a complete acquisition of the woman as a wife, it is only an act of bespeaking that is permitted that effects acquisition of the woman as a wife, but not one that is*

forbidden [that is, when two sisters were subject to the levirate marriage prior to the act of bespeaking].

- D. *R. Ashi repeated the matter in the following formulation: “Said R. Eleazar, ‘You should not suppose that in the view of the House of Shammai, an act of bespeaking that is permitted keeps the co-wife [the sister-in-law subject to the levirate bond, like her sister who is the other sister-in-law] the co-wife entirely out, so that she does not require even a rite of removing the shoe; rather, while it keeps her out of consideration [Slotki: so that she cannot cause the prohibition of the other, to whom the bespeaking is addressed], she nonetheless is subject to a partial bond [involving the rite of removing the shoe, if she wishes to marry a third party before the marriage of her sister and the levir].’*
- E. *“Said R. Abin, ‘So we too have learned the same thing in the formulation of the Mishnah’s rule: **the House of Shammai say, “His wife [the bespoken woman] remains with him.** True enough, she may remain with him, but to begin with they may not marry the women. Now if you should suppose that, in the view of the House of Shammai, an act of bespeaking that is permitted keeps the co-wife [the sister-in-law subject to the levirate bond, like her sister who is the other sister-in-law] the co-wife entirely out, let the one levir undertake an act of bespeaking, which will thereby completely keep the co-wife out, and let the other do the same.’”*
- F. *But surely it was taught, **the House of Shammai say, “His wife [the bespoken woman] remains with him. And that other [sister] goes forth on the grounds of being the sister of his wife!***
- G. *Rather, a deceased childless brother’s widow who is eligible for either rite [both for levirate marriage and also the rite of removing the shoe, as in our rule, where the act of bespeaking one sister prior to the death of the husband of the other subject the other also to the same levir (Slotki)] is also eligible for part of the rites [the bespeaking, which would completely eliminate the other when her husband dies and she is obligated to the levir (Slotki)], and a deceased childless brother’s widow who is not eligible for either rite is also not eligible for part of the rites.*

I.3. A. *Rabbah raised this question: “From the perspective of the House of Shammai, does the act of bespeaking effect the relationship of a consummated marriage or a betrothal?”*

- B. *Said to him Abbaye, “What practical difference does it make? If one should say that it has to do with the matter of inheriting her estate [a husband inherits his wife’s estate], or to contract uncleanness on her account, or to remit her vows, in point of fact in the case of a routine betrothal, R. Hiyya has stated as the Tannaite rule, at the stage of betrothal, the husband is not subject to the laws governing him who has suffered a bereavement and not yet buried his died, nor does he contract uncleanness on her account, and she is likewise not subject to those laws nor does she contract uncleanness on his account, and if she dies, he does not inherit her estate, though if he dies, she does collect her marriage-settlement, then is there any need to raise the issue in a case in which there has been a mere act of bespeaking? [Obviously, the same rule will apply as Hiyya has said.] Rather, the question has to do with the issue of*

whether or not this act of bespeaking involves introducing her into the bridal canopy. Specifically, does the act of bespeaking constitute a marriage so that there is no need of bringing her into the bridal canopy [she is simply regarded as a wife, even if sexual relations were against her will; if he wants to get rid of her, a writ of divorce is enough, without a rite of removing the shoe]? Or perhaps it is merely an act of betrothal, such that bringing her into the bridal canopy still is required?"

- C. *He said to him, "If in a case in which he did not carry out an act of bespeaking, Scripture nonetheless states, 'Her husband's brother shall go in unto her' (Deu. 25: 5) — even against her will, if he carried out an act of bespeaking, can there be any question on the consequences?"*
- D. *He said to him, "Sure, for I hold that whoever carries out an act of bespeaking in the case of his deceased childless brother's widow — the levirate bond thus is removed, so that she comes under the bond of betrothal."*
- E. *So what's the law?*
- F. *Come and take note: **A deceased childless brother's widow awaiting levirate marriage, whether with a single levir or with two levirs — R. Eliezer says, "He annuls her vows."** R. Joshua says, "That is the case with one but not with two." R. Aqiba says, "That is the case neither with one nor with two" [M. Ned. 10:6A-D]. Now when we reflect on this statement, we note: there is no problem in understanding the view of R. Aqiba, for he holds that there is no levirate bond even in the case of one [for the levir cannot annul vows, though a husband can] and according to R. Joshua, there can be a levirate bond where there is only one levir but not where there are two [since in the former case, we know whom she will marry]. But from the perspective of R. Eliezer, while there is a levirate bond, we can understand why in the case of one he may annul the vows, but why in the case of two? And in that regard, R. Ammi replied, "Here with what situation do we deal? It is one in which he performed the act of bespeaking with her, and it represents the position of the House of Shammai, which has said, 'The act of bespeaking effects a complete acquisition of the woman as a wife.'"* Now if you concede that the act of bespeaking is tantamount to marriage, we can well understand why he may release her vows. But if we assume it is a mere betrothal, how can he nullify the vows? Have we not learned in the Mishnah: **A betrothed girl — her father and her husband annul her vows [M. Ned. 10:1A]?**
- G. *Said R. Nahman bar Isaac, "What is the meaning of 'annul'? It means, jointly."*
- I.4.** A. *Now from the perspective of R. Eleazar, who has said, "In the view of the House of Shammai, an act of bespeaking does not effect a complete acquisition of the woman as a wife, except so far as to keep out the co-wife," [thus the act of bespeaking is not even tantamount to betrothal], why should the annulment be carried out jointly [by the levir and the father, as in the case of betrothal]?*

- B. *R. Eleazar will say to you, “When I maintain, as I do, that an act of bespeaking does not effect a complete acquisition of the woman as a wife, except so far as to keep out the co-wife, that is only to show that a writ of divorce will not suffice, but a rite of removing the shoe is required. But have I ever said a word on annulling vows?”*
- C. *If you prefer, I shall say, “R. Eleazar will say to you, ‘From the perspective of R. Nahman bar Isaac, is the matter all that clear anyhow? Surely the language that is used is not they may annul but he may annul in the singular [so how claim that there is ever joint annulment]? Rather, here with what sort of a case do we deal? It is one in which the levir came before the court and [refused to enter into levirate marriage or submit to the rite of removing the shoe, so] the court provided for her support out of his property. And this accords with what R. Phineas said in the name of Raba, for said R. Phineas in the name of Raba, ‘Any woman who takes a vow does it on condition of her husband’s approval’ [and since he supports her, he is in that status for the present purpose].”*

3:6A-H

- A. **[30A] Three brothers —**
- B. **two of them married to two sisters —**
- C. **and one of them [the third] married to an unrelated woman —**
- D. **one of the husbands of the sisters died, and the brother married to the unrelated woman married his [the deceased, childless brother’s] widow,**
- E. **and [then] he [the brother who was married to the unrelated woman and also to the widow of his deceased, childless brother went and] died —**
- F. **the first woman goes forth [without rite of removing the shoe or levirate marriage] as the sister of his wife, and the second on the grounds of being her co-wife [neither one therefore entering into levirate marriage or requiring a rite of removing the shoe with the surviving brother].**
- G. **[If] he bespoke her [D] and died,**
- H. **the unrelated woman performs the rite of removing the shoe but does not enter into levirate marriage.**
- I.1 A. [[If] he bespoke her [D] and died, the unrelated woman performs the rite of removing the shoe but does not enter into levirate marriage:]** *the operative consideration is that he bespoke her. Lo, if he had not done so, the unrelated woman also would have been subject to levirate marriage [Slotki: despite the fact that the first widow is also subject to the levir].*
- B. Said R. Nahman, “That is to say, There is no levirate relationship, even in the case of one brother.” [Slotki: between the widow of the deceased brother and the levirs; as here, where only one brother could possibly marry her, she is forbidden to the other as his wife’s sister; even in such a case the mere subjection of the widow to the levir does not constitute a levirate bond to attach her to him as if she had been his actual wife.]

3:6I-Q

- I. Three brothers —
- J. two of them married to two sisters —
- K. and one of them married to an unrelated woman —
- L. the one married to the unrelated woman died —
- M. and one of the brothers married to the sisters married his wife,
- N. then he too died —
- O. the first woman goes forth on grounds of being the sister of his wife, and the second on grounds of being the co-wife,
- P. [If] he bespoke her and then died,
- Q. the unrelated woman performs the rite of removing the shoe, and does not enter into levirate marriage.

- I.1** A. *Why repeat the rule, when the cases are the same?! For if, where the wife's sister is merely a co-wife to an unrelated woman [the first wife], it is said that the unrelated woman is forbidden to enter into levirate marriage, how much more so should the unrelated woman be kept out of levirate marriage here, where the unrelated woman is the co-wife of a wife's sister [who is the first wife]?*
- B. *The Tannaite author of the passage first set forth this formulation of the rule, and the other passage [which now appears first in line] was held by him as a permitted case, so he permitted [the unrelated woman to be taken into levirate marriage by the surviving brother]. [Slotki: because the prohibition that arose from her husband's wife's sister was imposed upon her later, after she had been lawfully married to her husband, and after a period during which, had he died without issue, she would have been permitted to enter into levirate marriage with his brother; it was not the intention to include this case in a Mishnah-paragraph at all.] But then he reached the conclusion that it was a case to be forbidden [Slotki: since her co-wife was after all the surviving brother's wife's sister], and, since it was a valuable point for him to make, he put it first; and the other formulation [the one at hand] was left in its original position.*

3:7A-H

- A. Three brothers —
- B. two of them married to two sisters —
- C. and one of them married to an unrelated woman —
- D. one of the husbands of the sisters died, and the one married to an unrelated woman married his widow —
- E. and then the wife of the second brother died,
- F. and afterward the brother married to the unrelated woman died —
- G. lo, this [surviving sister] is prohibited to him for all time,
- H. since she had been prohibited to him for one moment [when her husband died, she was forbidden to his brother then married to her sister, as his wife's sister].

- I.1** A. Said R. Judah said Rab, “Any levirate widow to whom the law, ‘her husband’s brother shall go into her’ (Deu. 25: 5) does not apply when she enters the obligation of the levirate connection — lo, such a one is regarded as equivalent to the wife of a brother who has children and so is forbidden.”
- B. *What does he propose to tell us, when we have learned the same fact in the Mishnah’s formulation: lo, this [surviving sister] is prohibited to him for all time, since she had been prohibited to him for one moment [when her husband died, she was forbidden to his brother then married to her sister, as his wife’s sister]?*
- C. *What might you otherwise have supposed? That is the rule in a case in which she was not suitable to him under any circumstances during the time that she was first subject to the levirate relationship, but if she was in some aspect suitable for him during that time, one might have supposed that she should be permitted; so we are informed that that is not the case.*
- D. *But lo, this too we have learned in the Mishnah’s formulation: Two brothers married to two sisters — and one of them died — and afterward the wife of the second died — lo, this one [surviving sister] is prohibited to him for all time, since she was prohibited to him for a single moment [as his wife’s sister] [3:9I-L]!*
- E. *What might you otherwise have supposed? That is the rule in a case in which she was entirely forced out of that house [Slotki: when her husband died and she was not permitted to marry his only surviving brother, whose wife’s sister she was, her connection with her husband’s family had been completely severed; she was free to marry any strange]; but here, in a case in which she was not completely forced out of that house [being under an obligation to the third brother], one might have imagined that since she is suitable for the brother married to an outsider, she also is suitable for the other brother [who was the husband of her now-deceased sister]; so we are informed that that is not the case.*

3:7I-O

- I.** Three brothers —
- J.** two of them married to two sisters,
- K.** and one of them married to an unrelated woman —
- L.** one of the husbands of the sisters divorced his wife —
- M.** and the brother married to the unrelated woman died —
- N.** and the one who divorced his wife married her [the unrelated woman], and he too died —
- O.** this is the sort of case concerning which they have stated, “And in the case of all of them who died or were divorced, their co-wives are permitted [M. 1:1], [for the unrelated woman taken in levirate marriage never was the co-wife of the sister of the wife of the surviving brother. The sister had been divorced before the levirate marriage to the unrelated man ever took place].
- I.1** A. *The operative consideration [that the unrelated woman married by the levir who was one of the husbands of sisters may now marry the last surviving brother] is that he had first divorced his wife, and then his brother died; but if the first*

husband of the unrelated woman had first died, and then the brother divorced his wife, the unrelated woman would be forbidden.

- B. *Said R. Ashi, "That is to say, A levirate connection is present even in the case of two brothers" [Slotki: since in the case under discussion, the widow whose husband died before one of the sisters had been divorced was subject to two levirs, and is nevertheless regarded as the co-wife of the divorced sister, in consequence of which she is forbidden to the last surviving brother].*
- C. *Then the inference drawn by R. Nahman represents a problem to the view of R. Ashi! [Said R. Nahman, "That is to say, There is no levirate relationship, even in the case of one brother."*
- D. *R. Ashi will say to you, "That same rule, that the unrelated woman is to undergo the rite of removing the shoe and does not enter into levirate marriage, applies even in a case in which there has been no acting of bespeaking, and the only reason that the act of bespeaking has been raised to begin with [in the passage to which Nahman's comment is appended] is to exclude the position of the House of Shammai, which maintain that the act of bespeaking effects [30B] a complete acquisition of the woman as wife. Thus he informs us that that is not the case."*
- E. *Well, then, R. Ashi's position presents a problem for the inference drawn by R. Nahman! And should you say that the same rule applies, since if the first husband of the unrelated woman died first, and then the other brother divorced his wife afterwards, her co-wife would be permitted to marry the third surviving brother, her co-wife is permitted, then what would the language, **this [in particular] is the sort of case**, mean to exclude?*
- F. *It would exclude a case in which he married the unrelated woman first, and then divorced his wife. [Slotki: in such a case since she was actually married, the unrelated woman is regarded as the co-wife of the third brother's wife's sister, though at the time she becomes subject to him, she and his wife's sister have ceased to be co-wives.]*
- G. *That poses no problems, if R. Nahman concurs with the view of R. Jeremiah, who said, [In reference to the statement of the Mishnah, **How [do we define a case in which] if their co-wives died, they are permitted? [If] his daughter or any one of all those forbidden degrees was married to his brother, and he [the brother] had another wife, and his daughter died or was divorced, and afterward his brother died [without children] — her co-wife [now no longer a co-wife of his daughter] is permitted [to enter levirate marriage with him]:** Is that so even if the deceased brother married the co-wife and then divorced the first wife [the forbidden one]. [Slotki: in such a case, is the co-wife, though the two were co-wives prior to the divorce, permitted to the levir wherever the forbidden relative was dead or divorce at the time the husband died and the question of the levirate marriage arose?] *Then an objection may be raised: **Three brothers — two of them married to two sisters, and one of them married to an unrelated woman — one of the husbands of the sisters divorced his wife — and the brother married to the unrelated woman died — and the one who divorced his wife married her [the unrelated woman], and he too died — this is the sort of case concerning which they have stated, "And in the case of all of them who died or were divorced, their co-wives are permitted [for the****

unrelated woman taken in levirate marriage never was the co-wife of the sister of the wife of the surviving brother. The sister had been divorced before the levirate marriage to the unrelated man ever took place] [M. 3:7I-L]. So the operative consideration that the co-wife is permitted] is that he divorced and then married. But if he had married and then divorced, that would not be the case] “Split it up: the person who repeated the one formulation did not repeat the other formulation. The one Tannaite authority [behind our Mishnah’s rule] takes the position that death is what imposes upon the widow the levirate connection, and the other Tannaite authority maintains that it is the original marriage that subjects her to the possibility of the levirate connection.” Then, one Tannaite authority takes the view that it is the death of the childless brother that subjects the widow to the levir, and the other Tannaite authority maintains that it is the original marriage to begin with that subjects the widow to the levir, and the language at hand, **this [in particular] is the sort of case**, means to exclude the case in which he first marriage [the unrelated woman] and then divorced his wife. But if he takes the position of Raba, in that same context, who said, “In point of fact we deal with a single Tannaite authority, and the sense of **this is the sort of case** is, this, and there is no need to say, that too,” what does the language, **this [in particular] is the sort of case**, mean to exclude?

- H. [Nahman] has no choice but to accept the position of R. Jeremiah.
- I. Now from Raba’s perspective [Slotki: who holds the view that the subjection to levirate marriage is caused by the death of the childless brother, and the co-wife is permitted to the surviving levir even if the deceased had married her prior to his divorcing his wife, who is the sister of the surviving levir’s wife], that poss no problem if he concurs with R. Ashi [that a levirate bond exists], in which case, the language, **this [in particular] is the sort of case**, means to exclude the case of one who died without first divorcing his wife [Slotki: and without marrying the unrelated woman, who would nonetheless be forbidden to the surviving third brother on account of the levirate bond]. But if he concurs with R. Nahman, what does the language, **this [in particular] is the sort of case**, mean to exclude?
- J. Raba had no choice but to concur with R. Ashi.

3:8

- A. And in every case [of M. 1:1’s fifteen relatives] in which the betrothal or divorce [of the deceased brother] is subject to doubt,
- B. lo, these, the co-wives perform the rite of removing the shoe but [of course] do not enter into levirate marriage.
- C. What is a case of doubt concerning betrothal?
- D. [If] he threw her a token of betrothal —
- E. it is a matter of doubt whether it landed nearer to him or nearer to her —
- F. this is a case in which there is doubt concerning betrothal.
- G. And a case of doubt concerning a writ of divorce?
- H. [If] one wrote the writ of divorce in his own hand, but there are no witnesses to attest the document —
- I. [if] there are witnesses to attest the document, but it is not dated —

- J. [if] it is dated, but it [contains the attestation of] only a single witness —
K. this is a case in which the divorce is subject to doubt.

- I.1 A. *Now with reference to the writ of divorce, we do not find the language, it is a matter of doubt whether it landed nearer to him or nearer to her. How come?*
- B. Said Rabbah, “This woman [co-wife] had been assumed to be permissible to anybody [for the co-wife of a forbidden relative is not subject to levirate marriage or undergoing the rite of removing the shoe and can marry anybody she wants]. Are you now proposing merely on the basis of what is subject to doubt to forbid her from remarrying? Do not place a prohibition on her merely by reason of a doubt!”
- C. *Said to him Abbayye, “If so, then why not invoke the same consideration when it comes to betrothal, namely: this woman had been assumed to be permissible to the levir. Are you now proposing merely on the basis of what is subject to doubt to forbid her from entering into levirate marriage with him? Do not place a prohibition on her merely by reason of a doubt”!*
- D. *Well, in that case [betrothal] it is a stringent result [she cannot marry the levir].*
- E. *Well, it may be a stringent rule, but it may produce a lenient result. For it might happen that he might betroth her sister [the sister of the one subject to the dubious betrothal] by a betrothal that was not subject to doubt, or it might happen that someone else might betroth her herself by a betrothal that was not subject to doubt, and, since the master has forbidden her rival to enter into levirate marriage, it might be assumed that the betrothal of the first was valid, and that of the second was invalid.”* [Slotki: because in the first case he betrothed his wife’s sister, and in the second, he betrothed a married woman; in the latter case the betrothal being regarded as invalid, the woman might illegally marry another man; in the former case, should he die without issue, his maternal brother might illegally marry her, believing her never to have been the wife of his brother].
- F. **[31A]** *Since the co-wife is required to undergo the rite of removing the shoe, it is well known that the prohibition of her entering into the levirate marriage is a mere restriction [and not because betrothal of the forbidden relative was valid (Slotki)].*
- G. *If so, then in the case of the divorce too [as in that of the betrothal], state as part of the Tannaite formulation the issue of uncertainty on where the writ of divorce ended up, and require her to perform the rite of removing the shoe, and it will be well known that it was a mere restriction.*
- H. If you say that she is to perform the rite of removing the shoe, she may enter into levirate marriage just as well.
- I. *Here too: If you say that she is to perform the rite of removing the shoe, she may enter into levirate marriage just as well!*
- J. *So let her enter into levirate marriage, and what difference will it make, since all that happens is that she remains in her prior status [of marriage to the levir].*
- K. *Abbayye objected [to Rabbah’s explanation]: “[If] a house collapsed on him and on the daughter of his brother [his wife] and it is not known which of them died first, her co-wife performs the rite of removing the shoe and does*

not enter into levirate marriage [M. 7:4E-F]. *But why should this be the case? Why not invoke here the same principle, namely, this woman is assumed to be permitted to marry anyone of her choice, and on account of doubt, are you going to come along and prohibit her? Don't prohibit her by reason of a mere doubt! And should you propose that here too the prohibition is on account of imposing a more restrictive rule, one may reply that it is a strict rule that may produce a lenient one, since, if you say she should perform the rite of removing the shoe [because she may or may not be required to do so by reason of doubt], she might also be taken in levirate marriage.* ”

- L. *In regard to a writ of divorce, which is commonplace, rabbis made a precautionary decree [that when the divorce is subject to doubt, the co-wife must not perform the rite of removing the shoe, since this might lead to the supposition that she may also enter into levirate marriage], but in the case of the collapse of a house, which is not common, rabbis made no such precautionary decree.*
- M. *Or also: in the matter of divorce, in the case of divorce, in which case the forbidden relation is right there, which is readily shown, if the co-wife were required to enter into the rite of removing the shoe, people might say that rabbis had clarified that the writ of divorce was a valid document [and the forbidden relative was no longer the wife of the deceased], and the co-wife might be taken in levirate marriage; in the case of a house that collapsed, rabbis hardly can have clarified who was the first one to be killed in the disaster [and it would be obvious that the requirement of the rite of removing the shoe was a mere additional precautionary measure, not a mark that there really had been a strong levirate connection (Slotki)].*
- N. *And have we not learned in the Mishnah: **[If] she was standing in a public place and he threw it to her, [if] it is nearer to her, she is divorced. [If] it is nearer to him, she is not divorced. [If] it is exactly halfway, she is divorced and not divorced [M. Git. 8:2H-J].** And reflecting in that connection: for what practical purpose is this rule stated? It is so that, if he is a priest, she will be forbidden to him, but and if she was related to him in a consanguineous relationship, her co-wife will require the rite of removing the shoe. But we did not say in that connection, If you say that she performs the rite of removing the shoe, she might then enter into levirate marriage!*
- O. *Lo, it has been stated in that connection: Rabbah and R. Joseph both say, “Here we deal with a case in which there are two groups of witnesses. One says, ‘It landed nearer to her,’ and the other says, ‘It landed near to him.’ In this case the matter of doubt involves a prohibition that derives from the Torah. But our Mishnah’s rule speaks of only a single group [one witness contradicting another], in which case the matter of doubt is of merely rabbinical status.”*
- P. *So on what basis do you maintain that our Mishnah’s rule speaks of only a single group [one witness contradicting another]?*
- Q. *It is analogous to the matter of the betrothal [mentioned in the very same context]. Just as in the betrothal, there is only a single group involved in the action, so in the matter of the divorce, there is only a single group involved in the action.*

- R. *So how do you know that in the betrothal at hand itself, there is only a single group involved in the action? Maybe there were two groups of witnesses involved in that action?*
- S. *If there were two groups of witnesses involved in the matter, then let her enter into levirate marriage, and there is no objection whatsoever to that act [Slotki: since the evidence of one pair would have been sufficient to confirm the rival in her status of permissibility to the levir; hence as levirate marriage was forbidden, it cannot be a case of two groups of witnesses].*
- T. *Witnesses are standing there and declaring that the token of betrothal is nearer to her [a doubt resting on the law of the Torah], and you say, then let her enter into levirate marriage, and there is no objection whatsoever to that act! And furthermore, even in a case in which there are two groups of witnesses, the doubt is merely by reason of the authority of rabbis, since one can just as well say, "Match one pair against the other and let the woman remain in her original status." [Slotki: when even in the case of divorce itself, when the two groups of witnesses cancel each other, should the rival, who was hitherto permitted to marry anyone, now be required to perform the rite of removing the shoe?] That is in line with the case of a certain deranged person. For a certain deranged person sold some property. Two witnesses came along and said, "He did so when he was of sound sense," and another pair came and said, "He did so when he was deranged." And said R. Ashi, Match two against two, **[31B]** and the land then is confirmed in the domain of the deranged person."*
- U. *Rather, said Abbaye, "'Its neighbor tells concerning it' (Job. 36:33): the Tannaite authority at hand sets forth a rule in the context of betrothal, and that rule pertains also to divorce [so that issues of doubt are resolved in the same manner], and likewise what the Tannaite authority has set forth in the setting of the divorce pertains also to betrothal."*
- V. *Said to him Raba, "If it is the fact that 'Its neighbor tells concerning it' (Job. 36:33), then what is the meaning of **this is a case in which there is doubt concerning betrothal...this is a case in which the divorce is subject to doubt, [and what is thereby excluded]?**"*
- W. *Rather, said Raba, "Any rule that applies to betrothal [**it is a matter of doubt whether it landed nearer to him or nearer to her**] also applies to divorce, but there are rules that apply to divorce that do not apply to betrothal. And the point of **this is a case in which the divorce is subject to doubt** is not to be taken at face value, but simply because that language was used with reference to betrothal, it was repeated also with regard to divorce."*

I.2. A. *And what is the language, **this is a case**, meant to exclude?*

- B. *It is meant to exclude the question of the date of a document, which has no bearing in a case of betrothal.*
- C. *And how come the sages did not ordain that a date should be inscribed on a document of betrothal? That would pose no problem to him who says that the reason that the date is required in a writ of divorce is on account of the usufruct, since the betrothed woman has no claim on regaining the usufruct [the one who betroths her has no claim on the usufruct of her estate prior to marriage]; but*

from the perspective of him who holds that a date is required because of one's sister's daughter [Slotki: who was his wife and had committed adultery; her uncle, in his desire to protect her, might supply her with an undated letter of divorce, which would enable her to escape her due punishment by pleading that the offence had been committed after she had been divorced], including a date should be provided in the document of betrothal as well!

- D. *It is because there are those who betroth with money and those who betroth with a writ, and rabbis did not ordain the inclusion of a date in the latter.*
- I.3.** A. *Said R. Aha b. R. Joseph to R. Ashi, "Lo, there is the case of the slave, in which instance some people acquire title through money and others through a deed, and yet the rabbis provided for the inclusion of a date in the document."*
- B. *In the case of a slave title is transferred ordinarily through a deed, but in the present case, it is usually by money. If you prefer, I might say, it is because it is not feasible to insert a deed in a writ of betrothal. For what is to be done? If the writ of betrothal is left with her, she might erase the date. If it is left with him, then it might happen that the betrothed was his sister's daughter, and he would shield her by falsifying the date. And if it were left with the witnesses, then, if they remember, they could give evidence, and if not, they could consult the document and then come and give evidence, against what the All-Merciful has said, "out of their mouth" (Deu. 17: 6), and not out of written notes.*
- C. *You can say the same of the writ of divorce!*
- D. *In the case of the divorce, the document serves to save her [from the charge of adultery], but here it comes to obligate her [proving that she is permitted only to the betrothed].*

3:9A-H

- A. **Three brothers married to three unrelated women —**
- B. **and one of the men died,**
- C. **and the second brother bespoke her [the widow of his brother]**
- D. **and then he too died —**
- E. **lo, these perform the rite of removing the shoe and do not enter into levirate marriage,**
- F. **since it is said, "And one of them dies... her brother-in-law will come unto her" [Deu. 25:5] —**
- G. **[referring to] the one who is subject to the levirate power of a single brother-in-law, and not the one who is subject to the levirate power of two brothers-in-law.**
- H. **R. Simeon says, "He [the surviving brother] takes in levirate marriage whichever one he wants and performs the rite of removing the shoe with the second woman."**
- I.1** A. *If the levirate bond is with two levirs by the law of the Torah [as maintained by rabbis vis à vis Simeon], then she should also not have to undertake the rite of removing the shoe!*
- B. *It is on the authority of rabbis, a decree to take precautions against the assumption that two deceased childless brother's widows deriving from the same*

house [widows of the same brother] may both enter into levirate marriage with the brothers.

- C. *Then let one enter into levirate marriage and the other perform the rite of removing the shoe.*
- D. *Not doing so is a precautionary decree lest people say that one house was partially built [32A] and partially undone.*
- E. *Well, so let people think so!*
- F. *If he first entered into levirate marriage and then went through the rite of removing the shoe, there would be no objection; but the precautionary measure addresses the possibility that he will first enter into the rite of removing the shoe and then contract the levirate marriage, and he will violate the rule “that does not build up” (Deu. 25: 9), meaning, the All-Merciful has said, “Since he has not built, he may never again build” [and once he has carried out the rite of removing the shoe, he cannot then undertake the levirate marriage].*

- I.2. A. *Said Raba, “If one handed over a writ of divorce covering his act of bespeaking [nullifying his statement of intent], the co-wife has been permitted [to marry the third surviving brother if the second died without issue; the two widows are no longer co-wives, since the writ of divorce has annulled the act of bespeaking, and the widows are of two different brothers deriving from two different houses (Slotki)]. But she herself is forbidden, since she might be thought to be one who holds a writ of divorce” [by reason of the levirate bond, not the bespeaking, and she is prohibited in line with 1.F (Slotki)].*
- B. *There are those who say, “said Raba, ‘If one handed over a writ of divorce covering his act of bespeaking [nullifying his statement of intent], even she [not only the co-wife] has been permitted. How come? Because what he has done to her he has undone.” [Slotki: the bespeaking by which he bound her he has himself annulled].*

3:9I-L

- I. **Two brothers married to two sisters —**
- J. **and one of them died —**
- K. **and afterward the wife of the second died —**
- L. **lo, this one [surviving sister] is prohibited to him for all time, since she was prohibited to him for a single moment [as his wife’s sister].**

- I.1 A. *So what else is new! If there [where there were three brothers, two married to two sisters], where [the widow of the first brother] was not entirely excluded from that house [Slotki: though she had been forbidden to the second brother, who was married to her sister, she was permitted to the third and remained in the family], it is said that she is forbidden [Slotki: to the second brother after the death of the third brother who had married her, owing to the original prohibition, which may have lasted for one moment only, even after his wife, her sister, had died], how much the more so here [with only two brothers], where the widow is entirely excluded from that house [Slotki: when he husband died there was not a single brother whom she was permitted to marry]!*

- B. *The Tannaite framer of this passage presented this rule to begin with, while the corresponding one [Three brothers — two of them married to two sisters — and one of them married to an unrelated woman — one of the husbands of the sisters died, and the one married to an unrelated woman married his widow — and then the wife of the second brother died, and afterward the brother married to the unrelated woman died — lo, this surviving sister is prohibited to him for all time, since she had been prohibited to him for one moment when her husband died, she was forbidden to his brother then married to her sister, as his wife's sister (M. 3:7A-H)] appeared to him as a permissible case [Slotki: since there the woman was not entirely forced out of the family]. So he regarded it as permitted [and did not present it in a Mishnah-paragraph]. Then he regarded it as a forbidden [Slotki: as after all in the case of the second brother the levirate marriage was for a time forbidden to her], and since he valued the case, he gave it precedence and presented it first, while the present Mishnah-paragraph did not move from its location [Slotki: though in the presence of the other Mishnah-paragraph it is indeed superfluous].*

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

- B. **“If the levir had sexual relations with the widow [while his wife was still alive], he is liable on her account on the count of having sexual relations with the wife of his brother and also on the count of his wife's sister,”** the words of R. Yosé.
- C. **R. Simeon says, “He is liable only on the count of his brother's wife alone”** [cf. T. **Yeb. 5:8E-H**].

I.3. A. *But lo, it has been taught on Tannaite authority: R. Simeon says, “He is liable only on the count of his wife's sister alone”!*

- B. *There is no contradiction.* The one speaks of a case in which the surviving brother married first, then the now-deceased one married afterwards. [The prohibition of the wife's sister came into force first, then the prohibition of the other sister, and the added prohibition on the count of the brother's wife could not take effect where one prohibition was in force (Slotki).] The other speaks of a case in which the now-deceased brother got married first, and then the now-surviving brother got married.
- C. *And as to the position of R. Simeon, in a case in which the now deceased brother got married and then the now-surviving brother did, since the prohibition on the count of the sister's wife does not apply, let her actually enter into levirate marriage?*
- D. *Said R. Ashi, “The prohibition on the count of the wife's sister is suspended, and when the prohibition on the count of the brother's wife is removed, that prohibition comes into force, so it cannot be treated as though it were not present at all.”*

I.4. A. *And does R. Yosé take the view that a prohibition may apply to that which is already subject to a prohibition [a prohibition can apply to something that is forbidden already by reason of another injunction]?*

- B. *And have we not learned in the Mishnah, **He who is declared liable to be put to death through two different modes of execution at the hands of a court is***

judged to be executed by the more severe. If he committed a transgression which is subject to the death penalty on two separate counts, he is judged on account of the more severe. R. Yosé says, “He is judged by the penalty that first applies to what he has done” [M. San. 9:4A-C]. And it has been taught on Tannaite authority: How is this done? Said R. Yosé, “**He is judged by the penalty that first applies to what he has done.** If he had sexual relations with his mother-in-law, who was then married, he is judged on the count of having had sexual relations with his mother-in-law. If it was simply a married woman but she then became his mother-in-law, he is judged on the count of her having been a married woman.”

- B. [32B] Said R. Abbahu, “R. Yosé concedes that when the new prohibition is more encompassing, [then we do judge the case on that count].”
- C. *That poses no problem in a case in which the now-surviving brother had married one of the sisters first, and the now-deceased brother had married the other sister afterward, since the prohibition had been broadened to the brothers, the prohibition was broadened to him as well.* [Slotki: Yosé admits the imposition of the prohibition of ‘brother’s wife’ upon that of ‘wife’s sister,’ even where the latter prohibition was already in force, because the former, unlike the latter, is applicable not only to him alone but to the other brothers also. In the case of a married woman who became his mother-in-law where the first prohibition was of a wider range, the woman being forbidden to all men except her husband, and the later one, forbidden to him only, of a restricted range, the second prohibition cannot be imposed upon the first.] *But where is the augmentation of the prohibition in a case in which the now-deceased brother married* [Slotki: bringing into force the prohibition of brother’s wife, which is applicable to all brothers] *and then the now-surviving brother married? And should you say, because [by marrying the other sister] he is forbidden to marry all the sisters, in fact, that is merely an encompassing prohibition* [but does not place any further restriction so far as the widow herself is concerned upon any other men (Slotki)].
- D. Rather, said Raba, “[In interpreting Yosé’s position,] I regard him as though he had carried out two violations, but he is liable on only one count [since, as a matter of fact, Yosé does not take the view that a prohibition may apply to that which is already subject to a prohibition].”
- E. *And so when Rabin came,* he said R. Yohanan [said], “[In interpreting Yosé’s position,] I regard him as though he had carried out two violations, but he is liable on only one count [since, as a matter of fact, Yosé does not take the view that a prohibition may apply to that which is already subject to a prohibition].”
- F. *So what difference does it make [that he is in fact guilty on two counts]?*
- G. He is to be buried among those who are totally wicked people.

I.5. A. *And the same matter is subject to dispute in that which has been stated:*

- B. A non-priest who performed an act of Temple service on the Sabbath —
- C. R. Hiyya says, “He is liable on two counts” [violating the Sabbath, performing an act of service even though he is not a priest].
- D. Bar Qappara says, “He is liable only on one count.”

- E. R. Hiyya leaped forward and swore, “By the Temple! Thus have I heard from Rabbi: ‘two counts’!”
- F. Bar Qappara leaped forward and swore, “By the Temple! Thus have I heard from Rabbi: ‘one count’!”
- G. R. Hiyya commenced laying out his arguments: “The Sabbath is forbidden for all. When labor on it was permitted in the sanctuary, it was for priests that acts of labor were permitted: priests, not non-priests. So there is here violation on the count of a non-priest’s performing an act of service, and also on the count of the Sabbath.”
- H. Bar Qappara commenced laying out his arguments: “The Sabbath is forbidden for all. When labor on it was permitted in the sanctuary, it was for acts of labor having to do with the sanctuary; so the only count on which guilt has been incurred is violation on the count of a non-priest’s performing an act of service.”

I.6. A. A blemished priest who performed an act of Temple service while in a condition of uncleanness —

- B. R. Hiyya says, “He is liable on two counts” [violating the Sabbath, performing an act of service even though he is not a priest].
- C. Bar Qappara says, “He is liable only on one count.”
- D. R. Hiyya leaped forward and swore, “By the Temple! Thus have I heard from Rabbi: ‘two counts’!”
- E. Bar Qappara leaped forward and swore, “By the Temple! Thus have I heard from Rabbi: ‘one count’!”
- F. R. Hiyya commenced laying out his arguments: “Performing an act of Temple service while in a condition of uncleanness was forbidden to all persons, but when it was permitted in the sanctuary [e.g., for an offering in behalf of the community], it was permitted only for unblemished priests, not for blemished ones. So there is a violation here on the count of an act of Temple service performed by a blemished priest, and in addition on the count of uncleanness.”
- G. Bar Qappara commenced laying out his arguments: “Performing an act of Temple service while in a condition of uncleanness was forbidden to all persons, but when it was permitted, it was permitted in the sanctuary. So there is present only violation on account of the act of service’s being done by a blemished priest.”

I.8. A. A non-priest who ate the meat of a bird whose head was pinched off [as is done in the rite of killing the bird for a sacrifice in the Temple —

- B. R. Hiyya says, “He is liable on two counts.”
- C. Bar Qappara says, “He is liable only on one count.”
- D. R. Hiyya leaped forward and swore, “By the Temple! Thus have I heard from Rabbi: ‘two counts’!”
- E. Bar Qappara leaped forward and swore, “By the Temple! Thus have I heard from Rabbi: ‘one count’!”

- F. R. Hiyya commenced laying out his arguments: "Eating carrion was forbidden to all, and, when it was permitted in the sanctuary, it was permitted to the priests. So it was permitted only to the priests, not to non-priests. Hence the violation is on the count of the eating of holy food by a non-priest and the count of eating bird-meat that has been slaughtered through pinching off the head [rather than in the normal manner for the slaughter of ordinary birds outside of the cult]."
- G. Bar Qappara commenced laying out his arguments: "Eating carrion was forbidden to all, and, when it was permitted in the sanctuary, it was permitted in the sanctuary. There is in this case, therefore, violation only on the count of the eating of holy food by a non-priest."

I.9. A. [33A] *What is at stake in the dispute?*

- B. *At issue is the status of an encompassing prohibition in the opinion of R. Yosé. R. Hiyya takes the position that R. Yosé imposes guilt on two counts in the case of an encompassing prohibition. Bar Qappara maintains that he imposes liability on only one count.*
- C. *So what an encompassing prohibition is present here? Now, to be sure, in the case of a non-priest [who performed an act of Temple service on the Sabbath], there is no problem, since to begin with [prior to the Sabbath] he was permitted to do common labor but forbidden to do an act of service on the Sabbath, and when the Sabbath took effect, just as he was now forbidden to do any other common labor, so he also was forbidden to perform an act of service in the Temple. [Slotki: the prohibition being comprehensive in that it included both ordinary work and Temple service; but it is not a prohibition of a wider range, since the prohibition of the Temple service itself was in no way extended.] So too, the blemished priest to begin with was permitted to eat holy food but forbidden to perform an act of Temple service; when he became unclean, since he was forbidden to eat holy meat, he also is forbidden to carry out an act of Temple service. [Slotki: the prohibition comprehending the Temple service as well as the consumption of sacrificial meat.] But as to the matter of meat from a bird killed by pinching the neck, at one and the same moment the prohibitions took effect [Slotki: before the head was pinched, there was only the prohibition on the count of sacrilege, which included the priests; the two prohibitions, of carrion and to non-priests of the meat of fowl killed by pinching the head set in simultaneously], so what we have in hand is prohibitions that come about simultaneously, but not those that are further encompassing [Slotki: so how could the dispute in this case be dependent on the principle of the encompassing prohibition]?*
- D. *Rather, what is at issue between them is the status of prohibitions that take effect simultaneously in regard to the position of R. Yosé. R. Hiyya takes the view that R. Yosé imposes liability on two counts in a case in which prohibitions take effect simultaneously,*

and Bar Qappara maintains that he imposes liability on only one count alone.

- E. *And here, what sort of prohibitions that take effect simultaneously are involved? In the instance of the non-priest who carried out on the Sabbath an act of Temple service, it would involve a case in which he had been a minor but on the Sabbath produced puberty-signs in the form of two pubic hairs, in which case, at that single moment, he became liable on the counts of being a non-priest and violating the Sabbath. In the case of the blemished priest too, it would involve a case in which he had been a minor but produced two pubic hairs while unclean, so that liability as an adult priest with a blemish and an unclean priest took place at one and the same moment. Or someone cut his finger with an unclean knife [simultaneously being blemished and contracting uncleanness].*
- F. *Now [to reconcile the opposing opinions in Rabbi's name,] with reference to the position of R. Hiyya, when [Hiyya] presented his view, he was taught [by Rabbi] in accord with the position of R. Yosé, and Bar Qappara was taught in accord with the position of R. Simeon [who claims that Rabbi recognizes one count of guilt only within the position of Yosé]. But from the perspective of Bar Qappara, R. Hiyya has to be regarded as a mere liar. [Since this is unthinkable,] what must be at stake in the dispute is the rule governing prohibitions that take effect simultaneously, within the position of R. Simeon. [Slotki: Hiyya maintains that Simeon subjected the transgression to one offence only in the case of an encompassing prohibition, but in the case of simultaneous prohibitions he concurs with Yosé that there is liability on two counts; Bar Qappara holds that Simeon disagrees with Yosé even in regard to simultaneous prohibitions.]*

I.10. A. *When R. Hiyya took an oath, it was to remove R. Simeon's view from its presumptive standing [affirming that Simeon favors the lenient position only in the case of the encompassing prohibition but not of simultaneous prohibitions (Slotki)]. But why in the world did Bar Qappara have to take an oath?*

B. *That is a problem.*

C. *Within the position of Bar Qappara, there is no problem in explaining the contradictory statements by maintaining that, when Rabbi formulated the Tannaite rule for him, it was within the position of R. Simeon that he did so, and when he formulated the Tannaite rule for R. Hiyya, he set forth the position of R. Yosé [Slotki: and Hiyya mistook him to be reporting Simeon's view and thus the discrepancy arose]. But from R. Hiyya's position, Bar Qappara must be regarded as a mere liar. [Since this is unthinkable,] R. Hiyya will say to you, "When Rabbi set forth the Tannaite formulation for him, he presented only two cases [the non-priest performing the Temple rite on the Sabbath, the*

blemished priest who performed an act of service when unclean] in which the transgressor is exempt [on one of the two counts]. [33B] Thus he taught him as a Tannaite position the rule governing the encompassing prohibition as R. Simeon set forth that rule. But Bar Qappara understood the case of the non-priest who ate the meat of a bird killed by pinching the bird, and, since it looked like the others, he disposed of it like the others. Then, when he looked into the matter and found that the case was possible only as one in which prohibitions took effect simultaneously, he supposed that, as this one involved simultaneous prohibitions, so the others did too, and, since in the other cases, the violator is exempt on one count, so he assumed the same in this case.

D. *An objection was raised: “A non-priest who carried out on the Sabbath an act of Temple service, or a blemished priest who performed an act of Temple service while unclean — the counts of liability are present deriving from an act of service by a non-priest, desecration of the Sabbath, an act of service by a blemished priest, and an act of service in a state of uncleanness,” the words of R. Yosé. R. Simeon says, “He is liable only on the counts of being a non-priest in the Temple cult and a blemished priest alone” [T. Yeb. 5:8G-H]. But the matter of the meat of a bird killed by pinching the neck has been omitted in this version [so the two parties concur here]! Now on whose account has it been omitted? If we propose that it is on account of R. Yosé, then, if R. Yosé imposes liability on two counts where the prohibition is encompassing, how much the more so will he do so when the prohibitions are simultaneous. So it must be on account of R. Simeon [Slotki: who despite his opinion that in the two cases mentioned only one penalty is involved agrees with Yosé that in the case of the fowl killed in accord with the Temple rite, two penalties are involved], who thus exempts one from double liability only where the prohibition is encompassing, but would impose liability on two counts when the prohibitions take place simultaneously. This then refutes Bar Qappara’s explanation of matters.*

F. *Sure does.*

I.11. A. A non-priest who performed an act of service on the Sabbath:

B. *What did he do? If it was an act of slaughter, well, an act of slaughter is permitted for a non-priest; if it was an act of receiving or carrying the blood, all he has done is move the blood from place to place, and that is not culpable. If it is a matter of burning the sacrifice parts, did not R. Yosé say, “The prohibition of kindling a fire on the Sabbath was singled out to show that doing so violates a mere negative commandment [and no severe penalties]”?*

- C. Said R. Aha bar Jacob, “What he did was slaughter the bullock of the high priest [on the Day of Atonement coinciding with the Sabbath], and this accords with the view of him who says, ‘Slaughtering the bullock of the high priest by a non-priest is an invalid action.’”
- D. *If so, then why specify a non-priest? Even if it were an ordinary priest, the result should be the same!*
- E. *In this context, the ordinary priest compared to the high priest is no more than a non-priest.*
- F. *Objected R. Ashi, “Now has any notice in the Tannaite formulation been given to sin-offerings or violating negative commandments? Surely at stake here are only forbidden actions.”*
- G. *What is at issue is whether or not he is to be buried among those who are totally wicked people.*

3:10

- A. **Two men who betrothed two women,**
 - B. **and at the time of their entry into the marriage-canopy, the two women [inadvertently] were exchanged for one another —**
 - C. **lo, these men are liable for (1) having sexual relations with a married woman [namely, the betrothed of the other].**
 - D. **[If in addition] they were brothers, they are liable (2) on the count of having sexual relations with the wife of the brother.**
 - E. **And if the women [in addition] were sisters, they are liable for (3) having sexual relations with a woman and her sister**
 - F. **And if [at the time of sexual relations] they [in addition] were in their menstrual period, the men are liable for (4) having sexual relations with a menstruating woman.**
 - G. **And they set them apart for three months,**
 - H. **lest they be pregnant.**
 - I. **And if they were minors, not yet fit to give birth, they are forthwith restored [to their proper husbands].**
 - J. **And if they were daughters of priests, they are invalid for eating heave offering.**
- I.1** A. **they exchanged the two women for one another:** *so are we dealing with genuinely wicked people, wife-swappers? And furthermore, there is a problem deriving from the statement that R. Hiyya set forth as a Tannaite rule: “Lo, sixteen sin-offerings are involved here” [T. Yeb. 5:9C]— for is there a sin-offering to be presented in the event of a deed that was carried out deliberately?*
- B. Said R. Judah, *“Formulate the Mishnah-wording: they were exchanged.”*
 - C. *And that stands to reason, for it is stated at the end: And if they were minors, not yet fit to give birth, they are forthwith restored [to their proper*

husbands]. Now if this swap were done deliberately, would it have been permitted to do so?

- D. Well, that's no problem. Seducing a minor is classified as [statutory] rape, and a woman who has been raped is permitted to marry an Israelite [her husband].
- E. Well, what about that which is taught in the Tannaite formulation later on: **And they set them apart for three months, lest they be pregnant?** Then if they were not present, they are permitted. But if the swap had been deliberately, would she have been permitted? It must follow, therefore, that the Mishnah-wording must be, **they were exchanged.**
- F. That is decisive proof.

I.2. A. [34A] And who is the Tannaite authority before us, who takes the view that we do enforce in the case of one and the same person a comprehensive prohibition, a prohibition that extends the rule to a broader range, and simultaneous prohibitions [holding such a person guilty on a variety of counts]?

- B. Said R. Judah said Rab, "It is R. Meir, for we have learned in the Mishnah: **There is he who carries out a single act of eating and is liable on its account for four sin offerings and one guilt offering: An unclean [lay] person who ate (1) forbidden fat, and it was (2) remnant, (3) of Holy Things, and (4) it was on the Day of Atonement. R. Meir says, "If it was the Sabbath and he took it out [from one domain to another] in his mouth, he is liable [for another sin offering]."** They said to him, "They said to him, "That is not of the same sort [of transgression of which we have spoken heretofore since it is not caused by eating (A)]" [M. **Ker. 3:4**]."

- C. Now in accord with whose position does R. Meir take that view? Should we say that it is in accord with R. Joshua [in dispute on a parallel matter, specifically: **He who had two infants, one to circumcise after the Sabbath and one to circumcise on the Sabbath, and who forgot [which was which] and circumcised the one to be circumcised after the Sabbath on the Sabbath, is liable. [If he had] one to circumcise on the eve of the Sabbath and one to circumcise on the Sabbath, and he forgot and on the Sabbath, circumcised the one to be circumcised on the eve of the Sabbath, R. Eliezer declares him liable to a sin offering. And R. Joshua exempts him (M. **Shab. 19: 4**)], did he not say, "If one has made an error in reference to a religious duty [e.g., he planned to carry out a religious duty but in error transgressed the law], he is exempt"? So it must be in accord with the position of R. Eliezer.**

- D. If you prefer, I shall say, in point of fact his view accords with that R. R. Joshua, and when R. Joshua said, "If one has made an error in reference to a religious duty [e.g., he planned to carry out a religious duty but in error transgressed the law], he is exempt," that is the case with respect to infants, where one is subject to constraints of time, but not in the case at hand, in which there are not any constraints of time.

- E. Well, there is the case of the separation of priestly rations, in which case there are no constraints of time, and yet he takes a position that one is exempt, as we have learned in the Mishnah: **[(1) The wife of a priest who was eating heave offering, and they came and told her, "Your husband has died," or, "Your**

husband] has divorced you” such that the woman no longer has the right to eat heave offering; (2) and so in the case of] a slave of a priest who was eating heave offering, and they came and told him, “Your master has died,” or, “He sold you to an Israelite,” or: “He gave you to an Israelite as a gift,” or, “He has made you a freeman” in any of which cases, the slave no longer may eat heave offering;] (3) and so [in the case of] a priest who was eating heave offering, and it became known that he is the son of a divorcée, or of a woman who has undergone the rite of removing the shoe (Deu. 25:10)] [and therefore may not eat heave offering] — R. Eliezer declares [all of these individuals] liable to payment of the principal and [added] fifth [of the heave offering they unintentionally had eaten as non-priests]. But R. Joshua exempts [M. Ter. 8:1].

F. *Lo, in this connection, it has been stated: said R. Bib bar Abbaye, “Here we deal with a case of heave offering on the eve of Passover, in which case there really are considerable constraints of time. And if you prefer, I shall say, our Mishnah-passage speaks of prohibitions that take effect simultaneously and represent the view of R. Simeon. [He concurs with Meir that simultaneous prohibitions are equal in force and imposed (Slotki)].*

I.3. A. *All of these cases listed in our Mishnah-paragraph do occur at one and the same time, for example, when the brothers appointed an agent to deliver the tokens of betrothal, and the sisters appointed an agent to receive them, and one agent met the other [so everything happened at once]. But with respect to menstruation, [And if [at the time of sexual relations] they [in addition] were in their menstrual period, the men are liable for (4) having sexual relations with a menstruating woman], how could there be simultaneity?*

B. *Said R. Amram said Rab, “It could take place when the women’s menstrual discharge continued from the men’s thirteenth birthday until after that time, when these boys become subject to legal obligations, and also from their twelfth to after their twelfth birthday, when the girls likewise become subject to legal responsibility.” [Slotki: if the respective agents of the two parties who were of the same age to a day met sometime prior to the conclusion of the last day of the year, twelfth of the females and thirteen of the males and arranged for the betrothals to take effect on the following day, when both parties come of age, the betrothals and the prohibitions simultaneously come into force.]*

II.1 A. **And they set them apart for three months, lest they be pregnant:**

B. *Well, just how likely is it that a woman will get pregnant after the initial act of sexual relations anyhow?*

C. *Said R. Nahman said Rabbah bar Abbuha, “It is a case in which they had sexual relations twice.”*

D. *Then how come R. Hiyya stated as a Tannaite rule: “**Lo, sixteen sin-offerings are involved here**” [T. Yeb. 5:9C]? They should be thirty two!*

E. *But according to your reasoning, from the opinion of R. Eliezer, who imposes guilt for every count, there would be even more! But you would answer that one takes into consideration only the first act of sexual relations, and here too, we take into consideration only the first act of sexual relations.*

II.2. A. *Said Raba to R. Nahman, [34B] “Lo, there is the case of Tamar, who got pregnant from the first act of sexual relations!”*

- B. He said to him, “Tamar had broken the hymen with her finger” [and so was no longer a virgin]. That is in line with what R. Isaac said, “All women of the house of Rabbi who deliberately destroyed their hymens were called Tamars. Why were they called Tamars? It was in line with Tamar, who had broken the hymen with her finger.”
- C. *Well, what about Er and Onan?*
- D. *Er and Onan had anal intercourse.*
- E. *An objection was raised to that description of the acts of Er and Onan: “All twenty-four months [during breast-feeding], the husband may thresh about within but winnows outside [of the womb, thus preventing conception],” the words of R. Eliezer. They said to him, “These are only deeds such as those that were done by Er and Onan.”*
- F. Well, in some ways they were like the deeds of Er and Onan, and in some ways they were not. They were like the deeds of Er and Onan: “And it came to pass, when he went in to his brother’s wife, that he spilt it on the ground” (Gen. 38: 9), and in some ways not like the deeds of Er and Onan, *for while there it was anal intercourse, here it is vaginal intercourse.*

II.3. A. *There is no problem in explaining what Onan did wrong: “And it came to pass, when he went in to his brother’s wife, that he spilt it on the ground” (Gen. 38: 9). But what about Er?*

- B. Said R. Nahman bar Isaac, “‘And he slew him too’ (Gen. 38:10) — he died by the same mode of the death penalty [hence for the same sin].”
- C. *We have no problem knowing why Onan did what he did, because he knew, “that the seed would not be his” (Gen. 38: 9). But why did Er do it?*
- D. It was so that she would not become pregnant and lose her looks.

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

- B. “‘The woman also with whom a man shall lie’ (Lev. 15:18) — excludes a bride,” the words of R. Judah.
- C. And sages say, “It excludes anal intercourse.”
- D. *Said Hon, son of R. Nahman, to R. Nahman, “May we then say that R. Judah holds the view that the Torah was concerned about a bride’s ornaments?” [Slotki: which would be spoiled by the water if she were required to perform ritual ablution].*
- E. He said to him, “It is because a woman does not get pregnant from the first act of sexual relations.”
- F. *Then what is at issue in the cited dispute?*
- G. *Rabbis take the view that “carnally” (Lev. 15:18) excludes the first stage of contact, and “with whom” excludes anal intercourse; R. Judah maintains that the exclusion of anal intercourse and the first stage derives from “carnally,” and “with whom” excludes the bride.*

- II.5.** A. *When Rabin came, he said R. Yohanan [said], “Any woman who waited ten years after separating from her husband and then remarried will have no more children [from the first husband, but only from the second].”*
- B. *Said R. Nahman, “That rule pertains to a case only in which she was not planning to remarry; but if she was planning to remarry, she may have children again.”*
- C. *Said Raba to the daughter of R. Hisda [whom he married after ten years passed since the death of her first husband, Rami bar Hama], “Rabbis were thinking of you.”*
- D. *She said to him, “I was thinking of you.”*
- II.6.** A. *There was a woman who came before R. Joseph. She said to him, “My lord, I have been waiting after the death of my husband for ten years, and now I have given birth.”*
- B. *He said to her, “My daughter, don’t discredit the teachings of sages.”*
- C. *She said to him, “I had sexual relations with a gentile.”*
- II.7.** A. *Said Samuel, “**All these women have to wait three months** — except for a convert and a slave who was freed, who were minors. But an Israelite girl has to wait three months.”*
- B. *Well, then, how was she separated from her husband? If it was after exercising the right of refusal, did not Samuel say, “She does not have to wait”? And if it was by means of a writ of divorce, did not Samuel say the same thing one time? For said Samuel, “If a girl exercised the right of refusal, she does not have to wait for three months, and if it was a writ of divorce, she has to wait for three months”!*
- C. *Rather, we deal [in Samuel’s statement] with a case of [35A] fornication, and rabbis have made a precautionary decree in the case of a minor on account of one who is an adult.*
- D. *But do we make a precautionary decree in the case of a minor on account of an adult? Have we not learned in the Mishnah: **And if they were minors, not yet fit to give birth, they are forthwith restored [to their proper husbands]?***
- E. *Said R. Giddal said Rab, “That statement was a ruling for a special occasion.”*
- F. *Does this imply that there really was such a case? Rather, it was a ruling for a special case, since the exchange of brides is uncommon.*
- G. *Another version is set forth: said Samuel, “**All these women have to wait three months** — except for a convert and a slave who was freed, who were minors. But an Israelite girl does not have to wait three months.”*
- H. *Well, then, how was she separated from her husband? If it was after exercising the right of refusal, did not Samuel say, “She does not have to wait”? And if it was by means of a writ of divorce, did not Samuel say the same thing one time? For said Samuel, “If a girl exercised the right of refusal, she does not have to wait for three months, and if it was a writ of divorce, she has to wait for three months”!*
- I. *Rather, we deal [in Samuel’s statement] with a case of fornication, and fornication in the case of a minor is uncommon.*
- J. *But a female convert and a female freed slave very commonly fornicate, so let us make a precautionary decree in their regard!*

- K. *He accords with the position of R. Yosé, for it has been taught on Tannaite authority:*
- L. *“Converts, women taken captive, or slaves, who were redeemed, converted or freed have to wait three months before marrying” the words of R. Judah.*
- M. *R. Yosé permits betrothal and marriage right away.*
- N. *Said Rabbah, “What is the operative consideration of R. Yosé? He takes the view that a woman who goes whoring uses a diaphragm to avoid conception.”*
- O. *Said to him Abbayye, “That poses no problem in the case of a proselyte; since she is planning to convert, she guards herself so that she can distinguish between semen that was introduced in a state of sanctification and that which was introduced not in a state of sanctification. So too, a woman taken captive and a slave-girl, hearing from their masters, will take good care of themselves. But how does this consideration relate to a slave girl who is freed by reason of the loss of a tooth or an eye? And if you should say that in any case in which matters happen on their own, R. Yosé concedes [that there must be a three month period of waiting], has it not been taught on Tannaite authority, ‘A woman who has been raped or seduced has to wait three months,’ the words of R. Judah; R. Yosé permits her to be betrothed or married forthwith?”*
- P. *Rather, said Abbayye, “A woman who goes whoring rolls over right away to prevent conception.”*
- Q. *And the other party [who requires a wait]?*
- R. *We take account of the possibility that she may not roll over in an effective way.*

III.1 A. And if they were daughters of priests, they are invalid for eating heave offering:

- B. *Does this rule apply only to women of the priestly caste and not women of the Israelite caste? [But the woman of priestly caste cannot have sexual relations with her husband any more.]*
- C. *Say: if they were wives of priests.*
- D. *So if they were wives of priests, that is the rule, but if not, it is not the rule [that they may not marry priests]? But has R. Amram not said, “This statement was made to us by R. Sheshet, and we found it illuminating in respect to our Mishnah-paragraph: An Israelite’s wife [a priest’s daughter, who when her husband dies once more is permitted to eat heave offering] who was raped, even though she is permitted to return to her husband, is invalid for marriage into the priesthood”?*
- E. *Said Raba, “This is the sense of what is stated by our Mishnah-paragraph: **And if they were daughters of priests married to Israelites, they are invalid for eating heave offering** at their fathers’ home after the husband dies and they become widows.”*