THE JERUSALEM TALMUD

THIRD ORDER: NAŠIM
TRACTATES GİTTİN AND NAZİR
THE JERUSALEM TALMUD
הלומד ירושלים
THIRD ORDER: NASIM
תור נсим
TRACTATES GİTTİN AND NAZİR
מסכתות גיטין ונויר

EDITION, TRANSLATION, AND COMMENTARY

BY
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WALTER DE GRIJYT ER · BERLIN · NEW YORK
Preface

The present volume is the ninth in this series of the Jerusalem Talmud, the third in a four volume edition, translation, and Commentary of the Third Order of this Talmud. The principles of the edition regarding text, vocalization, and Commentary have been spelled out in detail in the Introduction to the first volume. The text in this volume is based on the manuscript text of the Yerushalmi edited by Professor Sussman for the Academy of the Hebrew Language, Jerusalem 2001. The author has exercised his own independent judgment on what may or may not be corrupt in the text.

The text contains many passages which are repeated in other Tractates of this Talmud. It is "general knowledge" that parallel passages in the Jerusalem Talmud are copies of one another. In the present edition, parallel passages are considered as parallel sources and a full list of variant readings is given in every case. These readings show that in fact parallel passages are to be considered witnesses to the same original text, but it appears that a number of deviations cannot be explained as copyists' errors and that the scribe of the Leiden ms. copied different tractates from different mss. representing different histories of transmission and different stages of adaptation of Palestinian spelling (as represented by most Geniza fragments) to the Babylonian spelling with which the scribes were familiar.
The extensive Commentary is not based on emendations; where there is no evidence from manuscripts or early prints to correct evident scribal errors, the proposed correction is given in the Notes. As in the preceding volume, for each paragraph the folio and line numbers of the text in the Krotoschin edition are added. It should be remembered that these numbers may differ from the *editio princeps* by up to three lines. It seems to be important that a translation of the *Yerushalmi* be accompanied by the text, to give the reader the possibility to compare the interpretation with other translations.

Again I wish to thank my wife, Dr. Eva Guggenheimer, who acted as critic, style editor, proof reader, and expert on the Latin and Greek vocabulary. Her own notes on some possible Latin and Greek etymologies are identified by (E. G.).
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Introduction to Tractate Giṭṭin

The word שְׁנָה (plural שְׁנֵי) appears in Accadic as a Sumerian loan word gittum (plural gittäni) meaning "tablet, written document, note." The second meaning is the one adopted in rabbinic Hebrew. Get without a modifier always means "bill of divorce" since divorce is the only legal action impossible without a written document. Other documents may also be called get, e. g., a bill of manumission for a slave; this has to be called get of freedom, since manumission may be effected without a written document. Similarly, an IOU may be called a get of indebtedness; the existence of a debt may also be established by the testimony of witnesses. Tractate Giṭṭin deals with divorce documents but also contains the rules of other documents.

The rules for divorce mainly derive from Deut. 24:1,3, which repeatedly emphasizes that the husband has to "write her a document of separation, deliver it to his wife, and send her away from his house." This makes the divorce uniquely an act by the husband which requires a written document delivered to the wife and a permanent separation of the parties. Most of the Tractate deals with the implementation of these rules, especially the rules of delivery by an agent. Most of the rules of agency are valid for all kinds of documents.
The Tractate starts with a discussion of how the bill of divorce can be delivered to the wife if the husband is far away; there are different rules depending on whether the transaction takes place in the Land of Israel, under the supervision of a complete system of rabbinical courts, or involves another country, where some questions of authenticity may arise. The discussion of the boundaries of the Land echoes the corresponding texts in Șevi'it, Chapter 6. Since the delivery of the bill is an intrinsic part of the divorce proceedings, it needs the presence of at least two witnesses. The same is true for a bill of manumission, whose delivery turns the slave into a full member of the Jewish people. This leads to a discussion of the similarities and dissimilarities of bills of divorce as compared to bills of manumission.

The second Chapter begins and ends with the topic of the first but in between turns to the writing of the document, the writing materials, and the persons empowered to write.

The third Chapter concentrates on the biblical requirement that the divorce document be written "for the wife". A scribe may not prepare forms in advance where he only enters the essential data in case of need, although he may do so for commercial contracts. Returning to the topic of delivery of the bill, there follows a general discussion of the presumption of the permanence of the status quo, based on the case of a bill of divorce which an agent may deliver assuming that the far-away husband is still alive.

The fourth Chapter starts with the possibilities open to the husband to retract a divorce once the bill was handed to an agent. That possibility, quite unrestricted in biblical law, was severely restricted by rabbinic practice. This leads to an enumeration of rabbinic practices in several other fields, the settlement of payments from an estate to a widow,
redemption of kidnapped slaves and their manumission. The Chapter ends with cases in which a man is rabbinically forbidden to remarry his divorcee even if she had not contracted another marriage in the meantime.

The fifth Chapter mostly deals with money matters, starting with the liquidation of debts arising from judgments for torts, with real estate obtained by improper means, and ending with rules of civilized behavior known as "ways of peace" (mostly repetitions from Sevi'it 4:3, 5:9).

Chapter Six again deals with aspects of the rules of agency. Chapter Seven starts with the possibility of divorce for a man temporarily incapacitated and then turns to various possibilities of conditional divorces, including the relaxed rules for emergency divorce of a childless sick husband who wants to free his wife from levirate marriage.

Chapter Eight deals with questions of doubtful delivery of a bill of divorce and related questions concerning delivery of a marriage gift or liquidation of a debt, followed by a discussion of the validity of a bill of divorce if the parties do not terminate sexual relations, and divorce by a bill of questionable validity. The Halakhah includes a discussion of the legal status of lesbian women. The Chapter ends with a rule about sealed contracts, relevant mostly for commercial transactions.

The last Chapter continues the subject of irregular bills of divorce, whether through fault of the scribe, conditions imposed by the husband, or caused by the signing witnesses. Since in the biblical text a divorce is a unilateral act by the husband, the question arises whether the court can force the husband to divorce, either because the marriage is sinful or because the wife complains of abuse by the husband. The final Mishnah addresses the basic underlying question, viz., whether divorce is really a voluntary act. According to the House of Shammai, divorce is permitted
only if the husband has reason to suspect his wife of adultery or otherwise immoral behavior. This seems to imply that marriages are concluded in Heaven\(^1\) and can be dissolved only if required by Heaven's Law\(^2\). According to the House of Hillel, stated in particular by R. Aqiba, divorce is an option always available.

It seems clear that the scribe of the Leiden ms., the only source available for this Tractate, did copy different Tractates from different sources (or his source already was collected from different sources). The text of Gittin, at least Chapters One to Eight, is copied from a text whose adaptation to Babylonian spelling is much more pronounced than in other Tractates. For example, Chapter One (Note 118) even contains a present participle construed with a prefix ρ.

1 Babli Sanhedrin 22a, Yerushalmi Beșah 5:2, 63a l. 66; Mark 10:9.
2 Matth. 19:9.
Mishnah 1: Somebody who brings a bill of divorce from overseas must be able to say: "It was written and signed before me." Rabban Gamliel says, even somebody who brings from Reqam and Heger; Rebbi Eliezer says, even from Kefar Ludim to Lydda; but the Sages say that the only one who has to be able to say that it was written and signed before him is one who brings from overseas or to overseas. One who brings from one province to another overseas has to say that it was written and signed before him; Rabban Simeon ben Gamliel says, even from one district to the next.

1 "Overseas" stands for all places who do not have a rabbinic authority ordained by the Patriarchate in the Land of Israel or the two Academies acting on the authority of the Prince of the Diaspora in Babylonia. If one cannot be sure that all fine points of the rules of bills of divorce were followed, the court must have the possibility of examining the messenger about the details of the writing and signing of the document.

2 Two places "Reqam" are mentioned as border towns in...
Transjordan in the description of the borders of the Land of Israel; cf. Sevi’it 61, Notes 47, 51.

3 This place has not been identified; it is conjectured to be on the Southern border of the Land of Israel.

4 Which were close to one another but in different court districts.

5 While in Biblical Hebrew nna means “province”, in Talmudic usage the word often has the late hieroglyphic, and Arabic, meaning of “capital”.

6 The district under the command of a ἡγεμών “general”, a word used in the Roman Empire even for the Emperor, but mostly for the praeses provinciae. The usual interpretation given in this Mishnah is “administrative district”.

Halakhah 1: “Somebody who brings a bill of divorce from overseas,” etc. This is difficult. If somebody brings a gift document from overseas,
would you require him to say, it was written and signed before me? Rebbi Joshua ben Levi said, there is a difference because they are not conversant with the fine points of bills of divorce. Rebbi Johanan said, that is a leniency lest she sit abandoned. Is that a leniency? It is only a restriction, for if he does not say to her, it was written and signed before me, you do not permit her to remarry. Rebbi Yose said, the difficulty which you impose upon her at the beginning, that he is required to say, it was written and signed before me, makes it easy for her at the end. For if [the husband] would come and protest, his protest would be void. Rebbi Mana wanted to say, a protest other than the text of the bill. But is a protest about the text of the bill a protest which has no validity? Even for a protest which has validity, said Rebbi Yose ben Rebbi Abun, since you say that the reason for the difficulty which you impose upon her at the beginning, that he is required to say, it was signed before me, is to make it easy for her at the end, that if [the husband] would come and protest, his protest would be void; this means that there is no difference whether it is a protest not about the text of the bill or about the body of the bill, a protest which has no validity, or a protest which does have validity! But should you worry that maybe he gave the bill to disqualified witnesses to sign? Rebbi Abun said, he is not suspect to damage her before Heaven. Before the court he is suspect to damage her. But since he knows that if he comes and protests his protest is void, he will choose qualified witnesses to sign.

7 The form ותת is that of most Mishnah mss. and of the Babli. The form ותת in the Mishnah is that of several Palestinian Mishnah mss. 8 In the Babli, 2a/2b, it is pointed out that a bill of divorce has to be
written for the woman to be divorced since the verse says (Deut. 24:1): "He shall write for her". While the text of the bill must mention the names of husband and wife, it cannot be ascertained from the text whether the scribe was instructed to write the text specifically for that woman; there must be a live witness available who can be examined about this point. A second opinion notes that the signatures of the witnesses themselves would need confirmation.

9 In the Babli, 3a, this is an anonymous (unanimous) opinion. As explained in the sequel, if the husband could come later and claim the bill of divorce was fake, no woman could ever remarry on a bill of divorce written far away for fear that her children from a second husband could retroactively be declared to be bastards; cf. Mishnah Yebamot 10:1.

10 E.g., if the husband claims that he had attached a condition to the bill not provided for in the bill and that the condition was not satisfied. Since the condition was not presented to the court which oversaw the delivery of the document, it cannot be considered.

11 He claims that the entire bill is fake or that there is an intrinsic defect which makes the entire document invalid.

12 Since there was a witness who was cross-examined about the validity of the bill, the husband cannot be admitted to testify since when he claims to be still the husband of his divorcee he declares himself a relative by marriage who is barred from acting as a witness for or against his wife.

13 The messenger who delivers the bill might not know that the witnesses either were relatives of one of the parties or convicted felons; their signatures would invalidate the document.

14 For if both the local court and the wife act in good faith, Heaven will absolve her but he has sinned. Cf. Yebamot 15:4, Notes 92-93.
If [the bill of divorce] contained documentation of a gift and [the messenger] said, it was written and signed before me, is [the husband’s] protest about the gift void since it is void about the divorce? Or, since his protest is void [only] about the divorce, is it valid about the gift? We have stated later: "Bills of divorce for wives and documents of manumission are equal in the rules of carrying and bringing." If [the document of manumission] contained documentation of a gift and [the messenger] said, it was written and signed before me, is [the master’s] protest about the gift void since it is void about the manumission? Or since his protest is void [only] about the manumission, is it valid about the gift? If somebody signed all his property over to his slave, you say that the gift is the document of manumission. How do you treat this?
Is it a document of manumission and his protest is void or is it a gift and his protest is valid? This can be compared to the following: If somebody signed all his property over to two persons in one document and the testimony of the witnesses was valid for one but invalid for the other. Rebbi Ila in the name of Rebbi Immi: Rebbi Johanan and Rebbi Simeon ben Laqish disagreed; one said, since it is invalid for one it is invalid for the other, but the other said, it is valid for one and invalid for the other. Rebbi Mana did not specify; Rebbi Abin specified: Rebbi Johanan said, since it is invalid for one it is invalid for the other; but Rebbi Simeon ben Laqish said, it is valid for one and invalid for the other. Rebbi Eleazar said, a Mishnah supports Rebbi Johanan: "Since testimony of two [witnesses] is invalid if one of them turns out to be related or disqualified, so also of three [witnesses] it is invalid if one of them turns out to be related or disqualified". Rebbi Jacob bar Aha said, Rebbi Hanina the colleague of the rabbis and the rabbis disagree. One says, the argument of Rebbi Eleazar is correct, but the other says, Rebbi Eleazar is not correct. For him who says, the argument of Rebbi Eleazar is correct, it is a testimony about one person; as testimony it is totally invalid if it is partially invalid. For him who says, the argument of Rebbi Eleazar is not correct, it is as if two groups of witnesses came, valid for one and disqualified for the other.

The question presupposes that one follows R. Johanan's opinion in the preceding paragraph. The messenger who delivers the bill of divorce is a single witness who cannot validate a monetary claim. But since by tradition he has the power to validate a bill of divorce and the delivery of the bill implies authorization of the divorcée to collect her ketubah, it follows that in matters of bills of divorce the single messenger has the power to validate
money claims as long as they are included in or dependent upon the bill of divorce.

16 Since annulment of the special gift from the husband to his divorcee will not hinder her from remarrying, there seems to be no special reason why a single witness should make a money claim definitive.

17 If the document of manumission was accepted by the local court at the point of delivery, the slave upon immersion in a mikveh became a full Jew. A Jew cannot be enslaved by a fellow Jew (Lev. 25:42). The reason why the master's protest is void has nothing to do with monetary claims; there seems to be no reason why the master cannot disclaim the gift.

18 This seems to have been a common occurrence in Roman society.

19 The essence of freedom is that a person is master of himself; the gift document transfers mastership of the slave to himself.

20 The following is from Ketubot 11:5, explained in Notes 97-102, and Makkot 1:16. The variant readings are given in Ketubot. The messenger who delivers the document of manumission, which in this case is a document about money matters, is believed as if he were a group of two in regard of the manumission but is disqualified for the money part. All the questions asked up to this point can be answered if one decides whether to follow R. Johanan or R. Simeon ben Lakish.

21 In Ketubot: R. Yasa. Since rabbis Yasa (Assi) and Immi (Ammi) form a permanent pair in the Babli, there is no real difference in the attributions.
Only if he says, it was written before me during the day and signed during the day \(^{22}\); only if he says, it was written before me especially for her and signed expressly for her \(^{23}\). It was asked before Rebbi Johanan: Does he have to know the names of the witnesses at the moment of their signing? He said to them, did the Gentiles Luciani sign it \(^{24}\)? And you say so? A \textit{baraita} supports Rebbi Johanan: "All bills of divorce coming from overseas are valid even if their names sound Gentile since Jews outside the Land of Israel bear Gentile names.\(^{25}\)" He said only, outside the Land; therefore not in the Land of Israel \(^{26}\). What about this? Rebbi Bevai in the name of Rebbi Issi: unless he writes, at a Jewish place \(^ {27}\). If there is no Jewish place, in the synagogue. If there is no synagogue, he assembles there ten people \(^ {28}\). Rebbi Abun said, it would be better to certify the signatures \(^ {29}\) than to assemble there ten people. What about this? Even in a Jewish store \(^{30}\).

\(^{22}\) "The day" means the day written as date in the document. Mishnah 2:2 notes that a pre-dated bill of divorce is invalid like all pre-dated documents. The bill may have been written in the night and signed the following day since the rabbinic day is counted from sundown to sundown; it cannot have been written during daytime and signed the following night since that would make it pre-dated.

\(^{23}\) The messenger must have heard the husband tell the scribe to write a bill of divorce for his wife, mentioning her by name. The Babli agrees, 3a.

\(^{24}\) If the names sound Roman, it does not mean anything. In the Babli, 11b, R. Johanan notes that if a Gentile name is known to be used by Jews, the matter does not have to be investigated. Examples given in the Babli are \textit{Λύκος} "wolf", a frequent substitute for Benjamin (\textit{Gen.} 49:27), and \textit{Λίς} "lion" (in epic poetry, cf.


26 It should not be assumed that Jewish people with Gentile names cannot sign a bill of divorce in the Land of Israel; there are a number of rabbis with Gentile names such as Eudaimon, Pappos, Antigonos. But in case such a name appears, an inquiry has to be made about the identity of the witness, whereas in documents coming from outside the Land, all names are accepted without inquiry.

27 Greek Ἰουδαϊκός, -ή, -όν "Jewish". If the names of the witnesses are Gentile, some indication of this being a purely Jewish document is needed since all documents executed in a Gentile court are valid except bills of divorce.

28 All of whom have to sign as witnesses even if most of them are related to the couple, if only two of the witnesses are acceptable in law; it is to be assumed that not all of their names will be characteristically Gentile. Cf. Tosephta 7:11; M. A. Friedman, *Jewish Marriage in Palestine*, Vol. 1, p. 489.

29 After the document was duly signed, the local court could append a certification that the witnesses were known to the court and in good standing. Such a certification would have to be accepted by every rabbinic court anywhere (Mishnah 1:3).

30 The document must mention the place where it was written. One might add that it was written in a Jewish store to emphasize the Jewish character of the document, implicitly validating the Gentile-sounding signatures.
If he did not say: "it was written and signed before me"? Should not an Amora have asked this question? He said to him, that is what Rabin ben Rav said: If he brought a bill of divorce, gave it to her, but did not tell her: "It was written and signed before me"? There came a case before Rebbi Johanan, who said to him, take it from her and say in front of two [witnesses]: "It was written and signed before me." Does Rebbi Johanan follow Rebbi Simeon ben Eleazar, since Rebbi Simeon ben Eleazar said, it is no bill of divorce unless he tells her at the moment of delivery that it is her bill of divorce? Can the position of Rebbi Johanan be derived from Rebbi Simeon ben Eleazar? Would Rebbi Simeon ben Eleazar agree that if he told her at the moment of delivery that it was her bill of divorce it would not be a bill of divorce? But here, even if he tells her at the moment of delivery that it is her bill of divorce, it is no bill of divorce unless he tells her in front of two [witnesses]: "It was written and signed before me." But Rebbi Johanan might hold that a woman cannot be believed if she says, I received a bill of divorce from my husband's agents. But we did state: "The wife herself can bring her bill of divorce." Would you not have to be afraid that she might have received the bill from a representative of the husband? How is it? The
reason of Rebbi Johanan is to make her known as divorcee in front of two [witnesses].

31 It is unclear to whom this refers; the text seems defective.

32 Is the bill of divorce invalid in this case? In the Babli, 5b, Rabin bar Rav Hisda brought a bill of divorce before R. Johanan, who instructed him to deliver the bill in the presence of two witnesses and to make the required declaration. The question here can be interpreted to mean that Rabin asked whether the formality was really necessary in view of the fact, reported in the next paragraph, that R. Joshua ben Levi, of the generation of R. Johanan's teachers, did not require the declaration. In the Babli, which is edited according to strict historical principles, R. Joshua ben Levi is mentioned before R. Johanan.

33 The messenger who had delivered the bill of divorce without making the required declaration.

34 It is understood that the Mishnah requires the declaration to be made either in the presence of two witnesses or at the local court. Tosephta 2:1 permits the declaration to be made "even after three years" if the bill of divorce can be returned to the messenger.

35 Tosephta 6:1; a different version Babli 78a, 84b. The statement refers to Mishnah 8:2: "If he said to her, take this bond, or she took it out from his belt, and when she read it she realized that it was her bill of divorce, it is not a bill of divorce unless he says to her: This is your bill of divorce." The reason is that Deut. 24:1 requires that in a divorce the husband deliver the bill into the wife's hand. The question arises whether the required declaration is valid after the bill is already in the wife's hand. In the Babli 78a, Rebbi is quoted as holding that the bill is invalid unless given as a bill of divorce; R. Simeon ben Eleazar permits the husband to reclaim the bill from his wife and deliver it a second time accompanied by the required declaration. In the Tosephta, Rebbi is reported not to require the declaration, R. Simeon ben Eleazar requires that the declaration accompany the delivery. The language of the Tosephta is that of the Yerushalmi; it is not clear whether R. Simeon ben Eleazar permits taking the document back.
36 The answer to this rhetorical question clearly is no; the only condition imposed by R. Simeon ben Eleazar is that the wife be informed of the nature of the document at the moment of delivery.

37 Therefore, the delivery of the document characterized as a bill of divorce must be made before two witnesses in good standing. It seems that in his case, the document was delivered in private; the main reason of R. Johanan was not the recitation of the formula but the delivery in front of witnesses.

38 Mishnah 2:7. If the husband delivers the document to her on condition that it should not become effective until she presents it to the court which has to preside over the payment of her *ketubah*, she can bring it herself and declare before the court that "it was written and signed before me."

39 Why should she be believed if she brings the document from abroad when she is not believed if the document is delivered to her in private? It is implied here that the act which makes the document valid is its *signing* by two reliable witnesses, not its *delivery.*

40 He holds that the requirement of the declaration mentioned in the Mishnah is prescriptive but its omission does not invalidate the divorce.
A case came before Rebbi Joshua ben Levi. He said to him, it is unnecessary. The opinion of Rebbi Joshua ben Levi seems inverted. There, Rebbi Joshua ben Levi said, there is a difference because they are not conversant with the fine points of bills of divorce, but here, he says so? The colleagues in the name of Rebbi Joshua ben Levi: What you said was in earlier times when no Fellows were found outside the Land, but now that there are Fellows found outside the Land, they are competent. But did we not state, "and one who brings there"? And even if you say that no Fellows are found outside the Land, are we not found in the Land of Israel? In order not to make a distinction in the bills of divorce from outside the Land. But then one who brings from overseas should not have to say: "It was written before me and signed before me." Not to make a distinction in the bills of divorce in the Land of Israel. What about it? One is restrictive in a simple case because of the complicated one and one is not permissive in the complicated because of the easy one. Rebbi Jacob bar Aha in the name of Rebbi Simeon bar Abba: This of Rebbi Joshua ben Levi, if it was done. But from the start even Rebbi Joshua ben Levi agrees.

41 In the Babli, 5b, it was R. Simeon bar Abba, a recognized scholar, who brought the document.

42 Here, "Fellow" does not have the technical meaning of "person who observes the rules of food purity" but means "person learned in the law."

43 In the Babli, this is R. Joshua ben Levi's explanation given to R. Simeon bar Abba the Babylonian.

44 In the Mishnah, the duty to declare that the document was written in the presence of the messenger is extended to bills of divorce written in the Land and delivered abroad.

45 There otherwise would be no reason to require a declaration for bills originating in the Land.

46 It is preferable to require a declaration for documents originating
in Palestine (the easy case) rather than to eliminate the declaration for documents originating outside the Land (the complicated case).

47 The statement that the declaration was unnecessary.

48 In that, R. Joshua ben Levi agrees with R. Johanan. The Babli, 5b, disagrees since in its version R. Simeon bar Abba asked R. Joshua ben Levi whether he had to make the declaration when delivering the bill of divorce.
[witnesses] in order to declare her a divorcee in the presence of two. "If he gave her the bill, took it from her, and threw it into the sea or into a river. If later he says to her that it was an empty papyrus or a paid bond, he cannot be believed to disqualify her." Rebbi Abun bar Hiyya asked before Rebbi Ze'ira: If he cannot disqualify her, who can? He said to him, since she was declared a divorcee in the presence of two [witnesses], he cannot be believed to disqualify her. If he gave her a bill of divorce which was found to be invalid, they forced him to give her a replacement. This case came before the rabbis and they declared it valid. Did we not say, he cannot be believed to disqualify her? There, the flaw was not proved; here the flaw was proved. As the following: Hinena, the son of Rebbi Asi, was a medical doctor and threw a bill of divorce to his wife. She cried. Her neighbor came, grabbed it from her, and gave her an empty papyrus. The case came before the rabbis and they took it into account. But did not Rebbi Yasa say in Rebbi Johanan's name: If the designation was checked and found to be based on [the testimony of] women or children, the designation is invalid? There, the designation was not mentioned. But here the name "bill of divorce" was mentioned. And some want to say, if he asserted that it was a valid bill of divorce, but she cried, her neighbor came, grabbed it from her, and gave her an empty papyrus.

49 In the Babli, 5a, this opinion is attributed to Rav Huna, Rav's student.

50 In the Babli, 16a/b, he is quoted in the opposite sense.

51 In the Babli, a fundamental question is whether a bill of divorce is validated by the signatories of the bill or the witnesses to the delivery. The first opinion is attributed in the Babli to R. Meir; it is generally accepted in the Yerushalmi. The second opinion is R. Eleazar's in both Talmudim
(Mishnah 9:4). The Babli considers R. Eleazar the dominant author in matters of divorce; the Yerushalmi considers his a minority opinion. Accordingly, the Yerushalmi permits private delivery from husband to wife. Nevertheless, since marriage is a public affair, the divorcee cannot remarry unless her divorce is made public. The husband therefore has to publicly declare her a divorcee after his private delivery.

52 In the presence of witnesses.
53 Where it cannot be retrieved.
54 Tosephta 6:2, quoted in Babli 19b.
55 Since the preceding sentence deals with the husband, the question is whether it extends to everybody else.
56 Since there are two witnesses to the delivery, the divorce could be put in doubt only by a proof that the witnesses are false. In the interpretation of the Babli, 55a, the divorce is valid if the witnesses knew that the document was a bill of divorce, but the wife did not. It is possible to read the Yerushalmi 5:5 in the same sense.
57 The court supervising the divorce. A forced divorce is valid if forced and executed by a rabbinic court, Mishnah 9:10. However, the power of a court to force divorces is severely circumscribed, Halakhah 9:10. In a case of forced divorce, it has to be ascertained whether the court remained within the limits of his authority. It seems clear that the court has the authority to force a divorce if the giver of the invalid bill was a Cohen since even an invalid divorce forbids the wife to return to her priestly husband; but without a valid divorce she cannot marry any other man or collect the sums due her.
58 The husband cannot invalidate a bill of divorce which is not available for inspection; the court can invalidate a document in its possession.
59 Under certain circumstances, a bill of divorce can be delivered by depositing it in the wife's domain, Chapter 8.
60 She was "divorced and not divorced." Since the document is not available for inspection, it cannot be declared invalid. Since the delivery was irregular, it cannot be declared valid. The husband has to be forced to deliver a second bill.
61 Halakhah 9:11. The Mishnah states that if a woman is generally said to have received a bill of divorce, one can accept the divorce as a fact. R. Johanan notes that if an investigation
reveals that nobody who might appear as a formal witness in criminal cases is the source of the opinion, one has to disregard the "general knowledge" of the population. If it is known that she received a document from her husband, it does not necessarily mean that it was a bill of divorce.

In the Babli, 89a, it is a matter of dispute between Babylonian authorities whether a "general opinion" must be traced to a person who might appear as witness in good standing before a criminal court.

According to this interpretation, the wife is divorced and does not need a second bill in order to collect her ketubah and remarry.

Rebbi Jeremiah asked: If he wrote it in the Land of Israel, signed it outside the Land, went to deliver it to her outside the Land but did not find her outside the Land, returned and found her in the Land of Israel. He must say, "it was written and signed before me," because he wrote it in the Land of Israel and signed it outside the Land. But if it was written and signed in the Land of Israel, he went to deliver it to her outside the Land but did not find her outside the Land, he need not say, "it was written and signed before me."63 If he gave her bill of divorce to her when she said,
my courtyard at Acco shall acquire it for me, Rebbi Hinena said, it is as if she had a long arm. If she had a long arm, she stretched it out and took it from there, does he not have to say "it was written and signed before me"? Rebbi Abba said, who would deny it?

63 This seems to refer to a tannaitic statement similar to Tosephta 2:2: "If he wrote it in the Land and had it signed outside the Land, one has to say 'it was written and signed before me.' If it was written outside the Land but signed in the Land, one does not have to say 'it was written and signed before me.'" Since a document must be signed on the date indicated in it, writing and signing must take place at a border point.

64 The border of the Land of Israel passes through Acco, cf. Halakhah 2 and Ševi'it 6:1, Note 30. The bill of divorce was presented to her in the Israeli part of Acco, but she desired it to be deposited in her courtyard which was outside the Land. A bill of divorce can be legally delivered by being deposited in a house or walled courtyard which is the woman's property (even if it was part of her dowry, which becomes the husband's property but reverts to her at the moment of divorce.)

65 Because the delivery took place outside the Land.

66 R. Hinena's statement is trivial; the nontrivial part is that a delivery in a courtyard is valid even if the wife is far away at the moment of delivery; cf. Rashba, Novellae to Gittin 77b. In the Babli, 77b, delivery from a distance is a matter of contention and prohibited by Ulla; there nobody accepts the notion of an "extended arm."
Rebbi Ezra asked before Rebbi Mana: If a man and his wife held on to a bill of divorce; she says, I acquired it, but he says, you did not acquire. Does this refer to the disagreement between Rebbi and Rabban Simeon ben Gamliel? Since they disagreed: If creditor and borrower both hold on to the bond; the creditor says it is mine; I had lost it. The borrower says, it is mine because I paid it off. The document should be verified by its signatories, the words of Rebbi. Rabban Simeon ben Gamliel says, they should split. Rebbi Eleazar said, everything depends on who actually holds the signatures of the witnesses. Where do they disagree? If it was written lengthwise and both hold part of the signatures of the witnesses. He said to him, it is everybody’s opinion that it is not a bill of divorce if all is in her hand but a thread is in his hand, for it is written: "He shall deliver it into her hand," not unless all be in her hand.

67 He demands some money from her before he is willing to give her a divorce.

68 Baba Meši’a 1:1, Babli Baba Meši’a 7a.

69 In the interpretation of the Babli, a private bond is valid only if its signatures have been notarized in court. Rebbi permits late notarizing, so the creditor can claim half.

70 Following Symmachos that "money in doubt shall be split," Mishnah Baba Meši’a 1:1; cf. Ketubot 2.

71 Since only the signatures validate the document.

72 In computer printers this is called "landscape format". The writing parallels the long side of the paper; it is possible for both parties to hold on to part of the lines used for signatures.

73 In the Babli, 78b Rav Hisda formulates: If the bill is in her hands and a thread is in his hand: if he can draw it back to himself, she is not divorced, otherwise she is divorced.
The Babli bases its ruling on the which requires complete physical meaning of the word "divorce" separation.

Rebbi Eliezer objected to the rabbis: Just as you hold that one who brings a bill of divorce from one province to another overseas has to say, "it was written and signed before me," so I hold that one who brings a bill of divorce from one province to another in the Land of Israel has to say, "it was written and signed before me." Rebbi Jacob bar Zavdi said, it happened that one brought a bill of divorce from the harbor of Caesarea. The case came before Rebbi Abbahu who said yes, he has to say that it was written and signed before him. But is the harbor of Caesarea not part of Caesarea? Rebbi Abin said, it was from a departing ship, and it was stated thus: One who brings a bill of divorce from a ship is like one who brings from outside the Land and has to say that it was written and signed before him.

74 He delivered it in the city of Caesarea maritima, formerly called Straton’s Tower, which was not part of the Land of Israel; cf. Ševi‘it 6:1, Note 32.
75 In the Babli, 7b, there are baraitot quoted either that the declaration is needed or not needed,
but there the reference is to a person connecting places in the Land, rather than from a ship sailing overseas.

If there was one district which was subdivided into two, one does not have to say it was written and signed before me. Similarly if two were combined to form one.

Mishnah 2: Rebbi Jehudah says, from Reqam\(^2\) to the East and Reqam belongs to the East, from Ascalon to the South and Ascalon belongs to the South, from Acco to the North and Acco belongs to the North. Rebbi Meir says, Acco belongs to the Land of Israel in matters of bills of divorce\(^77\).

76 The list in this Mishnah mentions border towns from where the messenger has to affirm that the document was written and signed in his presence. The basic reference is the baraita on the borders of the Land of Israel, Ševi'it 6:1, Notes 32-51.

77 He agrees that in matters of ritual purity and Sabbatical laws, most of Acco is outside the Land.
Halakhah 2: "Rebbi Jehudah says, from Reqam to the East," etc. Rebbi Johanan told the people of Sepphoris: You say in the name of Rebbi Johanan, even a person who brings a bill of divorce from Babylonia does not have to say "it was written and signed before me." But I am saying that it is necessary, for there is a Mishnah: "Rebbi Jehudah says, from Reqam to the East and Reqam belongs to the East." And even if you say that they disagree with Rebbi Jehudah and say that Reqam does not belong to the East, what about from Babylonia to here? Rav said, we consider ourselves as in the Land of Israel in the matter of bills of divorce. But Samuel said, even from one city quarter to another. He asked before him to change his opinion, when Cahana told him, what would we do with the earlier cases of women who remarried? He said to him, what do you have in your hand? For he was of Rebbi's opinion as it was stated: If somebody brings a bill of divorce from overseas which was neither written nor signed in his presence, she has to leave under the thirteen penalties, the words of Rebbi. But the Sages did not agree in this matter.

78 This name is obviously incorrect; it is impossible to determine what was in its place or whether the name should simply be deleted.
79 In the Babli, 6a, the argument is attributed to R. Jeremiah.

80 In the Babli, 6a, Rav is quoted as he is here; Samuel says that Babylonia is like any other place outside the Land, Rav Sheshet requires confirmation from one city quarter to another and Rav Hisda requires an attestation in all cases in which the witnesses are unknown to the court in whose district the bill is delivered.

81 Samuel convinced Rav that he should change his opinion.

82 Cahana pointed out that if Rav changed his practice, he would attach a presumption of illegitimacy to any children of women who had remarried according to his previous standard.

83 All the disabilities enumerated in Mishnaiot 8:5 about a woman remarrying after an invalid divorce, and Yebamot 10:1 regarding a woman who remarried thinking that her husband was dead when he was alive and later returned.

84 Since the absence of the provision about writing and signing does not invalidate the bill, cf. Notes 32 ff.

Everybody agrees that if [the husband] comes and protests, his protest is invalid\(^9\). That is, if he protested after she remarried. If he protested before she remarried and then she remarried\(^8,5\)? Let us hear from the
It happened that somebody brought a bill of divorce before Rebbi Ismael. He asked him, from where are you? He answered, from Kefar Simai in the region of Acco. He said to him, then you have to say, "it was written and signed in my presence;" you do not need witnesses. After that person left, Rebbi Ilai said to him, my teacher, is not Kefar Simai in the Land of Israel, closer to Sepphoris than to Acco? He answered, since the matter was resolved in a permissive way; it stands. What means "since the matter was resolved in a permissive way; it stands"? Rebbi Ze'ira said, that if [the husband] came and protested, his protest would be invalid. But does a person who brings a bill of divorce from the Land of Israel for delivery in the Land of Israel have to say, "it was written and signed in my presence"? Therefore, there cannot be any difference whether he protested after she remarried or before she remarried.

85 Should one require that she not remarry before the matter has been decided by the local court?
86 The same story is in the Babli, 6b.
87Probably Kafr Sumeia on the road from Acco to Safed, in the border region described in Sevi'it 6:1. In the Tosephta, 1:3, the place is mentioned as οὐ οὐ᾽οι or 'κοκο. The signatures on the bill do not have to be notarized by the court, which would have been difficult in the court of R. Ismael in the far South on the border of Idumea.
89 It does not depend on the declaration by the messenger; no bill of divorce delivered under the supervision of a court can be attacked.
Rebbi Jacob bar Ada, Bar Athlay in the name of Rebbi Eleazar: Practice follows Rebbi Meir in matters of bills of divorce\(^90\). Rebbi Ze'ira was looking at him\(^91\). He asked him, why do you look at me? Was it not said that practice follows the lenient opinion in rabbinic matters? They thought, that is a single opinion against a single opinion, but not a single opinion against the Sages, and here even a single opinion against the Sages\(^92\).

\(^{90}\) This opinion is not mentioned in matters of divorce as it is split in the Babli.

\(^{91}\) Disapproving.

\(^{92}\) They hold that Acco is split in matters of impurity, as explained later in the Halakhah.

Rebbi Hiyya [bar] Abba said: If one sold a slave into Acco, the latter was set free\(^93\). Rebbi Ismael, the father of Rebbi Yudan, asked: Even...
from Acco to Acco? 94 This follows what Rebbi Aha bar Jacob said in the name of Rebbi Immi: From two actions of Rebbi we learn that Acco is partly of the Land of Israel and partly outside the Land. Rebbi was in Acco when he saw them eating clean bread; he asked them, how did you knead [the dough]? They said to him, a student came here and instructed us that egg water does not prepare. We are boiling eggs and use their water to knead. They thought he was talking about cooking water of eggs when he spoke only of the eggs themselves. Rebbi Jacob bar Idi said, at that moment they decreed that a student may not render decisions. Rebbi Hiyya in the name of Rebbi Ḥuna: If a student gives instructions even according to practice, his instructions are no instructions.

93 In the Babli, 8a, he is quoted pointing out that R. Meir declares all of Acco to be of the Land only for bills of divorce; therefore not for the laws of slaves. It is forbidden to sell slaves from the Land to places outside the land; any such sale frees the slave. 94 From here to the end of the Halakhah, the text is from Sevi'it 6:1, explained there in Notes 23-30. Variant readings from there are noted "w. All indications are that the text in Sevi'it is the original.
It was stated: A student who gave instructions about practice in front of his teacher has committed a deadly sin. It was stated in the name of Rebbi Eliezer: Nadab and Abihu died only because they determined practice in the presence of their teacher Moses. It happened that a student gave instructions about practice in front of his teacher Rebbi Eliezer. The latter said to his wife Imma Shalom: That one will not live out his week. The week was not completed when he died. His students said to him: Rebbi, you are a prophet. He said to them (Amos 7:14) "I am neither a prophet nor the disciple of a prophet" but I have received a tradition that any student who gives instructions about practice in front of his teacher has committed a deadly sin. It was stated: A student is forbidden to give instructions about practice during the lifetime of his teacher unless he be at a distance of at least 12 mil from him, [the breadth of] the camp of Israel. What is the reason? (Num. 33:49) "They encamped along the Jordan from Bet Hayyešimot to Abel Haššiṭṭim in the plains of Moab"; how far is this? Twelve mil. Like this: Rebbi Tanhum ben Jeremiah was in Hefer; they asked him and he gave instructions about practice. They said to him, did the Rabbi not teach us that a student may not give
instructions about practice during the lifetime of his teacher unless he be at a distance of at least 12 mil from him, [the breadth of] the camp of Israel; and your teacher Rebbi Hana sits at Sepphoris! He said to them, so it should come over me that I did not know! From that moment on he did no longer give instructions.

Rebbi was in Acco when he saw a man on the rock. He said to him, "are you not the son of the Cohen X, was your father not a Cohen?" He said to him, "the eyes of my father were high, but he married a woman unfit for him and profaned this man."

The villages in the territory of Sepphoris close to Acco, the villages in the territory of Acco close to Sepphoris, what do you do with them? Like Acco, like Sepphoris?

If practice follows R. Meir, it rules of bills of divorce. Therefore, no does not make any difference in the answer is needed.
Mishnah 3: Somebody who brings a bill of divorce from the Land of Israel does not have to say: "It was written and signed before me." If the document is contested, it should be confirmed by its signers. If somebody brings a bill of divorce from overseas and is unable to say: "it was written and signed before me," it should be confirmed by its signers. The court at the place of origin can confirm that the signatures are genuine. A document bearing two certified signatures cannot be attacked. Since courts in the Land of Israel are usually competent, a bill of divorce which is not contested does not have to be certified.

Halakhah 3: "Somebody who brings a bill of divorce from the Land of Israel," etc. Who protests? Rav Hisda said, the husband protests. Rebbi Yose said, the buyers protest, lest she repossess from them. Rebbi asked: So far a protest which does not concern the text of the bill is in dispute between Rebbi Johanan and the rabbis there. In the opinion of the rabbis there, there is no difference to a protest concerning or not concerning the body of the bill. A protest not concerning the text of the bill is void, a protest concerning the text of the bill is valid.
97 It is the position of the Babli, 9a, that in the absence of witnesses to fraud only the husband has standing to question the validity of a bill of divorce. Tosaphot 9a, s. v. א主公, read R. Yose’s statement in the argument of the Babli; this does not seem to be justified.

98 If the husband had real estate at the place of his wife which he sold and then sent a bill of divorce to his wife from far away without the payment due her upon divorce, the divorcee can reclaim any real estate sold after the date of her definitive marriage up to the value of the ketubah payment due her.

99 Their dispute is in Yebamot 10:4 (Notes 97-102) and Ketubot 2:2. The Babylonian rabbis hold that a document whose signatures have been notarized as genuine by a court cannot be attacked.

100 A clause is missing here: "In the opinion of R. Johanan".

101 A claim that a document is forged must always be investigated.

102 Tosephta 1:1.

As it was stated: "If somebody brings a bill of divorce from overseas which was not written and signed in his presence, he returns the bill to its place of origin, presents it to a court and has its signatures notarized. Then he does not have so say, ‘it was written and signed before me’, but he says, ‘I am deputized by the court.’"
**Mishnah 4:** Bills of divorce and slaves’ bills of manumission are equal in [the requirement] about those who carry and bring. This is one of the aspects in which bills of divorce have the same rules as bills of manumission.

**Mishnah 5:** Any document signed by a Samaritan is invalid, except bills of divorce and bills of manumission. It happened that they brought before Rabban Gamliel at Kefar Otnay a bill of divorce whose witnesses were Samaritans and he declared it valid. All documents confirmed by a Gentile recorder’s office are valid, even if they are signed by Gentiles, except bills of divorce and bills of manumission. Rebbi Simeon says, all are valid; they said it only when they were made by private persons.

103 They have to be written and signed before the messenger when executed or delivered outside the Land, or have to be confirmed by a court before being delivered to a messenger.

104 This is an introduction to a series of Mishnaiot on the same subject. Since the slave of a Jew becomes a full member of the Jewish endogamous society upon his manumission, strict rules are justified.

105 Since Samaritans, as a Sadducee sect, explain Lev. 19:14 to mean that it is forbidden to put a stone in the path of a blind man, but not, as Pharisees do, as a prohibition to do damage to the inadvertent, there is no biblical prohibition for a Samaritan to sign false monetary documents as long as he does not swear or appears as witness in a court. The literal interpretation of Lev. 19:14 in Philo (The Special Laws...
IV, xxxviii, 198) is probably sufficient to characterize him as Alexandrian Sadducee. Bills of divorce or manumission become valid only by the signature of the witnesses (in contrast to a bond, where "the debtor's signature is worth a hundred witnesses"); the Samaritan himself would be the guilty party in an adulterous remarriage by the wife served with a fake bill of divorce or the marriage of a slave with a free Jewish woman, forbidden to him as long as he is a slave. Since "those rules which they keep (including marriage taboos), the Samaritans keep more strictly than do the rabbinic Jews" (Babli 10a, Yerushalmi Pesahim 1:1, 27b l. 58), there is no reason to disqualify Samaritans from witnessing documents regarding marriage.

The Gentile court usually is "Π», Greek τα ἀρχεία "public records, archives." For ניι; compare τό ἀρχείον "town hall".

While Gentiles cannot be required to be honest, Gentile courts can be trusted to be jealous of their reputation.

The Gentile court is unable to determine who can or cannot marry in Jewish law.

If executed by Jews and notarized by a Gentile court.

Halakhah 5: "Any document signed by a Samaritan is invalid," etc. They are suspected about money; about money they were disqualified.
They are not suspected about incest and adultery. And testimony in capital criminal cases has the same status as testimony about incest and adultery. Then even if both of them are Samaritans\(^{111}\)? There is a difference, for they are not conversant with the fine points of bills of divorce\(^{112}\). Then even one Samaritan witness should be disqualified! Rebbi Abin said, explain it if a Jew signed last\(^{113}\). Rebbi Yose said, that is according to the opinion that the witnesses may sign separately, not in the presence of each other. But according to him who says that witnesses may sign only in the presence of each other\(^{114}\), it is valid even if the Samaritan signed last.

111 Why does the Mishnah mention only a single Samaritan witness?  
112 If both witnesses are Samaritans, one has to assume that the scribe also was Samaritan and that the rabbinic rules of writing a bill of divorce were not followed. A bill of divorce can be written only on the explicit demand of the husband; an infraction of this rule cannot be discovered by examination of the bill.  
113 He would not sign if the bill was invalid. The Babli, 10a, considers this to be R. Eleazar’s authoritative opinion (cf. Note 51).  
114 Accepted in the Babli, 10b, for bills of divorce and manumission only.

If a bond was signed by four witnesses and it turned out that the first two were relatives or disqualified, it is valid and is confirmed by the...
remaining testimony\textsuperscript{115}. Rebbi IIa in the name of Rebbi Yasa: This follows him who says that witnesses sign only in the presence of each other. But following him who says that witnesses may sign without being in the presence of each other, even if the Jew signed last it is invalid\textsuperscript{116}. And would it not be remote testimony\textsuperscript{117}? That one cannot say since Rebbi Yasa said in the name of Rebbi Jeremiah\textsuperscript{118} that disqualified witnesses do not constitute remote testimony since they came only to support the document’s validity\textsuperscript{119}.

\textsuperscript{115} A similar text (5 signatures, 3 of them invalid) is in Tosephta 7:11 and Babli \textit{Baba batra} 162b. In the text here, "disqualified" are people who cannot be admitted to be witnesses in money matters, such as Samaritans, gamblers, and fences. Relatives of either lender or borrower are disqualified for the particular document in question. Two of the signatures must belong to witnesses who can certify the document in court.

\textsuperscript{116} This refers to the problem discussed in the preceding paragraph about a bill signed by a Samaritan and a Jew.

\textsuperscript{117} Tosephta 7:11 notes that a document whose signatures are so far removed from the text of the document that a sentence could have been added between text and signatures is invalid; it might be that there was a different text and the witnesses signed to that. In practice, this means that exactly one line must be empty between the text and the first signatures. If the qualified witnesses signed two lines below the text, it is admissible to have two unqualified witnesses sign on the line above to fill in the space between the document text and the signatures of the witnesses.

\textsuperscript{118} This means, R. Yasa in the name of Rav Jeremiah (who in the Yerushalmi frequently has the title of Rebbi, as a Babylonian authority predating the creation of the Title of "Rav"). In Halakhah 9:8: R. Abba in the name of Rav Jeremiah. Note the pure Babylonian Aramaic spelling דקאמר.

\textsuperscript{119} In the Babli, 18b, invalid signatures do not diminish the validity of a document if the signatories were
invited to sign for any reason other than being witnesses. This probably is understood here also. In particular, it was customary to have relatives sign on all marriage documents. In *Baba batra* 162b, the statement of R. Yasa is quoted in the name of Hizqiah. Cf. also Halakh 8:12, 9:8.

Why are Samaritans disqualified? Rebbi Johanan said, because they are lions’ proselytes. But if somebody converted not for Heaven’s sake and then converted for Heaven’s sake, does one not accept him? Rebbi Johanan in the name of Rebbi Eleazar: Because the child is a bastard if a Gentile or a slave have intercourse with a Jewish woman. But did not Rebbi Aqiba say, they are genuine proselytes? Because they require levirate marriage from the preliminarily married and free the definitively married. But do not the rabbis say, there is no bastard from a sister-in-law? Because they are not conversant with the fine points in writing bills of divorce. But does not Rabban Gamliel accept their bills of divorce? Rebbi Jacob bar Idi in the name of Rebbi Johanan: Because they intermingled with the priests of the High Places: "He chose priests from the borderline of the people." Rebbi Ila said, from the "thorns" of the people, i.e., from the disqualified of the people.
120 Why does one not intermarry with Samaritans?

121 The originally Gentile part of the population of Samaria adopted the worship "of the local god" because they were attacked by lions, 2K. 17:24-41. In the Babli, Qiddušin 75b, this is identified as the teaching of R. Ismael.

122 That argument may have had validity in the first few generations after the destruction of Samaria, but in talmudic times the Samaritans had been monotheists for at least 700 years.

123 In Jebamot 7:6 (Note 129), "R. Ismael". In the Babli, loc. cit., identified as teaching of R. Aqiba.

124 Assuming that the deportees from Cutha and Media who were resettled in Samaria were mostly male. When they intermarried with local Jewish women, in this opinion the children were all bastards.

125 Even if the preceding opinion were generally accepted, which it is not, it would be irrelevant concerning Samaritans. Agreed to in the Babli, loc. cit.

126 Jebamot 1, Notes 192-196. Pharisaic tradition frees the preliminarily married woman and obligates the definitively married one.

127 Even if a childless widow flouts the rules and marries an unrelated man without halisah, the child is not a bastard and can marry in the congregation (Mishnah Jebamot 4:15). Therefore even a Samaritan who is the offspring of a rabbinically forbidden marriage should be an acceptable marriage partner.

128 There could be women divorced according to Samaritan rules who would not be considered divorced by rabbinic rules and, therefore, their children in a second marriage would be bastards not eligible for marriage with Jews.

129 IK. 12:31. The root הֶר "to be distant, of the elite" of חָרֵם "to be excluded" is identified with רָכָה ,רָכ "to cut, to chop off", one of whose derivatives is רָכ "thorn". (The same explanation is in the Babli, loc. cit., of R. Johanan following R. Ismael.) In any case, there is no reason to exclude marriages with Samaritans other than general convention; but cf. Demay 3:4, Note 98.
Rebbi Aha\textsuperscript{130} said, the acts of a Gentile court are public knowledge\textsuperscript{131}. Then even if both [witnesses] are Samaritan? Did one not say that they are not conversant with the fine points in writing bills of divorce\textsuperscript{128}? But Rebbi Simeon validates their bills of divorce! Rebbi Abba in the name of Rebbi Ze'ira: It turns out that Rebbi Simeon agrees with Rebbi Eleazar. Just as Rebbi Eleazar said, even if no witnesses signed on it, it is valid\textsuperscript{132}, so Rebbi Simeon said, even if no witnesses signed on it, it is valid. But then even if it was made by private persons\textsuperscript{133}? This shows that it was necessary that Rebbi Jacob bar Aha said, the acts of a Gentile court are public knowledge. A bond\textsuperscript{134} was executed in Bet Shean\textsuperscript{135}, whose witnesses were Gentiles. Rebbi Yose says, Rebbi Johanan and Rebbi Simeon ben Laqish\textsuperscript{136} disagree, one said it is invalid, the other said it is valid. Rebbi Abbahu explained: Rebbi Johanan said it is invalid, Rebbi Simeon ben Laqish said it is valid. What is Rebbi Simeon ben Laqish’s reason? That a Jew should not lose money\textsuperscript{137}. But if that one would not lose money, the other would lose money\textsuperscript{138}! Rebbi Yudan said, it must be
in order not to close the door before people, for tomorrow one would look to borrow but does not succeed.\footnote{139}

130 Later in the paragraph he is quoted as R. Jacob bar Aha. The latter attribution is correct since R. Jacob bar Aha was one of the teachers of R. Ze'ira quoted later, while R. Aha lived after R. Ze'ira.

131 If a document of indebtedness is not valid as a court document, it will be valid as being witnessed in public.

132 Mishnah 9:4. R. Eleazar (the Tanna, ben Shamua') holds that the essence of divorce is the delivery of the bill of divorce to the wife (Deut. 24:1). Therefore, he requires that the delivery be certified by two witnesses in good standing. They have to verify that the document contains the language which makes it a bill of divorce from the specified husband to the specified wife and that it was delivered into the hands of the wife either by the husband or by his duly appointed agent. Any signatures on the document are irrelevant. By contrast, R. Meir holds that a bill of divorce not certified by two witnesses is invalid.

133 Why does R. Simeon in the Mishnah invalidate bills of divorce signed by Gentiles not in a court of law?

134 A document of indebtedness, containing a mortgage clause.

135 A Gentile city in Mishnaic times.

136 יִרְשָׁ לְיוֹשֶׁף is the Babylonian version of שְׁמַעְתָּנָא נָר לַיְשֶׁף.

137 That the creditor should be able to enforce the terms of the loan in a rabbinic court.

138 Any gain of the lender is a loss for the borrower if both parties to the bond were Jewish.

139 If mortgages could not be foreclosed, nobody would lend money and all economic activity would come to a standstill. Therefore, R. Johanan's opinion cannot be considered even though he can point to Ps. 144:8,11 invalidating Gentile witnesses.
Mishnah 6: If one says, “give this bill of divorce to my wife or this document of manumission to my slave,” if he wants to change his mind in either case he can retract, the words of Rebbi Meir. But the Sages say, only for women’s bills of divorce but not for slaves’ documents of manumission because one may bestow benefit on a person in his absence but put a detriment on him only in his presence; for if one chooses not to sustain his slave, he has the right not to do so, but not to sustain his wife he has no right. He said to them, but he disqualified his slave for heave the same way he disqualified his wife! They answered him, because he is his property. If one says, “give this bill of divorce to my wife or this document of manumission to my slave” and dies, they shall not be delivered after his death; "give this mina to Mr. X" and dies, they shall deliver it after his death.

140 Before the delivery of the bill or the document. The husband can appoint an agent for delivery of the document; he cannot appoint the agent as receiver of the document on behalf of wife or slave, as explained in the Mishnah.

141 It is held that any divorce other than one which the wife can enforce in court is to the wife’s detriment.

142 The Sages hold that for a slave the benefits of freedom (and with it the status of a full Jew) always outweigh any possible material...
detriment attached to manumission.

143 If the husband or owner is a Cohen, all members of his household share in his sanctified food; unless the household members are born of priestly status they lose the access to sanctified food the moment they leave his household. In contrast to Roman law, a freedman is not part of his patron's *familia*.

144 The slave's ability to eat heave is not intrinsic; it is derivative from his servile status. The slave can eat heave even if his master, the Cohen, refuses to support him.

145 The Sages who do not permit retraction of a document of manumission agree that both divorce and manumission become effective only at the moment of delivery of the document into the hands of the recipient by the agent representing his employer. But a dead person can neither divorce nor manumit. In Chapter 7 it is explained how a terminally ill childless person can divorce his wife to spare her (or prevent her from entering) a levirate marriage to his brother without divorcing her in case he recovers from his sickness.

146 If the gift was given when the giver was aware of his impending death, the heirs are bound to respect the wishes of the deceased.
**Halakhah 6:** If one says, "give this bill of divorce to my wife," etc. Elsewhere you say that "give" means "bring", but here you say that "give" means "acquire"\(^4\). So is\(^1\) the Mishnah: "Acquire this bill of divorce for my wife; acquire this document of manumission for my slave." The formulation\(^4\) of the Mishnah says so: "Because one may bestow benefit on a person in his absence\(^1\) but put a detriment on a person only in his presence." Rebbi Meir says, it is a detriment for either of them, but the Sages say it is a benefit for the slave but a detriment for the wife. Rebbi Hiyya bar Abba said, Rebbi Johanan asked: Think of it, if he was the slave of a rich person, would it not be a detriment for the slave\(^1\)? The colleagues said, Rebbi Johanan asked: Think of it, if she was the wife of a man suffering from boils\(^1\), would it not be a benefit for the woman? You have only the following: If one sells his slave without the latter's knowledge, is the sale of the slave not valid\(^1\)? If one divorces his wife without her knowledge, is the divorce valid\(^1\) because she\(^1\) was acquired by him? Rebbi Abin said, he is his property but he disqualifies him for heave\(^1\).

\(^4\) If the messenger was appointed only as an agent for delivery, there would be no question that the sender has the right to retract his instructions. It does not seem reasonable to assume that a charge to deliver something lets the addressee acquire an interest in the document to be delivered at the moment it is given to the agent since "a person's agent represents him in every respect" [Qiddušin 2:1 (62a 1.41), Babli 43a]. Since a person can do what he wishes with a document still in his possession, why can he not do the same with the document in his agent's hand?  
\(^1\) It is not so, but must be interpreted in this way. In the Babli, Iib, R. Jeremiah is reported to hold that "give to" really means "accept for".

This argument would be futile if the owner had not bestowed freedom on his slave by handing the document to the messenger. Therefore, the rule of the Mishnah applies only if the owner had given some indication that the messenger also acted as the slave's agent.

Who as a free man probably never would eat as well as he did as a slave.

In which case the wife can force a divorce, Mishnah *Ketubot* 7:10.

Therefore, the slave can be manumitted without his consent and the owner can appoint the messenger as the slave's agent without that latter's knowledge.

Nobody can represent the wife without her consent; even if the husband would appoint a person to be his wife's agent, the appointment would be invalid and the delivery of the bill of divorce by the agent to the wife would be illegal.

That is the ms. version, copied in *editio princeps*. But it seems preferable to follow the commentators and read this clause as a quote from the Mishnah ממי שמעה אני miền הנין "because he (the slave) is his property", asking what is the relevance of this fact to the problem in hand, i.e., whether manumission is a benefit or a detriment to the slave.

Since the Cohen owner can sell his slave to an Israel any time he wishes, the slave has no intrinsic right to heave that would be eliminated by the document of manumission. This explanation is given in the Babli, 13a, in the name of Rava (Rav Abba bar Rav Josef bar Ḥama).
157"If somebody says, I freed my slave Tabi, I shall free him, he is free, he acquired." Rebbi Inaia in the name of Rebbi Johanan: But only by a document. "He should be freed, Rebbi says, he acquired, but for the Sages he did not acquire. Give this document of manumission, and he died, Rebbi says, he did not acquire but the Sages say, he did acquire; one forces the heirs to fulfill the instructions of the deceased." Rebbi Ze'ira said, they disagree if he did not specify. How do we hold? If he said, "free him", Rebbi will agree. If he said, "write and deliver," the Sages will agree. But we deal with the case that he said "give". Rebbi says, one who says "give" is like one who said "write and deliver," but the Sages say, one who says "give" is like one who said "free him".

The Sages hold that this is a not binding promise; Rebbi holds that this kind of promise is binding.

158 For Ṭabi (m.), Šābita (f.) as names of slaves cf. Niddah 1:5, Note 103.

159 The slave acquired the right to be freed.

160 In Baba Batra: R. Hiyya.

161 The slave cannot acquire freedom by the simple declaration of his owner; he only can acquire the right to a document of manumission.

162 The owner said that the slave should be freed, but did not say it in the context of a last will and testament.

The Sages hold that this is a not binding promise; Rebbi holds that this kind of promise is binding.

163 In the case of the owner who gave instructions to write a document for his slave.

164 Since the heirs are required to follow the wishes of the testator, they have to free the slave.

165 This is the case of the Mishnah; if the owner instructed to write the document and deliver it in his name, the instruction becomes void at his death.
If somebody said that all his property should be given to X, a Cohen, and [the estate] contained slaves, even if [the Cohen] said 'I cannot have them' they eat heave. Rabban Simeon ben Gamliel said, since he said 'I cannot have them', the heirs acquired them. Rebbi Ze'ira said, they disagree if he did not specify. How do we hold? If he accepted at the first moment, Rabban Gamliel will agree. If he did refuse at the first moment, the rabbis will agree. But we deal with the case that he did not specify. Rebbi says, nobody says 'it is impossible' unless he had accepted. Rabban Simeon ben Gamliel said, since he said 'it is impossible', the end is proof for the start.

166 Tosephta Baba Batra 8:1; Yerushalmi Baba Batra 8:8 16b; Babli Baba Batra 138a, Hulin 39b, Keritut 24b.
167 Since the transfer of possession is automatic, the slaves belong to the Cohen until he disposes of them.
168 The legal heirs who would have inherited in the absence of a will.
169 The recipient.
170 If the Cohen was owner of the slaves for one moment, he cannot dispose of them except by sale or manumission.
171 Nobody is forced to accept a bequest against his will.
172 And had time to inspect what he received.
173 Since he was noncommittal at the start, his later rejection has retroactive power. The same explanation is given in the Babli in the name of R. Johanan.
"If somebody says, give this mina to X because I owe it to him, bring this mina to X for the pledge which he has from me, if he wants to change his mind he cannot do so but he himself is responsible until X receives his due. Rebbi IIa said, a gift is like a debt. Give this mina to X, bring this mina to X, give this gift document to X, if he wants to change his mind he cannot do so. If he went and found that X had died, he should return it to the sender, and if that one had died he should give it to the latter’s heirs. Acquire this mina for X, accept this mina for X, acquire this gift document for X, accept this gift document for X, if he wants to change his mind he cannot do so. If he went and found that X had died, he should deliver it to his heirs. But if he acquired after [X’s] death he should return it to the sender since nobody can acquire documents after his death."
wants to change his mind he cannot do so" because if somebody acquires for another person it cannot be changed.

174 While the agent can accept the payment for the creditor (which is to the creditor’s benefit), the debt is not paid until the creditor receives it; without the creditor’s instructions the responsibility for the money cannot be transferred to the creditor since that would be a detriment; Tosephta 1:6. In the Babli 14a, Samuel disputes the ruling and holds that there is no acquisition without consent; the possibility of a detriment invalidates the benefit.

175 Tosephta 1:7.

176 "Not" is in the ms. but not in the Tosephta. All Medieval authors who quote this Yerushalmi mention it in the version of the Tosephta: Sefer Miswot Gadol 2, 161d, #82; Rashba ad 14a, Tosaphot haRosh ad 13a, s. v. אֵינוּנָה (col. 99 in the edition of H. B. Radvitz, Jerusalem 2004). Aviezri (Eliezer ben Joel, Ravia) is quoted in Mordechai Git tin 532 as having seen in one Tosephta ms. the reading "cannot"; he rejects that since then the Tosephta could have been formulated together with the following one. This argument is accepted by S. Lieberman, Tosefta ki-Fshutah Gittin p. 793, but it does not seem conclusive since the treatment of the case that the recipient died is different in the two cases. Therefore, the reading אֵינוּנָה should be provided with a question mark but cannot be rejected out of hand.

177 Not deliver to the recipient’s heirs since it was not intended for them.

178 Tosephta 1:8.

179 If it turned out that the recipient was already dead at the time the messenger was intended to become an agent for him, there was no transaction since nobody can become an agent for a dead person. The messenger was not appointed as agent for the deceased’s estate.

180 Tosephta 1:9.
Rebbe Dositheos ben Rebbi Yannai and Rebbi Yose ben Kipper descended to collect there for a colleague when they were slandered. They came and wanted to take it back from them. They answered, we already acquired it. They said, we wish for you to accept it in good faith; they answered, we are unpaid trustees.

They approached Rebbi Dositheos ben Rebbi Yannai who told them, there it is, all of it. They took Rebbi Yose ben Kipper, whipped him with ropes, and took it from him. When they returned here, he went to his father and told him, look what your son did to me! He asked him, what did he do to you? He answered, if he had taken my position, they could not have taken anything from us. He asked him, why did you act in such a way? He said, I saw that they were a unanimous court, their
hats were a cubit wide\textsuperscript{194}, they were directing blows, my brother Yose was bound\textsuperscript{195} and the whip ascended and descended. I said, does my father have another Dositheos\textsuperscript{196}? Rebbi Haggai said, you say that for somebody who cannot give a warranty in good faith. But if somebody gives a warranty in good faith, one takes from this one and gives to the other\textsuperscript{197}.

181 A parallel, in somewhat better shape, is in \textit{Qiddušin} 3:3, 64b l. 37. The readings of the Leiden ms. are given by $\mathfrak{p}$, those of one half line in a Geniza fragment (\textit{Qiddušin}) by $\mathfrak{a}$.

182 "To descend" everywhere means: To travel from Galilee to Babylonia.

183 In the parallel story in the Babli, 14a/b, R. Ahai ben R. Joshua asked them to bring him a silver vessel which was owed to him in Nahardea. According to the story in \textit{Qiddušin}, they went to collect money for the Galilean Academy.

184 After they had collected the debt, a rumor was spread that they were dishonest.

185 The debtors, afraid of losing their money, being responsible if it was stolen by the messengers.

186 Since we are empowered by the creditor, the money became the creditor's the moment it was given to us.

187 They wanted a declaration by the rabbis that they would be responsible for any loss in transit.

188 An unpaid trustee is only responsible for losses incurred because of his negligence but not for losses through robbery or other events beyond his control (Mishnah \textit{Baba Meši'a} 7:8).

189 He returned the money, against the rules.

190 The part of the money which he had.

191 R. Yose ben Kipper went to complain to R. Yannai.

192 R. Yannai interrogated his son Dositheos.

193 They had made up their minds; it was impossible to argue with them.

194 Perhaps wide-rimmed hats were the uniform of violent people.

195 Following the text in \textit{Qiddušin}. It seems that the word סרכֵר, which in other contexts means "they freed him", \textsuperscript{230}.
is a scribal corruption and should be removed from the dictionaries. Before correction, the scribe wrote "and they forced him", which may be correct.

196 He was afraid for his life; this justifies his breaking the rules.

197 If the messenger is empowered to sign a receipt for the money which shields the debtor from any claim of the creditor's under any circumstances, he cannot ask the money back.

198 An oral declaration by which the creditor engages himself not to claim a debt is valid without any act of acquisition by the debtor. This is the decision of Shulhan 'Arukh Hosen Miṣpat Chapter 12 §8, based on inferences from the Babli.

199 The debtor has to take possession of the bond directly or by an indirect act of acquisition.

If somebody forgave a bond to another person. Rebbi Hanania and Rebbi Mamal: one said it is forgiven; the other said it is not forgiven unless he handed over the bond.

"Give this mina to X," then he died. If the heirs want to hinder [the delivery] they are powerless. It is unnecessary to say that it is so if he said, acquire for him, if he said, accept by my orders." Rebbi Abba bar
Mamal said, this baraita refers to a sick person. If he is sick, does he not have to say: acquire for him, accept for him? Rebbi Mana said, I confirmed this by what Rebbi Abba bar Rav Huna said in the name of Rav: They treated verbal instructions by a sick person as if they were written and delivered\(^2\). But only if he died from that sickness, not if he recovered, he did not have to say: acquire for him, accept for him.

200 In a slightly different wording, Batra 121a, 175a) this is a statement of this is Tosephta 1:9. Rav Nahman, universally accepted. Cf. Rav Nahman, universally accepted. Cf. Ketubot 11:1, Note 22.

201 In the Babli (13a, 15a, Baba Ketubot 11:1, Note 22.

רבי בֶּא בָּרָא מֵאוֹלֶל. בֹּשָׁכֵּר הַיָּוֶה מְהַנְּקֵי הָא. יָמָה. יָתְנוּ לְאַחַר מִיתוּתָהו. רְבִּי עַבִּי בֶּשֶם רְבִּי עַבִּי בֶּשֶם (43d line 74)

"Give this mina to Mr. X’ and he dies, they shall deliver it after his death"\(^1\). Rebbi Abin in the name of Rebbi Abba bar Mamal: The Mishnah refers to a sick person.

202 The last clause of the Mishnah Tosephta discussed in the preceding Tosephta discussed in the preceding paragraph. is essentially identical with the paragraph.
Mishnah 1: If somebody brings a bill of divorce from overseas and says, "it was written before me," but not "it was signed before me," or "it was signed before me" but not "it was written before me," "it was written before me but signed only partially before me," "it was partially written before me but signed completely before me," it is invalid\(^1\). If one said "it was written before me" and another "it was signed before me", it is invalid; if two people say, "it was written before us" but only one\(^2\) says, "it was signed before me," it is invalid; but Rebbi Jehudah declares it valid\(^3\). If one says, "it was written before me" but two say, "it was signed before us," it is valid\(^4\).

1 The rule of Mishnah 1:1 is not followed.
2 A third person.
3 R. Jehudah declares a bill of divorce valid if one witness testifies to the writing and one to the signing; he does not require that both be the same person.
4 Any document is valid which is witnessed by two persons whose signatures are validated by two witnesses.
"If somebody brings a bill of divorce from overseas," etc. One understands "it was written before me" but not "it was signed before me", but "it was signed before me" but not "it was written before me"? Is not a bill of divorce validated by its signatures? That must follow Rebbi Jehudah, for Rebbi Jehudah invalidates forms⁵. Following Rebbi Jehudah outside the Land as for one who divorces in the Land of Israel⁶. Are there forms of bills of divorce outside the Land for divorces outside the Land? It is necessary for him to know that it is a bill of divorce⁷ and that he be appointed as an agent; he would not know that it was a bill of divorce unless it was written completely before him. Rebbi Hanin stated: It is permitted that he enter and leave⁸.

5 In Mishnah 3:2, the anonymous majority permit the routine production of forms of bills of divorce where everything is written in advance and only the names of husband and wife, the date, and the statement of divorce are then inserted for the particular couple involved in the divorce; but R. Jehudah holds that the requirement that "he write for her" (Deut. 24:1) can only be fulfilled if the bill was written specifically for that wife from the first letter to the last.

6 In Halakhah 3:2, practice is declared as following R. Jehudah.

7 Since the agent is to be interviewed about the writing of the bill, it is obvious that he could not answer if the bill was a form in which only the names of husband and wife
and the time were inserted. Even the anonymous majority of Mishnah 3:2 must agree that forms are possible only in the Land.

8 In all matters of supervision, it is possible for the supervisor to leave the place occasionally as long as he can return at any moment and the person to be supervised, in this case the scribe, does not know in advance when the supervisor will return. The same baraita is accepted in the Babli, 6a.

Rebbi Yose asked: If he said, "it was written and signed before me, but it was in the sole possession of the husband between writing and signing"? Let us hear from the following: "If one said 'it was written before me' and another 'it was signed before me', it is invalid." That is, because one said, "it was written before me" and another, "it was signed before me"; this implies that if one said, "it was written and signed before me, but it was in the sole possession of the husband between writing and signing", it is valid. Rav Hisda asked: half of an institution and half as biblical decree? If he said, "it was written and signed before me, but it was in the sole possession of the husband between writing and signing"? Let us hear from the following: "If one said 'it was written before me' and
another 'it was signed before me,' it is invalid." That is, because one said
"it was written before me" and another "it was signed before me"; this
implies that if one said, "it was written and signed before me, but it was in
the sole possession of the husband for an hour," it is valid.

9 In the meantime, the husband
could have substituted an invalid
document for the valid one which was
written in the presence of the agent.

10 The fact that the case is not
mentioned in the Mishnah; neither here
nor in Mishnah 1:1 is there any mention
that the document has to be seen by the
agent between writing and signing.

11 The requirement that the bill be
written specifically for that wife is
biblical, the requirement that the agent
be present at writing and signing is
purely rabbinical. It was stated in
Halakhah 1:1 (Note 14) that the
husband is not suspected of doing
anything which would make the
divorce recognized by the court when
it is invalid in the eyes of Heaven
(since then he would commit a sin
without hurting his ex-wife). Therefore, the answer given to R.
Yose's question is reasonable.

Rebbi Eleazar said, Rebbi Abun asked: If he said "it was written and
one witness signed before me," and two 12 testify about the signature of
the second witness. Rebbi Immi the Babylonian said, nothing can be more
valid than this. Rebbi Abba did not say 13 so but: If he said "it was written
and one witness signed before me, and I am the second witness." He is
like a party interested in his testimony 14.
12 Two other witnesses.
13 R. Abin’s question was trivial.
14 He becomes party and can no longer be a witness. In the Babli, 15b, the reason is given that a bill of divorce can be validated either as a document, by the independent testimony about the signature of the witnesses, or by the special rule of divorces which allows an agent to declare that it was written and signed before him, but not by a combination of both because then the witness would validate himself.

If there were four signatures and he said, "it was written and signed by two witnesses before me; I do not know anything about the other two." That is the disagreement of Rebbi Johanan and Rebbi Simeon ben Laqish, who disagreed: If he said to ten people, sign the bill of divorce, and some signed on that day and some the next day. Rebbi Simeon ben Laqish said, it is valid, for the remainder are only because of the condition\(^{15}\). Rebbi Johanan said it is invalid unless all sign on the same day\(^{16}\).

15 The first two witnesses validate the document as a bill of divorce. The others only sign because he made a condition that the bill be valid only with ten signatures, to make a public statement that he would no longer be responsible for his wife’s debts.

16 One cannot split the conditions; all ten signatures are needed to validate and, therefore, must be affixed on the date specified in the document. Otherwise the document would be invalid as predated.

In the Babli, 18b, the attributions are switched. This means that the Babli, which always prefers R. Johanan to R. Simeon ben Laqish, follows what is declared here to be R. Simeon ben Laqish’s opinion. The Yerushalmi does not decide between the opinions.
Rebbi Immi said, where do they disagree? If the document is presented by him personally. But if it is presented by another person, even the rabbis will agree that it is valid. Rebbi Hananiah agrees with Rebbi Immi. Rebbi Ze’ira said, where do they disagree? If the document is presented by another person. But if it is presented by him personally, even Rebbi Jehudah will agree that it is invalid. Rebbi Ze’ira objected to Rebbi Immi: If the document is presented by him personally, does Rebbi Jehudah declare it valid even in the first case? Rebbi Immi brought his father-in-law Rebbi Jonah who stated for him: If one said "it was written before me" and another "it was signed before me", it is invalid, but Rebbi Jehudah declares it valid. Rebbi Abin said, the formulation of a baraita supports Rebbi Ze’ira: In that case, Rebbi Jehudah declares it valid. But it is difficult following Rebbi Ze’ira: If the document is presented by another person, that is when they do not treat the messenger as two. When do they treat him as two? When he testifies to both writing and signing.
17 This refers to the clause in the Mishnah where two people say that the bill was written in their presence and a third person testifies that it was signed in his presence. R. Immi holds that the rabbis declare the bill invalid if it is presented by the single person who saw the signing, whose testimony is incomplete, whereas R. Jehudah accepts the bill as valid if two people testify to any state of the writing of the bill. But if the bill was delivered by one of the witnesses to the writing, then he and the witness to the signing are two and the rabbis will agree that two messengers who bring a bill of divorce do not have to declare that it was written and signed before them.

18 According to R. Ze’ira, R. Jehudah agrees that the bill is invalid if writing and signing are attested to by different persons. In the Babli, 17a, both opinions are recorded in the name of R. Immi, held at different times.

19 In the Mishnah, the bill is unanimously declared invalid if writing and signing are attested to by different persons. One has to assume that R. Jehudah agrees.

20 A baraita shows that R. Jehudah accepts the bill if different people testify to writing and signing, showing that R. Ze’ira’s objection is unjustified.

21 Tosephta 2:2; only in one case does R. Jehudah accept the bill as genuine.

22 Since in that case, any later protest by the husband is disregarded (Chapter 1, Note 9), it must be that the messenger who testifies to both writing and signing of the bill has the status of two witnesses whose testimony cannot be attacked.

Rebbi Yasa said in the name of Rebbi Johanan: If it is presented by him personally23. Rebbi Ze’ira was looking at him24. He asked, why are you looking at me? Even if it is presented by another person25. It means...
that Rebbi Yasa before he changed his mind followed Rebbi Immi\(^{26}\). Rebbi Mana said, even after he changed his mind it can be explained following him. There is a difference between two witnesses to the writing and two witnesses to the signing. Signing before two witnesses is empowered\(^{27}\), writing before two is not empowered\(^{28}\).

23 This refers to the last clause of the Mishnah, where one witness has seen the writing and two the signing. The singular implies that the person presenting the bill of divorce is alone; he is the person attesting to the writing.

24 Disapprovingly.

25 He changed his mind and accepts that two witnesses to the signature make any other witnesses superfluous.

26 In the preceding paragraph.

27 Any document is confirmed by two signatures if the latter can be notarized in court.

28 Except for bills of divorce, the circumstances of writing a document are irrelevant.

If it was written during daytime and signed during daytime, in the night and signed in the night, in the night and signed during daytime, it is valid\(^{29}\). During daytime and signed in the night it is invalid\(^{30}\). Rebbi Simeon declares it valid since Rebbi Simeon says that all documents which were written during daytime and signed at night are invalid except for women’s bills of divorce\(^{31}\).
29 Since the Jewish calendar day starts at nightfall, all these documents are signed on the day indicated as date in it.
30 Since every night belongs to the next day in the calendar, the document is predated.

31 He holds that the date of the writing of a divorce document has no monetary consequences; the duty of the husband to pay the ketubah and to return the dowry to his wife starts with the date of delivery of the bill.

**Halakhah 2:** "If it was written during daytime and signed during daytime," etc. Rebbi Johanan said, it is invalid because of the usufruct\(^{32}\). Rebbi Simeon ben Laqish told him, then you should also be suspicious of the bills of divorce brought from overseas; maybe they were written during daytime and signed in the night\(^{33}\)! He answered him, there the forgery is intrinsic\(^{34}\), here it is extrinsic\(^{34}\).

32 He holds that the husband's right to the yield of his wife's property ends with the signing of the bill of divorce, not with its delivery. A predated bill of divorce is a predated document about money and, therefore, invalid automatically.

The Babylonian theory, given in Halakhah 4:3, requires a date as a matter of criminal law. In the Babli, 17a/b, both opinions are attributed either to R. Johanan or to R. Simeon ben Laqish; cf. *Sefer Ha'ittur* 1, 6d, Note 26.

33 The messenger has to testify that he was present at the writing and signing of the bill, so he can be asked whether the document was written and signed specifically for the woman to be divorced. Why does he not have to testify that it was signed on the date of writing?

34 If the bill was not written specifically for the woman for whom it
is intended, it is worthless.

If the writing and the signing are done for the correct purpose, the document becomes unenforceable by an outside circumstance.

Rebbi Johanan said, Rebbi Simeon stated this only for the night; but on the next day even Rebbi Simeon will agree. But Rebbi Simeon ben Laqish said, there is no difference, whether night, or the next day, or after many days. What is the next day? Rebbi Hanania and Rebbi Mana, one said the next day, the other said the day after the next. The statement of Rebbi Johanan about Rebbi Simeon (ben Laqish) is difficult! So says Rebbi Abba in the name of Rebbi Ze'ira: It turns out that Rebbi Simeon (ben Laqish) agrees with Rebbi Eleazar. Just as Rebbi Eleazar...
said, even if there are no witnesses signed on it, it is valid, so Rebbi Simeon said, even if there are no witnesses signed on it, it is valid. Rebbi Samuel, the brother of Rebbi Berekhiah, said: Here, if he wants the document to be signed, there if she does not want the document to be signed. If he said to ten people, sign the bill of divorce, and some signed today and some the next day. Rebbi Simeon ben Laqish said, it is valid for the remainder [are signing] only because of the condition. Rebbi Johanan said it is invalid unless all sign on the same day. Rebbi Jacob bar Idi in the name of Rebbi Joshua ben Levi: There was a case that one said to ten people, sign the bill of divorce, and some signed on that day and some the next day. The case came before the rabbis who reluctantly declared it valid. This supports Rebbi Johanan from the position of the rabbis and disagrees with Rebbi Simeon. This supports Rebbi Simeon ben Laqish from the position of Rebbi Simeon and disagrees with the rabbis.

36 Since R. Simeon accepts documents from a Gentile court (Mishnah 1:5), he must accept Gentile dating for which the night follows the day. But the next day is a different date even in the Gentile calendar.
37 He holds that for R. Simeon the date of a bill of divorce is irrelevant.
38 This opinion is difficult to understand.
39 Clearly, "ben Laqish" is a copyist's error since the reference is to the Tanna, ben loḥai. Cf. Sefer Ha'ittur 7c, Note 62.
40 This is a quote from Chapter 1:5, Note 132.
41 It is not obvious that the argument of Halakhah 1:5 can be transferred to the case here. There, R. Simeon accepts a document from a Gentile court whose Gentile signatures are not considered by the rabbinic court; it is obvious that R. Simeon must follow R. Eleazar's opinion that the only witnesses who count are those of the delivery of the bill. But here it is
not obvious that if the husband wants valid signatures on the bill one does not have to follow all the rules exactly. That certainly eliminates the interpretation of "tomorrow" as "day after tomorrow".

42 The case is mentioned in the Babli, 18b, as coming before R. Joshua ben Levi's court where the latter declared that "R. Simeon is important enough that one may follow him in an emergency"; the husband had disappeared and it was impossible to obtain a replacement bill from him.

43 From here on there exists a Geniza fragment whose readings are given by J.

44 Since they permitted a bill signed on two different dates only in order to save the wife from being married to a husband who had disappeared, they agree with him that his rule represents the normal case.

Mishnah 3: One writes with anything, with ink, with vermilion, with gum, and with copper sulfate, and anything that leaves a record. One does not write with drinks, or fruit juice, or anything not permanent. One writes on anything, on a leaf of the olive tree, on a cow's horn if one delivers the cow to her, on a slave's hand if one delivers the slave to her. Rebbi Yose the Galilean says, one does not write on anything living nor on food.

44 These words are explained in Sotah 2:5,6, Notes 147,152.
Halakhah 3: "One writes with anything," etc. 45"He shall write 46", not engrave. "He shall write", not dropping points. "He shall write", not pouring. "He shall write", not engrave; some Tanna'im state, he even may engrave. Rav Hisda 47 said, he who says not to engrave, if the writing stands out as on a denar. He who says even to engrave, as on a writing tablet 48. "He shall write", not dropping points; Rebbi Yudan bar Shalom and Rebbi Mattaniah: One said, if he did not connect the points; the other
said, even if he connected the points\textsuperscript{49}. "He shall write", not pouring. Rebbi Hiyya bar Abba said, those Orientals are very sophisticated. If one of them wants to write a secret\textsuperscript{50} letter to another, he writes with juice of gall-nuts\textsuperscript{51}. The recipient pours ink without gall over it, which is absorbed at the place of the writing\textsuperscript{52}. If one did that\textsuperscript{53} on the Sabbath, what? There, we have stated\textsuperscript{54}: "Writing on top of writing is not prosecutable."

Rebbi Johanan and Rebbi Simeon ben Laqish both said, only if he wrote ink on ink or vermilion on vermilion\textsuperscript{55}. But if he wrote ink on vermilion or vermilion on ink, he is guilty. Rebbi Isaac bar Mesharshia in the name of the rabbis from there: He is doubly guilty, once for erasing and once for writing\textsuperscript{56}.

\textsuperscript{45} This paragraph is paralleled in \textit{Sabbat} 12:5 (13d 1. 29); the readings from there are noted \textsuperscript{v}.

\textsuperscript{46} \textit{Deut.} 24:1: "He shall write her a scroll of divorce and deliver it into her hand."

\textsuperscript{47} In the Babli, 20a, this statement of the Babylonian Rav Hisda is in the name of the Galilean R. Eleazar.

\textsuperscript{48} On a wax-covered writing tablet (πίναξ), one writes by engraving. The same is true for writing cuneiform on clay tablets. Therefore, engraving can be called "writing".

\textsuperscript{49} Even though one can produce letters that look as if written, they are not written.

\textsuperscript{50} Greek μυστήριον "mystery or secret rite". In the parallel sources the word is more appropriately the adjective μυστηρικός "of or for mysteries".

\textsuperscript{51} This is the meaning of the expression in the Babli, 19a. But the word might also mean "apple juice, fruit juice", from Greek μήλον "apple, or other fruit".

\textsuperscript{52} If the ink is washed off the paper, the writing becomes visible.

\textsuperscript{53} Is pouring a fluid over a paper to make invisible writing visible an act of writing, which is forbidden on the Sabbath?

\textsuperscript{54} Mishnah \textit{Sabbat} 12:5.

\textsuperscript{55} In that case, the writing has no visible effect.
If the witnesses do not know how to sign. Rebbi Simeon ben Laqish said, one sketches for them in ink and they sign with vermilion, or with vermilion and they sign in ink. Rebbi Johanan told him, because we are occupied$^{57}$ with the rules of the Sabbath, should we permit a married woman$^{58}$? But he brings an blank sheet of paper and cuts it before them$^{59}$. Would it not have been the first person’s handwriting$^{60}$? One has to widen the cuts. Rebbi Mana said, why do we not say that one sketches for them with water? If he would come and protest, his protest would be accepted$^{61}$. If somebody tears into skin$^{62}$ in the form of writing it is valid. If somebody sketches on skin$^{63}$ in the form of writing it is invalid.

$^{56}$ In the Babli, 19a, this is quoted as the common opinion of R. Johanan.

$^{57}$ Following the reading in Sabbath. The reading of the two texts in Gittin, "because they are not occupied", does not make sense. The meaning is also
confirmed by the parallel in the Babli, 19a.

58 Because writing with ink on vermillion is a desecration of the Sabbath, it does not follow that if illiterate witnesses draw their signatures in ink over vermillion letters that this is valid testimony. As the sentence after the next points out, the witnesses in that case paint the first writer's letters; they do not sign in a way that could be notarized.

59 They draw with a pen along the lines cut into the paper. In the Babli, 19a, this method is attributed to Rav.

60 The objection raised against R. Simeon ben Laqish can also be raised against R. Johanan. But for his method, the objection can be overcome by not cutting lines into the paper but cutting out small strips where the witness has some leeway where to draw his lines which spell his name.

61 If the witnesses just wrote over the letters, irrespective of how these were drawn, the signatures could not be notarized and the husband could claim that there are no signatures. The method indicated by R. Johanan is the only acceptable one.

62 Before it was turned into leather which was used as writing material in those times. Since it is permitted to write with a stylus, a permanent inscription can be made on hide and this is valid.

63 Writing on untanned skin can simply be wiped off; this is not permanent writing and therefore is invalid as stated in the Mishnah. The parallel in Sabbath deals with the laws of Sabbath and characterizes the first writing as incurring guilt, because permanent, and the second as not prosecutable, because not permanent.

In the Tosephta, Gittin 2:4, Sabbath 11:8, the terms "valid, invalid" and "guilty, not prosecutable" are switched.
"This is your bill of divorce on condition that you give it to me," is invalid. "On condition that you return it to me," is valid. Is that not the prior case? Rebbi Yose said, after you went to court. Rebbi Yose ben Rebbi Abun said, "after you have acquired all the rights for which it was made, return it to me." Similar to that: *Etrogim* were scarce over there. Rav Nahman bar Jacob gave an *etrog* to his son and said to him, if you have acquired it and fulfilled its obligation, return it to me.

64 If the bill of divorce has to be returned immediately, there is no divorce. Deut. 24:1 requires that the bill of divorce be "given into her hand", i.e., be legally in her power.

65 Once the document has served its purpose, it may be returned without invalidating the divorce. In the Babli, 20b, the formulation is: "This is your bill of divorce but I remain the owner of the paper' is invalid; 'this is your bill of divorce on condition that you return the paper to me' is valid." Here also it is understood that the paper will be returned only when it is no longer needed.

The Geniza text reads: "after you acquired it." The Leiden text is preferable since for the Geniza text the explanation which follows is unnecessary.

66 He agrees with R. Yose; he only gives the legal formula for what the Babli calls "a transfer of ownership on condition that it be returned." This is everywhere considered a valid transfer of ownership and, therefore, satisfies Deut. 24:1.

67 Persian *turungān* (a word of Indian origin) designates all citrus fruits. It was used for *citrus medica*, rabbinic Hebrew *etrōg*, which was identified as the "fruit of the tree of splendor" mentioned in Lev. 23:40 together with palm branches, brook willows, and a branch of the thick-leaf tree (traditionally the myrtle).

68 Lev. 23:40 reads: "You shall take for yourselves on the first day palm branches...". The prescribed ritual can only be fulfilled if the four kinds mentioned are the personal
property of the celebrant. Therefore, if a person gives his "four kinds" to another person for the celebration, it cannot be a loan but must be "a transfer of ownership on condition that it be returned." In Babylonian sources (Sukkah 41b, Tosephta Sukkah 2:11) the conditional transfer of ownership is a tannaitic institution.

Rebbi Jeremiah asked: If he wrote it on a golden cup and said, the writing is yours but the space between the lines belongs to me? Is that writing? Torn leather is valid, if it was torn it is invalid. If it was not torn by the tear of a court, but if it was torn by the tear of a court. What is the tear of a court? Between the text and the witnesses.

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69 In the Geniza text: "Does the text fly?" There is no text if there is no space between the letters. In Babylonian sources (Babli 20b, Tosephta 2:5) the formulation is: If he retains ownership of the paper, the bill is invalid.

70 This text clearly is defective. In the Tosephta, 7:11, the text reads: torn is valid, if it was torn it is invalid; if the tear is that of a court it is invalid." The Geniza text is similar. In the opinion of most commentators, the meaning is that a bill of divorce written on a piece of leather that has a tear is valid but if it was torn after the document was written and signed but before it was delivered, it is invalid. In the opinion of S. Lieberman, means that the piece of leather had many tears before it was used.

71 If the ketubah was paid under
the supervision of the court, the court will tear the bill of divorce to make sure that the divorcee cannot use the bill to collect the ketubah a second time in the jurisdiction of another court. Since the witnesses have to sign immediately after the text, to avoid the fraudulent insertion of additional text, a document in which the signatures are separated from the text is automatically invalid.

"On a leaf of the olive tree." Is that not like torn? Rebbi Ze'ira said, Bina bar Shila stated: Even if he only wrote: "I X am divorcing my wife," it is valid. This follows what Rebbi Ila said, if he detailed it is invalid, if he did not detail it is valid.

72 The leaf is much to small for the text of the bill, even if written in miniature letters.
73 Text of the Geniza ms. and the Constantinople print.
74 The name of the wife must be mentioned, the fact that she is his wife then need not be mentioned; the fact of the divorce must be mentioned.
75 If the full text is written it must comply with all rules to be valid.
76 If he only wrote his and her names and the fact of the divorce.
"On a cow’s horn." The Mishnah\(^\text{77}\) in case he says to her, here is your bill of divorce. But if he says to her, here is your bill of divorce and the remainder is for your ketubah, her bill of divorce and the payment of her ketubah were received together\(^\text{78}\). If he said to her, here is your bill of divorce and the payment of your ketubah together\(^\text{79}\)? Rebbi Ezra\(^\text{80}\) asked before Rebbi Mana: If he delivered the halter to her, what\(^\text{81}\)? In commercial law, the buy is acquired, do you say so here\(^\text{79}\)? Or is it a difference since it is written: "he shall deliver into her hand," until it is completely in her hand\(^\text{82}\)?

\(^{77}\) Which requires that the cow be delivered to the wife as bill of divorce.

\(^{78}\) The moment she accepts the horns carrying the bill of divorce, she acquires the animal as part payment of the ketubah. There is a small problem here which is not mentioned in either Talmud: A bill of divorce can be given to a wife against her will but the ketubah can be delivered in merchandise, instead of coin, only with her consent. Since transfer of property of an animal always requires an act of acquisition, the husband who writes the bill of divorce on the horns of a cow gives up his right to unilateral divorce.

\(^{79}\) In the first case, the payment of the ketubah was a consequence of the delivery of the bill of divorce. As it is explained at the end of the paragraph, one may interpret the verse as meaning that the bill of divorce has to come into the wife’s hand unconditionally, not as part of an acquisition of anything else. In this opinion, the requirement that the payment of the ketubah be simultaneous with the divorce, not a consequence of the divorce, invalidates the proceedings. In the Babli, 20b, the example is a bill of divorce engraved on a plate of gold and Rav Nahman states that the simultaneous delivery of divorce document and ketubah is valid, in contrast to the conclusion of the Yerushalmi.
Reading of the Geniza. The reading of the Leiden ms., R. Ze’ira, cannot refer to R. Ze’ira, the head of the Academy of Tiberias, who lived in the second generation after R. Mana I and two generations before R. Mana II. A R. n-nsn, student of R. Mana I, is quoted a few times in other places in the Yerushalmi.

A bridled animal can be acquired by the buyer by taking the halter in his hand and causing the animal to walk one step at his command.

The bill of divorce has to come into the wife’s hand by being delivered by the husband, not by an active act of acquisition on her part. The formulation of this paragraph implies that this delivery of a bill of divorce is classified as invalid.
What is Rebbi Yose the Galilean's reason? "Scroll." Since a scroll is special in not being a living being, so no living being. Since a scroll is not food, so no food. What is the rabbis' reason? "Scroll." Since a scroll is detached, so everything detached. Are stalks of food in Rebbi Yose the Galilean's opinion like food? Let us hear from the following: If he wrote it on a deer's antlers, shaved it off, had it signed, and gave it to him, it is valid. Because he shaved it off before he had it signed. Therefore, not if he had it signed and afterwards shaved it off. Rebbi Abba in the name of Rebbi Miasha: Only if he wrote on the male horn. But if he wrote on the sheath it is as if separated and is valid. Rebbi Jonah asked: Is that the same for preparation of produce? If he desired that it should rain on an animal and [the rain] dropped from the animal on food. There, Rebbi Yose said "a scroll", since a scroll is special in not being a living being, so no living being; and here, does he say so? There is a difference since it is written, "any drinkable drink in any vessel shall be impure". Then also if it rained into cisterns, ditches and caves? There is a difference here, for it is written: "a vessel".

83 The same argument in the Babli, 21a. The interpretation of the rabbis' position is quite different in the Babli.
84 This refers to Mishnah 4 where it is stated that a bill of divorce cannot be written on anything connected to the ground. The bill of divorce cannot be written on the walls of a house and the house given to the wife.
85 The stalks of fruits which usually are harvested together with the fruits have the status of fruits in the laws of impurity; this is the theme of Tractate Uqesin. The question is whether R. Yose the Galilean will forbid these inedible stalks as materials for bills of divorce since they are subject to the impurities of foodstuffs.
86 This baraita must be attributed to R. Yose the Galilean since for the rabbis the entire deer could have been given to the wife. The antlers are
inedible bony structures attached to the living deer just as stalks are inedible wooden structures attached to fruits.

87 This should be "her", correctly in the Geniza text. As explained in the next Halakhah, "signing" covers not only the signatures of the witnesses but also the insertion of the necessary data into the formulaic text; cf. Note 100.

88 This proves that the antler is an integral part of the deer for R. Yose the Galilean. It is reasonable to assume that a stalk for him is an integral part of the fruit.

This rule also follows the rabbis of Mishnah 4 whose position is explained in the Babli (21b) from Deut. 24:1: "he writes and hands over to her" that no necessary action may intervene between signing and delivery of the document.

89 In the Geniza text: Aḥa. While it is known that R. Aḥa was a student of R. Miasha's, the reading of the Leiden ms. cannot be rejected out of hand since Rabbis Abba and Aḥa were contemporaries.

90 This refers to horns of cattle and goats rather than deer. These horns consist of a horny sheath (the female horn) over a bony spur (the male).

91 Greek νάρθηξ; cf. Berakhot 5:2, Note 67.

92 The rabbis of Mishnah 4 would certainly object and require that the entire animal be handed over to the wife; cf. Note 88.

93 While food is under rules of impurity that are much stricter than those for vessels, etc., harvesting alone does not transform produce into food for these rules; only intentional moistening will have that effect, cf. Demay 2:3, Note 136-141.

94 In this case, the moistening was desired by him for the animal but not for the food. Mishnah Makhširin reads: Any fluid which at the start is desired, even if at the end it is not desired, or if at the end is desired, even if at the start it was not desired, fulfills the condition "that it be given" (i.e., it prepares for impurity by the terms of Lev. 11:38: "If water be given on seeds . . . it shall be impure for you"). For the anonymous rabbis it is obvious that drops from water which was desired for the animal will prepare food for impurity by this Mishnah. But R. Yose the Galilean, who disqualifies animals as writing materials for bills of divorce, might equate animals to things connected to the soil which are disqualified for bills of divorce in Mishnah 4, and for objects of desire
which act in impurity as explained in the following.

95 Does he exclude animals from the category of objects which prepare for impurity if watered? There seems to be no reason why this should be so.

96 *Lev.* 11:34.

97 A similar text is in *Sifra Šemini Parašah* 8(2): "I could think also [if it rained] into cisterns, ditches and caves?

It is written: 'a vessel'; since one of the characteristics of a vessel is that it is separated from the ground, so only things separated from the ground." Everybody agrees that water collected in cisterns, etc., does not prepare for impurity; the reason for this has nothing to do with the controversy over writing materials.

Mishnah 4: One does not write on anything connected to the ground. If he wrote on anything connected, detached it, signed, and delivered it, it is valid, but Rebbi Jehudah declares it invalid unless both writing and signing took place when it was detached. Rebbi Jehudah ben Bathyra says, one writes neither on erased papyrus nor on διφθέρα because these can be falsified but the Sages declare valid.

98 Not only affixed the signatures of the witnesses but also inserted the essential data of the document; cf. Note 100.

99 In Mishnaic usage, hide incompletely tanned; cf. *Sotah* 2:6, Note 151. The hide does not absorb the ink which can be wiped off without leaving a trace.
Halakhah 4: "One does not write on anything connected to the ground," etc. This does not disagree with Rebbi Johanan, since Rebbi Johanan said, writing the essential text with the formula is valid. Rebbi Simeon ben Laqish said, writing the essential text with the formula is invalid. Samuel bar Abba asked: If he wrote and signed it when detached, then he connected it again, detached it, and delivered it to her; what does Rebbi Jehudah say? Rebbi Eleazar said, Rebbi Abin asked: If he wrote and signed it when detached, then he connected again, signed, and detached it, and delivered it to her; what do the rabbis say?

100 This refers to Mishnah 3:2, in which permission is given to scribes to prepare the formulaic text of divorce documents, so that only the names of husband and wife and the date have to be inserted, without violating the commandment that the document be written specifically for the woman concerned. It is not mentioned in the Mishnah whether the text which turns the document into one of divorce, "this is your bill of divorce and you are permitted to every man" is part of the formulaic text or has to be written with that particular woman in mind. R. Johanan permits this sentence to be written as a formula, R. Simeon ben Laqish prohibits. (In the Babli, 21b, the attributions are switched, probably because the Babli insists that practice...
follow R. Johanan.) In the interpretation of the Babli, the divorce formula may be prepared in advance for R. Eleazar, for whom only the witnesses to the delivery of the text are important, but not for R. Meir, for whom the witnesses signing the document are those who validate the divorce. It is impossible to know whether the Yerushalmi would agree to this interpretation.

101 The Geniza text has a longer sentence: "R. Ze'ira said, they disagree in this, R. Johanan said, writing the essential text with the formula is valid, R. Simeon ben Laqish said ..." This text adds no new information.

102 Since the bill was written according to the rules, does a later unnecessary action invalidate the document? No answer is given; it is difficult to see why the answer should be "valid".

103 This text seems to be self-contradictory since "signing" is mentioned twice. It is difficult to amend the text against the concurrent testimony of the ms. sources available. Sefer ha'ittel I 26a, quotes an identical text for both questions, one addressed to R. Jehudah and one to the rabbis. Rashba (Novellae ad 21b, end) reads in the question addressed to the rabbis: If he wrote it when detached, attached, signed, detached, and delivered it, what do the rabbis say? In this case the obvious answer is: invalid. The text as it stands can be interpreted to mean that the bill was written when detached, including date, both names, and the statement that it was a divorce document which freed the wife to marry any man, but that the witnesses signed when it was attached to the ground. Then it would be invalid for R. Meir and valid for R. Eleazar the Tanna.
Rebbi Eleazar said, where do they disagree? About bills of divorce. But for contracts even Rebbi Jehudah will agree. He explains it if the document is on a smooth surface and the witnesses on the erasure. Rebbi Simeon ben Laqish said, it makes no difference; they disagree both about bills of divorce and contracts. He explains it if the document is on a smooth surface and the witnesses on the erasure. It is difficult for Rebbi Eleazar: If the witnesses [sign] on the erasure, do the Sages declare it valid? Rebbi Ze'ira said before Rebbi Mana: The Sages follow the argument of Rebbi Eleazar, for he explains that the document is on the erasure and the witnesses on a smooth surface. Samuel said, everything is on the erasure. Does not Rebbi Jehudah say it correctly? Rebbi Abba said, it is recognizable whether there was an erasure once or twice.

104 This paragraph is also in Sefer ha'Ittur 26d (Note 52); the variant readings are given by y. While medieval authors cannot be expected always to quote exactly, the text is quoted as support for the Geniza readings.

105 The Amora.

106 In the Babli, 22b, R. Eleazar says that the Sages agree with R. Jehudah that contracts may not be written as palimpsests or on erasable leather.

107 Then the document cannot be forged and one hopes that the signatures can be verified either by the signers or by comparing the signatures with those on other known documents.

108 In the Babli, 22b, this is
attributed to R. Johanan.

109 It is difficult to agree that the signatures cannot be forged.

110 The Tanna who dismisses the signatures on the bill of divorce as irrelevant and requires delivery of the bill in the presence of witnesses to the delivery. This is the explanation of the Babli in the name of the Amora R. Eleazar.

111 The witnesses to the delivery must read the document before delivery to verify that it is what it is declared to be. They would detect a forgery.

112 The entire document is a palimpsest. This explanation is implied by the language of the Mishnah; such a document is declared valid in the Babli (Baba batra 163a) in the name of Rav. The editors of the Babli agree, Baba batra 164a.

Mishnah 5: Everybody is acceptable to write the bill of divorce, even an insane, a deaf-and-dumb, or a minor. The wife may write her bill of divorce and a man his receipt, for the certification of the bill of divorce is only effected by its signatures. Everybody is acceptable to bring the bill of divorce except an insane, a deaf-and-dumb, a minor, a blind person, or a Gentile.

114 As explained in the Halakha, they may write only the formulaic text which does not have to be written specifically for the divorcing couple. This justifies the inclusion of the deaf-and-dumb.

115 She has to hand the completed bill to her husband who must have it signed by the witnesses and return it to her in front of witnesses.

116 The debtor who pays his debt may present the creditor with a receipt
which the latter signs. The text of the receipt does not have to be in the creditor's hand.

117 It is explained in the Babli that the blind person is disqualified only for bills of divorce transported across the border since he cannot affirm that he saw its writing and signing.

118 Since the rules of divorce are biblical, they can be fulfilled only by a person subject to the biblical rules.

Halakha 5: "Everybody is acceptable to write the bill of divorce," etc. Rav Huna said, only if a sane person watches over them\(^{119}\). Rebbi Johanan asked\(^{120}\): But is it not written: "He shall write for her," in her name\(^{5}\)? Samuel said, it is necessary that one reserve the essential text for him\(^{121}\). This follows what Rebbi Simeon ben Laqish said, writing the essential text with the formula is invalid\(^{100}\).

119 If an incompetent person (insane, deaf-and-dumb, or minor) writes the text, they must be directed by a person who knows for what they write. The same statement is in the Babli, 22b/23a.

120 The translation follows the Geniza text and Sefer ha'їтїur (27b).

121 The essential text must be written by a responsible person under the husband’s direction. The Babli agrees, 23a.
Mishnah 6: If the minor received it and became an adult, the deaf-and-dumb and started talking, the blind and became seeing, the insane and became sane, the Gentile and converted, it remains invalid. Since Deut. 24:1 requires that the husband hand the divorce document over to his wife, he can be represented in this transaction only by a duly appointed representative. But since an incompetent person cannot be a representative, nor a Gentile be an agent in a Jewish religious transaction, any such delivery could not be considered as the husband’s.

Mishnah 7: But if a hearing person became deaf-and-dumb, then regained his hearing, a seeing person became blind, then regained his vision, a sane person became insane, then regained his sanity, it is valid. This is the principle: Whenever the beginning and the end was in full competence, it is valid.
Halakhah 6: "If the minor received it and became an adult," etc. There came a case before Rebbi Immi that a slave brought a bill of divorce; [he declared it] valid. Rebbi Abba said to him, did not Rebbi Hiyya state that if a slave brought a bill of divorce, it would be invalid? Rebbi Assi said, if not for Rebbi Abba, we would have permitted a married woman! Even if you say that Rebbi Assi did not accept what Rebbi Hiyya stated, did he not accept what the rabbis said? Let us hear from the following which Rebbi Ze'ira, Rebbi Hiyya said in the name of Rebbi Johanan: It is reasonable that a slave could accept a bill of manumission [for delivery] but he should not accept [a bill of divorce] as we do. They thought, he formulated "he should not accept," therefore, if he transgressed and accepted, it would be valid. Rebbi Jacob bar Aha in the name of Rav Hoshiaiah: It happened that she was a Cohen's wife and they were not afraid of a hint of invalidity.

124 In the Babli, 23a, this was a theoretical question and R. Assi was the opponent.
125 R. Hiyya the Elder.
126 This is the Babylonian name of R. Yasa, the constant companion of R. Immi. The version of the Geniza ms. which reads "R. Immi" for all occurrences of "R. Assi" is preferable.
127 A woman who receives an invalid bill of divorce remains married to her husband.
128 R. Hiyya bar Abba, student of R. Johanan and teacher of R. Ze'ira. In the Babli, 23b, this is quoted by Rav Samuel bar Jehudah in the name of R. Johanan.
129 He can bring another slave's bill of manumission since he himself may be manumitted. In the Babli this is restricted to another owner's slave.
130 Translation of the Geniza text,
supported by the Leiden ms. in Qiddusin 1:3, 60a l. 50. Since a slave cannot legally marry, he cannot divorce and like a Gentile is barred from acting in a divorce proceeding. R. Immi, who initially accepted the bill of divorce, must have held with R. Meir that the slave’s hand is his master’s hand (Qiddusin 1:3, 60a l. 49).

It is not formulated as an absolute impossibility.

Since a Cohen may not be married to a divorcee (Lev. 21:7), in all cases in which there may be the slightest doubt about the validity of a divorce given by a Cohen, the court will force the husband to give a second, unquestionably valid divorce.

They declared the bill of divorce in the hand of the slave as nonexistent and permitted the wife to stay married to her Cohen husband.

Mishnah 8: Even women who cannot be believed if they say that [a woman’s] husband died are trustworthy to bring her bill of divorce: Her mother-in-law, her mother-in-law’s daughter, her co-wife, her sister-in-law, and her husband’s daughter. What is the difference between divorce and death? The writing is the proof. A woman may herself bring her own bill of divorce, but she still is required to say that it was written and signed before her.

These are presumed to hate her, that they would not mind tricking her into adultery.
Halakhah 8: "Also those women who cannot be believed if they say that [a woman's] husband died," etc. Would you believe her if it was written but not signed [in her presence]? If she did not say 'it was written in my presence, it was signed in my presence', would you permit her to remarry? Rebbi Yose ben Rebbi Abun said, that parallels what Rebbi Abun said, he is not suspect to damage her before Heaven. Before the court he is suspect to damage her. But since he knows that if he comes and protests, his protest is void, he will choose qualified witnesses to sign.

135 This paragraph is also in Yebamot 15:4, explained there in Notes 91-94. The variants are denoted by δ. 136 Therefore, it is not the text which allows the wife to remarry but the other woman's testimony.

137 An additional sentence, extant in Yebamot, is missing here to the effect that if one of these women would recant her testimony she also would not be believed.
Think of it, if she stayed in Rome ten years and remarried! Rebbi Johanan said, the Mishnah if he said to her, you shall only be divorced [by this document] at place X.

138 Since the woman is divorced once the bill is delivered into her hands, does the Mishnah mean that a woman married for the second time has to keep her bill of divorce and show it to the local court any time she moves to a new location? This is impossible since the bill is torn up by the court once the *ketubah* was paid to her in full.

139 She is divorced as soon as she declares at her place of destination that the bill was written and signed in her presence. The Babli, 24a, agrees after a lengthy and tortuous discussion.
Mishnah 1: Every bill of divorce which was not written for a particular wife\(^1\) is invalid. How? If one was walking in the market and heard the scribes dictating\(^2\) "Mr. X divorces his wife Y from place Z" and said, these are mine and my wife’s names, it is invalid and cannot be used to divorce by. In addition, if he wrote [a bill] to divorce his wife but had second thoughts, and a fellow townsman came and said to him, my name is identical with yours and my wife’s name is identical with your wife’s, it is invalid and cannot be used to divorce by. In addition, if he had two wives with identical names and wrote a document to divorce the older one by, he cannot use it to divorce the younger. In addition, if he said to the scribe: write that I may divorce either one\(^3\) I wish, it is invalid and cannot be used to divorce either one.

\(^1\) If the scribe did not intend to write for one particular woman. As will be clear from the sequel, the scribe not only has to know the wife’s...
name but her identity as well.  

2 A school of scribes and the teachers were dictating a text as example of a bill of divorce. At the end of the course, every student would have forms available for all situations.

3 Of the two who have identical names.

Halakhah 1: "Every bill of divorce which was not written for a particular wife," etc. Who is dictating? School teachers. What means "in addition"? There it was not written as a bill of divorce but here it was written as a bill of divorce. What means "in addition"? There it was written neither in his name nor in her name but here it was written in his name but not in her name. What means "in addition"? There it was written in his name but not in her name but here it was written in his name and in her name but it was not written for divorce from the start.

4 The expression משך הניינ is the standard reference to a Mishnah (other than the one under discussion). Since the reference is to a clause in the Mishnah under discussion, the word הניינ is a learned scribe’s slip of the pen; it is missing in the Geniza text.

5 In the Babli, 24b, "a training course for scribes."

6 From the Babli, 24b, it appears that the remainder of this paragraph is a baraita.

7 In what is the case of the man who wants to use somebody else’s bill different from the case of the bill written as a writing exercise?
The question is what is the difference between the bill destined for the older one and the bill destined for either one of the two.

Deut. 24:1 requires that the husband “write her a scroll of divorce”; it must be written from the start for one and only one divorce.

Rav said, none of these are invalid\textsuperscript{10} except for the last which is invalid\textsuperscript{11}. Issi\textsuperscript{12} said, all are invalid\textsuperscript{13} except for the first which is not invalid. Rebbi Abba bar Hinena\textsuperscript{14} said, all are invalid\textsuperscript{15}. The word of Rebbi Simeon ben Laqish implied that all are invalid since Rebbi Simeon...
ben Laqish said, if he wrote the essential text with the formula, it is invalid\textsuperscript{16}. The word of Rebbi Joḥanan implied that none are invalid since Rebbi Joḥanan said, if he wrote the essential text with the formula, it is valid\textsuperscript{17}. Does the word of Rebbi Eleazar imply that none are invalid? Since Rebbi Eleazar asked: if one wrote a bill of preliminary marriage\textsuperscript{18} not for a specific name\textsuperscript{19}, does preliminary marriage take hold? If he had a problem with divorce, would he ask about preliminary marriage\textsuperscript{20}? Since in the case of divorce, where the document is required to be for a specific name and he did not write for a specific name, divorce will not touch her, is it not logical that in the case of preliminary marriage, where a specific name is not required and he did not write for a specific name, preliminary marriage take hold with her\textsuperscript{21}? That should be obvious to him. Really, the following is obvious to him: Since one inferred the bill of preliminary marriage only from divorce\textsuperscript{22}, and in the case of divorce she is not divorced, in the case of preliminary marriage she is not preliminarily married\textsuperscript{23}.

10 As explained in Chapter 2, Note 132, if a Cohen divorces his wife with a document which is found to be invalid but which possibly might have been valid, (the technical term is: the document has the "smell" of a bill of divorce) one forces the Cohen to deliver a valid divorce document to his wife and he is prohibited from changing his mind and not divorce her. Rav states that all the bills of divorce mentioned in the Mishnah except the last do not have a "smell" of a bill of divorce; they are pieces of paper, not bills of divorce, neither valid nor invalid.

11 The bill written for two wives with identical names is invalid but if the husband is a Cohen he is forced to divorce the wife to whom the bill was delivered.

12 In the Babli, 24b/25a, Rav's opinion is attributed to Rav Assi (= Issi) and vice versa.
13 And force a definitive divorce if made by a Cohen. In the Babli, 24b, this position is attributed to Rav.

14 An Amora of this name is not otherwise known. In the Geniza text, the name is Ze'ur bar Hinena, known from both Talmudim as the name of a third-Century Amora who almost was killed by Queen Zenobia of Palmyra.

15 In the Babli, 24b, this appears as Samuel's opinion.

16 The sentence about R. Simeon ben Laqish is missing in the Geniza text. R. Simeon ben Laqish considers the statement that the document is one of divorce so important that its writing without the explicit instruction by the husband invalidates the bill; cf. Chapter 2, Notes 100,101. But his choice of the word "invalid", not that "there is no 'smell' of a divorce", shows that in all cases he holds that any material expression of the husband's desire to divorce prohibits the Cohen to remain married to his wife.

17 R. Johanan strictly follows the Mishnah that only the names of husband and wife and the date have to be written by the explicit instruction of the husband. Therefore, he also follows the language of the Mishnah, not that the bills of divorce are simply invalid but are "invalid to be used in divorce", meaning that the use of any of these documents cannot imply any divorce in any form. (The classical commentators all feel obliged to switch the positions attributed to R. Simeon ben Laqish and R. Johanan; this position cannot be sustained against the testimony of both mss.) The Babli, 25a, quotes R. Johanan in the sense given here but explains his disagreement with the position attributed here to Rav by the fact that he never admits retroactive validation of documents; therefore, he cannot admit that the husband has the power to decide after the writing of the document to which wife it shall apply.

18 Mishnah Qiddusin 1:1 states that a preliminary marriage can be effected either by a transfer of valuables, or a contract, or sexual relations. It is then explained [Qiddusin 1:1 (58c l. 29), Babli 9a] that the contract is a written statement by the groom declaring his future bride to be his wife; the marriage is effected by the acceptance of the letter by the addressee (or, if she is underage, her father).

19 Meaning: not for a specific woman; since no name has to be written in the statement, it may simply read: By accepting this document, you are my wife. The document contains
no formulaic text.
20 If he thought that any of the bills of divorce mentioned in the Mishnah would possibly count as active for a Cohen’s wife, he would have to ask about circumstances of divorce, where the problems are real and grave.

21 The Geniza text has a longer argument: "Since he has a problem with divorce where [the documents] are not invalid; therefore he asks about preliminary marriage. If you say he has a problem with divorce, he should not ask about preliminary marriage. Since in the case of divorce, where it is required that the document be for a specific name and he did not write for a specific name, divorce did not touch her; in the case of preliminary marriage, where a specific name is not required, if it was not for a specific name preliminary marriage should take hold of her. It should be so. That is impossible. Since in the case of divorce, where it is required to be for a specific name, if it was not for a specific name, divorce did touch her; in the case of preliminary marriage, where a specific name is not required, and he did not write for a specific name, preliminary marriage should take hold of her." It is difficult to make coherent sense of this text.

22 The validity of a preliminary marriage by a symbolic bride purchase is given biblical status by reading Deut. 24:1 "if a man take a wife" as "if a man buy a wife" since in Mishnaic Hebrew the verb נָּקָּח means "to buy" [Qiddusin 1:1 (58b 1.35), Babli 4b]. The possibility of marriage by document is inferred from Deut. 24:2: "She [the divorcée] left his house, went and became another man’s." Since "becoming a man’s" means to marry him, the verse connects leaving (divorce) with becoming (marriage). Since leaving is effected by a document, so becoming can be effected by a document [Qiddusin 1:1 (58b 1.33), Babli 9b]. Therefore, a document invalid for leaving must be invalid for becoming.

23 The Babli agrees, Qiddusin 9b. There, the question is attributed to R. Simeon ben Laqish; the argument agrees with the latter’s position as given here.
Rebbe Eleazar bar Yose asked before Rebbi Yose: Concerning what you say that one bill of divorce is invalid for two women\(^{24}\), should not two bills of divorce be invalid for two women? He asked him, what is the question? He answered, did we not state\(^ {25}\): "If two people sent two [identical]\(^{26}\) bills of divorce which were intermingled\(^{26}\), he gives both documents to both women." There, it is a divorce for this one and a divorce for the other one; the mix-up caused [the problem]\(^{27}\). But here, neither this one is divorced in her name nor is that one divorced in her name.

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24 This refers to the last clause in the Mishnah, when the husband, married to two identically named women, orders a bill of divorce in their name without specifying to whom it will refer.

25 Mishnah 9:5.

26 The messenger can no longer say which bill is addressed to which wife.

27 If each wife receives both bills it is certain that each one received the one intended for her.
After it was delivered to her, could it not be considered as if written in her name from the start? Rebbi Yose in the name of Rebbi [Abin bar Hiyya]: It follows Rebbi Simeon, as it was stated: "If one said to a craftsman, make me two bells, one for the ground and one for an animal, make me two mats, one to sit on and one for a tent, make me two sheets, one to lie on and one for [a pattern], only if he designated them in purity. Rebbi Simeon declares them pure unless he designated them for impurity." As he said there, only if it was a utensil from the start, so he says, unless it was a divorce in her name from the start.

28 Since the bill was written for one of two women, can one not say that the delivery made it clear that from the start it was written for the recipient?

29 Text of the Geniza.

30 Tosephta *Kelim Baba Meši'a* 1:14.

31 In the Tosephta: For the door. "For the ground" means the same, i. e., to be affixed to a structure connected to the ground. A cowbell can become impure (Tosephta *Kelim Baba Meši'a* 1:13) but a doorbell cannot become impure.

32 A mat to sit on can become impure in many ways; a mat used as part of a tent cannot become impure.

33 Textile sheets.

34 The translation follows the Geniza text, supported by the Tosephta. A bed sheet can become impure like a mat; a sheet on which a picture is embroidered to serve as a pattern to be copied is not a utensil and is pure (Mishnah *Kelim* 24:13; concurrent
halakhah 1

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explanation by Arukh, Maimonides, and R. Simson of Sens, based on a Gaonic source.) The Leiden ms. text, "for hides" is difficult to understand since a sheet used as wrapping is an implement and subject to the impurity of utensils.

35 In the Tosephta the text reads: "All these accept impurity up to the moment when he spells out;" if a utensil is made which can serve a dual purpose, it can become impure (once finished) unless it is clearly designated for a use which shields it from impurity. The common testimony of both ms. texts leaves no room for the addition of the Tosephta but its interpretation is similar: All these utensils are subject to impurity unless he spells out which one is pure, i.e., is shielded from impurity.

36 Since a manufactured item only accepts impurity if it is used as a vessel or a tool, R. Simeon rejects any retroactivity in the designation of dual use items and declares that impurity can affect the item only in the future, after it was designated as tool or utensil, even if it was exposed to impurity beforehand (cf. D. Pardo, Commentary on the Tosephta, Part 4-1, ed. S. Lieberman, New York - Jerusalem 1970, p. 84). In the Tosephta, R. Simeon agrees that if an item is manufactured for sale as a utensil it is subject to impurity up to the moment a buyer designates it for a protected use.

37 He rejects any retroactivity, cf. Note 17.
Rebbi Hanania in the name of Rebbi Abin bar Hiyya, [this is Rebbi's opinion.]39 Rebbi Johanan said, and it was stated so40: "All conditions invalidate a bill of divorce, the words of Rebbi. But the Sages say, what invalidates orally invalidates in writing, and what does not invalidate orally does not invalidate in writing." "You are permitted to marry anybody except Mr. X," because this invalidates orally it invalidates in writing43. "This is your bill of divorce on condition that you give me 200 zuz"; because this does not invalidate orally it does not invalidate in writing44. Rebbi Yudan said, when do they disagree? If he rescinded his condition. But if he did nor rescind his condition, even Rebbi agrees45. Otherwise, we would have to say that all conditions which were stated for bills of divorce do not follow Rebbi46. Rebbi Hinena said, there when he writes "on condition," here if he gives "on condition."47" Rebbi Ezra asked before Rebbi Mana: Does this imply that Rebbi does not recognize formulaic texts49? He answered him, about whom do you ask? About
Rebbi! He follows Rebbi Jehudah, for Rebbi Jehudah invalidates formulaic texts. Rebbi Simeon ben Laqish said, everybody agrees that all conditions invalidate a bill of divorce. There came a case before Rebbi Jeremiah and he acted following Rebbi Simeon ben Laqish. Rebbi Yose said to him, does one neglect Rebbi Johanan and act following Rebbi Simeon ben Laqish? He answered him, is Rebbi Johanan’s instruction an instruction but Rebbi Simeon ben Laqish’s instruction not an instruction? Rebbi Jacob bar Aha said, it is not that Rebbi Simeon ben Laqish disagrees with Rebbi Johanan, but he understood a baraita and acted accordingly. Rebbi Yose ben Rebbi Abun said, not that Rebbi Simeon ben Laqish fights against Rebbi Johanan when he disagrees with him only to extract a ruling from him. If he finds a baraita, he depends on it; if he does not find a baraita, he retracts his opinion before Rebbi Johanan’s opinion.

38 Here ends the Geniza ms.
39 From the Geniza text, missing in the Leiden ms. but confirmed by Nahmanides (Milhamot Hashem, on Alfasi #556). One still discusses the case of the man with two wives whose names are identical; Rebbi rejects the bill of divorce since he holds that its meaning must be clear before it is delivered; cf. Note 45.
40 The same baraita is quoted in the Babli, 84b.
41 The bill of divorce is called יבêt ידידתא “a scroll of cutting” in Deut. 24:1. This is interpreted to mean that all ties between husband and wife have to be cut; a divorce in which the husband retains any influence in his wife’s life is invalid.
42 Any condition written into the bill invalidates the bill. If the husband wants to attach a condition to the divorce he has to negotiate this separately with his wife before delivering the bill.
43 This reserves an influence of the husband’s for the rest of the wife’s life and clearly invalidates the divorce.
44 The divorce becomes valid immediately; the wife accepts a
monetary obligation which the husband eventually could enforce by foreclosure. If the stipulation had read: on condition that you pay me 200 zuz within 30 days, then the divorce would become valid if and only if the money had been paid within 30 days. If it had read: only if you pay me 200 zuz, the divorce would be invalid since without a time limit there is no separation. The Babli's concerns, whether the stipulation was written in the declaration of divorce or attached to it, are unknown to the Yerushalmi and all explanations of the Yerushalmi text based on the Babli have to be rejected, as noted by Nahmanides (Note 39).

45 In this interpretation, Rebbi agrees with the Sages on what is or is not an acceptable condition. He differs in that (a) he does not permit any erasures in a bill of divorce and (b) he stipulates that there cannot be any change in conditions after the delivery of the bill.

46 It is unreasonable to assume that Rebbi formulated an entire series of Mishnaiot about conditions attached to divorce documents (Chapter 7) if he himself held that these are impossible.

47 The previous argument is invalid; the Mishnaiot are about conditions attached to, but no written in, the bill of divorce.

48 Cf. Chapter 2, Note 80.

49 Since he does not admit any conditions to be written in the text of the bill, he does not make any distinction between the formulaic text and the essential entries. Does this imply that he prohibits the scribe from preparing bills where only the names, the date, and the declaration of the divorce can be entered with a specific couple in mind?

50 In Mishnah 3:2.

51 No condition can be written in the bill; if written it would have to be a separate codicil.

52 Since the condition was written in the bill, he declared it invalid.

53 Who permitted written conditions under certain circumstances.

54 The Babli would take this as a statement of fact.

55 Who only was No. 2 in R. Johanan's court.

56 The text is not spelled out.
Mishnah 2: If somebody writes formulaic texts of bills of divorce he has to leave space for the man, the woman, and the time. For bonds, he has to leave space for the lender, the borrower, the sum, and the time. For commercial deeds, he has to leave space for the buyer, the seller, the sum, the field, and the time, because of good order. Rebbi Jehudah invalidates all of these. Rebbi Eleazar validates all of them except women’s bills of divorce, for it is said: "He shall write for her", in her name.

57 A scribe.
58 The descriptions of the boundaries of the parcel.
59 All predated documents having financial implications are invalid; cf.
60 There is a dispute between the Talmudim about the meaning of this clause.
60 Deut. 24:1.
Halakhah 2: "If somebody writes formulaic texts of bills of divorce," etc. Rebbi Johanan said, writing the essential text with the formula is valid. Rebbi Simeon ben Laqish said, writing the essential text with the formula is invalid\(^61\). The Mishnah disagrees with Rebbi Johanan: "If somebody writes formulaic texts of bills of divorce he has to leave space for the man, the woman, and the time.\(^62\) He explains it, with the essential text\(^63\). It is difficult for Rebbi Johanan: Do the Sages declare valid in case he wrote the essential text with the formulaic text? Rebbi Jeremiah in the name of Rebbi Ze'ira: From its invalidity you learn its validity. If he wrote everything\(^64\) in her name but the husband’s and the wife’s names not in her name, would that be valid? Similarly, if he wrote everything not in her name but the husband’s and the wife’s names in her name, it is valid. Rebbi Yose asked Rebbi Jeremiah: Think of it, if it was paired\(^65\)? He said, so said his teacher Rebbi Ze'ira to him: Since pairing is infrequent, even if there was pairing it is as if there was no pairing\(^66\). Then it is difficult for Rebbi Simeon ben Laqish: Even if he did not write the essential text in the formula, Rebbi Jehudah declares invalid\(^67\)! Rebbi Yose ben Rebbi Ze'ira: Rebbi Jehudah refers to something else; it follows what Simeon bar Abba said in the name of Rebbi Johanan: An empty space of two lines\(^68\) about one subject\(^69\) is invalid in any case.
61 Cf. Chapter 2, Note 100. The Babli, 26a, reports only R. Simeon ben Laqish’s opinion, in the name of Samuel.
62 It is assumed by the questioner that the text to be written for that woman only includes the sentence that by the document she is divorced.
63 The Mishnah has to be explained in a restrictive way: Only the spaces mentioned in the Mishnah have to be left blank.
64 Including the divorce sentence.
65 If there were two couples in town, in both cases the husband was called X ben Y and the wife Z bat U, would this not require a special characterization such as "X ben Y who dwells in house W", and the space left blank would not suffice for the characterizations.
66 Even if there were two couples with identical names, if the bill of divorce is written without special characterizations it is valid since one assumes that the bill was intended for the woman who presents it together with her ketubah to collect her due.
(The Babli permits only in emergencies to divorce such a couple without due characterization or in the presence of the other couple; 66a.).
67 The opinion of R. Simeon ben Laqish has no basis in the Mishnah which either does not permit prepared forms or requires only the personal data and the date to be filled in.
68 The witnesses have to sign on the second line after the end of the text; not directly after the text in order to show the difference between the text and the witnesses nor two lines apart because then the document could be falsified: a line could be added after the witnesses signed. A document signed by witnesses at a distance of more than one line is invalid in all cases (Halakhah 9:8, 50c l. 10; Babli Baba Batra 162b; Tosephta Gittin 7:11).
69 The Venice printer read יִשָּׁרְיָא instead of יִשָּׁרְיָא which led the commentators into difficulties. (The ms. text has יִשָּׁרְיָא in Baba batra 10:1; this belongs to another editorial team. Cf. Halakhah 9:8.)
What is "the good order"? Rebbi Sabbatai in the name of Hizqiah: Because of the good order of Jewish women, lest they frequently be divorced\(^70\). Rebbi Samuel ben Rav Isaac asked Rebbi Hyya bar Abba: It is valid, and you say so? If it were invalid, then [the explanation] would be acceptable\(^71\). Rebbi Abun said, for the good order of the scribe, that his livelihood be guaranteed\(^72\).

70 The forms must contain blank spaces to introduce an artificial complication forcing the husband to go to a scribe to get a bill of divorce.

71 The answer given fits the position of R. Jehudah who prohibits the preparation of forms.

72 All legal formalities contain an element of protection for lawyers, to make sure their services are needed.

72 All legal formalities contain an element of protection for lawyers, to make sure their services are needed. This is the only explanation given in the Babli, 26a.

Rebbi Ze'ira, Rav Huna in the name of Rav: Practice follows Rebbi Jehudah for bills of divorce and Rebbi Eleazar\(^73\) in commercial documents. Could we not say, practice follows Rebbi Eleazar? Rebbi Abba in the name of Rav: Practice follows Rebbi Eleazar for bills of divorce and Rebbi Jehudah in commercial documents. Could we not say, practice follows Rebbi Jehudah? But because Rav and Samuel both say that practice follows Rebbi Eleazar\(^75\); in order not to let you think that
here it is the same, it was necessary to state that practice follows Rebbi Jehudah for bills of divorce and Rebbi Eleazar in commercial documents.  

Both in Mishnah 3:2 and in 9:4 the name is R. Eleazar, but in Mishnah 9:4 in the Babli (editio princeps and Munich ms.) as well as in the Cambridge ms. of the Mishnah the reading is Eliezer. In Tosephta 2:10, two sources read Eliezer, one Eleazar. Since "Eleazar" is the reading of all Medieval commentators of the Babli, it is accepted here.  

Since he agrees with R. Jehudah about bills of divorce.

That the witnesses to the delivery of the bill effectuate the divorce. The Babli agrees, 86b.  

The reason for the rejection of divorce documents based on prepared forms is that of R. Jehudah, i. e., that both writing and signing are part of the biblical requirement of "writing for her". The statement of R. Abba is rejected.

Mishnah 3: If somebody transports a bill of divorce and loses it, if he finds it on the spot it is valid, otherwise it is invalid. If he finds it in a small bag or in a box, if he recognizes it, it is valid. If somebody transports a bill of divorce from an old or sick man, he delivers it to her under the presumption that the man is alive. The daughter of an Israel who is married to a Cohen and whose husband went overseas, may eat.
heave under the presumption that he is alive. If somebody sends his purification offering from overseas, it is sacrificed under the presumption that he is alive.

77 One does not fear that the bill might be written for another couple with identical names from identical places.

78 Greek γλωσσόκομον "case, box, chest".

79 If the husband died childless, the widow is freed from halısa or levirate marriage as long as the husband's death was not known at the moment of delivery of the bill.

80 And who is childless at the moment of her husband's departure. At the moment of her husband's death she loses her right to priestly food.

81 A dead person's purification offering cannot be sacrificed since "the dead are free" (from obligations) (Ps. 88:6). The last two statements are included to illustrate the principle that in matters of ritual law one may always act on the assumption of the permanence of the status quo ante.
Halakhah 6: "If somebody transports a bill of divorce and loses it," etc.

What means "on the spot"? Rebbi Johanan said, as long as nobody passed by there. Rebbi Jacob bar Idi, Rebbi Simeon bar Abba in the name of Rebbi Joshua ben Levi: as long as three people did not pass by there. If a Gentile passed by there? Let us hear from the following: Abba bar bar Hana transported a bill of divorce; he lost it and a Saracen found it. The case came before Rebbi Johanan; they declared [the bill] valid. This means that if a Gentile passed by it is valid. Could we say that he had a mark to identify it? But was it not stated: There are no marks for bills of divorce. That is, if he said, two or three lines. But here, the in it had a spot. Rebbi Ezra asked before Rebbi Mana: Why is it invalid here? I say, it was another [husband] whose name was like his name. Think of it, if they checked out that entire place and did not find another man whose name was like his name! But it is because of the severity of adultery. But did we not state: "They went and found nobody but let his wife remarry; they went there, did not recognize him, and let his wife remarry"? Rebbi Mana told him: This man had two bills of divorce in his hand, one valid, the other invalid. He lost the valid one and threw away the invalid. When he found it, I say that what he found was the invalid bill.

82 The paragraph also appears as there in Notes 133-144. The readings Halakhah 16:6 in Yebamot, explained from there are noted 9.
This statement is missing in Yebamot. In the Babli, it is attributed to the Tanna R. Simeon ben Eleazar and the Amora R. Abba bar bar Hana (27b, 28a); there it is declared as practice. It is also the only explanation offered in Tosephta 2:11.

The reading of Yebamot, "before the rabbis" is preferable since the verb is in the plural.

The Mishnah is explained away, as referring to a most unlikely hypothetical case. In the Babli, the Mishnah is accepted practice; the contrast between the two Talmudim is noted in Sefer Ha'ittur 36a.

Bar Qappara stated: Even if he left [the man] when he was 100 years old and spent another 100 years on the way, he delivers it to her under the presumption that he is alive.

The Babli, 28a, explains this baraita away, that a person who has reached 100 years of age might go on to live much longer, and implies that a person between the ages of 81 and 99 can be presumed to die soon. Since the Yerushalmi quotes the statement without commentary, it appears that it endorses an unrestricted application of the permanence of the status quo ante until further notice.

But did we not state: From where that "if somebody says to his wife, this is your bill of divorce one hour before my death, or he says to his slave girl, this is the document of your manumission one hour before
my death, each would be immediately forbidden to eat heave?" There, she is disabled immediately\(^91\), but here she will only be disabled when he has died\(^92\).

88 A similar text is in Tosephta 4:12, quoted in the Babli 28a, *Yebamot* 69b.

90 She is childless.

91 Since the bills were executed in the expectation of his death, whose time is unknown, it has to be expected immediately.

92 Since the husband expects to return from his trip overseas, the wife does not have to expect his death and can apply the principle of permanence of the *status quo ante*. The Tosephta does not contradict the principle.

The explanations of the Babli in *Gittin* and *Yebamot* are inconsistent with one another and the Yerushalmi.

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Meshnah 4: Rebbi Eleazar ben Parfa said three things before the Sages and they confirmed his words: [People in] a city which was surrounded by palisades\(^93\), on a ship in emergency at sea, or a person about to be judged\(^94\), are presumed to be alive\(^95\). But on [people in] a city conquered from palisades, a ship lost at sea, or a person led to execution, one puts the restrictions of the living and the dead: neither an Israel's daughter\(^96\) married to a Cohen\(^97\) nor a Cohen's daughter\(^96\) married to an Israel\(^98\) may eat heave.
93 Besieged by a hostile army.
94 In a capital case.
95 The wife of a man in one of these situations has to assume that her husband is alive.
96 If she is childless; otherwise she remains in her husband's clan after the husband's death.
97 She has to assume that her husband is dead and she has lost the right to priestly food.
98 She has to assume that her husband is alive and she has not regained the right to priestly food.

"Rebbi Eleazar ben Azariah said three things before the Sages in the vineyard at Jabne: About [people in] a city which was surrounded by palisades." 99 100 What are palisades? Rebbi Abba in the name of Rav Hiyya bar Ashi: For example if bells, chains, and dogs, and geese, and chickens, and soldiers surround the town. And Rebbi Abba in the name of Rav Hiyya bar Ashi said, it happened that a blind woman was able to flee from there. If there was one breach, it saved all. If there were hiding places, it is questionable. Rebbi Ze'ira, Rebbi Abba bar Zavda, Rebbi Isaac bar Haqula, in the name of Rebbi Yudan the Prince: Only if there were...
palisades of that government. But palisades from another government are like robbers.

99 This is not a quote from the Mishnah; it might be from a baraita which seems to have disappeared from Tosephta 2:12 (quoted in the next paragraph) which is missing an introduction.

100 This is from Ketubot 2:10 (noted ס), explained there in Notes 163-171. (Note the spelling ויסים, the final נ representing א, a sure sign of Babylonian spelling.)

101 They added three additional cases: One who was dragged away by a wild animal, one who was swept away by a river, and one buried by a collapse. One puts the restrictions of the living and the dead on her: neither an Israel’s daughter married to a Cohen nor a Cohen’s daughter married to an Israel may eat heave.

101 Tosephta 2:12. 102 Collapse of a house or a landslide. 103 The wife of a man who is the victim of one of these accidents.
Mishnah 5: If somebody is transporting a bill of divorce in the Land of Israel when he falls sick, he may send it by somebody else. If [the husband] had told him, take from her such and such, he cannot send it by somebody else since he does not want to see his valuables in somebody else's hand.

104 Since the messenger does not have to declare that the bill was written and signed before him, there is no reason why the original messenger would have to deliver the bill.

105 If the wife wants the divorce, the husband can require to be paid for it.

106 The husband. A person entrusted to handle valuables cannot transfer his responsibilities to another person without becoming liable for any damages that may occur; cf. Ketubot 9:5, Note 144.

Halakhah 5: "If somebody is transporting a bill of divorce in the Land of Israel when he falls sick," etc. Because he falls sick; therefore not if he did not fall sick.

107 Without special authorization, the messenger who transports the bill of divorce cannot appoint a substitute. In Babylonian sources (Babli 29a, Tosephta 2:13) any messenger is empowered to deliver the bill to a substitute unless the husband explicitly restricted his powers.
This does not disagree with what Rebbi Johanan said, since Rebbi Johanan said, if an agent handed over to another agent, the first one is responsible. Rebbi Abba the son of Rebbi Hyya: Because of a condition of the divorce. What is the difference between them? If the husband came earlier and took it. If you say, because of a condition of the divorce, that is understandable. If you say, because I do not want to see my valuables in somebody else's hand, his valuables are not in somebody else's hand. Is it the same for preliminary marriages? What is the difference between divorces and preliminary marriages? One can divorce through the agency of anybody. One cannot preliminarily marry through the agency of anybody.

108 Unless the principal gave his prior agreement. The main source is Qiddusin 1:4 (60b 1.48). In the Babli (Baba Qama 11b, 56b; Baba Mesi'a 36a) the matter is in dispute. In this opinion, the messenger who chooses a substitute if there are valuables involved accepts responsibility for any accidents that may befall the substitute for his mishandling of the matter.

109 He reads the Mishnah as stating that the divorce shall become valid only if (a) the bill of divorce was delivered and (b) the valuables were delivered by the wife to the designated messenger. A substitute can fulfill (a) but not (b), invalidating the divorce.

110 The valuable he wanted from the wife.

111 The Mishnah which states that the messenger cannot appoint a substitute, meaning that the appointment of a substitute invalidates the divorce.

112 In this case, one has to read the Mishnah as stating that the messenger should not appoint a substitute, but such an appointment does not invalidate the divorce.

113 According to R. Johanan, can an
agent appointed to conclude a preliminary marriage by proxy appoint a substitute agent?

114 Since the divorce does not need the consent of the wife, the choice of the agent is the husband’s and is irrelevant.

115 An agent not approved by the prospective bride is useless.

Mishnah 6: If somebody transports a bill of divorce overseas and falls sick, he assembles a court to send it and declares before them: "it was written and signed before me." The later messenger does not have to say: "it was written and signed before me," but he says: "I am an agent of the court."

116 This implies that if the original bill of divorce was certified by a court, no messenger has to say that it was written and signed before him but that he is a court appointee, or, in modern terms, that a bill of divorce certified by a competent court can even be sent by mail to the court which has jurisdiction over the wife.

If somebody transports a bill of divorce overseas and falls sick," etc. Rebbi Mana said, this is only necessary if he already has arrived in the
Land of Israel. Lest you say, since he arrived in the Land of Israel it should be treated as a bill of divorce from the Land of Israel, and for bills of divorce from the Land of Israel one does not have to say: "it was written and signed before me."

His problem is, if the second messenger is an agent of the court, why does he have to declare anything (in front of two witnesses at the moment he hands over the bill of divorce)? Since it had been certified by a court in the Land of Israel.

Nor does he have to say: I am an agent of the court.

If the messenger fell sick. Rebbi Hanina said, a case came before the son of Rebbi Abba and he sent to ask Rebbi Hiyya, Rebbi Yasa and Rebbi Immi. They instructed him that the first messenger does not have to say: "it was written and signed before me," but he says, "I am an agent of the court."

The one appointed by the dying first messenger.

The three successors of R. Johanan.

He is called "first" because he appoints a new messenger but really he is a second or later messenger to whom the bill was entrusted. The problem is that the Mishnah only empowers the original messenger to appoint a new one; nothing is said about successive later messengers.

Since he is a substitute, he could not say that.

He can say that and appoint a new messenger by the local court. The Babli, 29b, reads the expression in the Mishnah: "the later messenger" as "any
later messenger”, to the effect that the appointment of successive messengers is explicitly authorized by the Mishnah.

There, the main actor is the son of R. Abbahu.

If the husband had entrusted the first messenger not only with the bill of divorce but charged him with additional messages, is the transfer of agency valid if only the delivery of the bill is given to a subsequent messenger or is the agency one and indivisible? This is a new question since its protagonist, R. Jeremiah, was a student of R. Hiyya (bar Abba)’s student R. Ze’ira.

He reads the Mishnah as stating that the later messenger has only to identify himself as an agent of the court for the delivery of the bill without further comment.

The same Mishnah can be read in the opposite sense: Since obviously no substitute messenger can say that the bill was written and signed before...
him, the mention of writing and signing for a later messenger can only mean that he stands for the first in all respects.

Mishnah 7: If somebody\(^\text{128}\) lent money to a Cohen, a Levite, or a poor person to separate on their account, he can proceed on the assumption that they are alive and does not worry whether the Cohen or Levite died or the poor person became rich\(^\text{129}\). If they died, he has to receive permission from the heirs\(^\text{130}\); if the loan was executed in court he does not need permission\(^\text{131}\).

\(^{128}\) A farmer gave a loan to potential recipients of his heave and tithes with the understanding that they do not have to repay the loan but that the farmer will separate both heaves for the account of the Cohen, sell the heaves to another Cohen, and credit the receipt to the Cohen’s account with him, reducing the amount owed. Similarly, he will separate first tithe on the Levite’s account and tithe of the poor for the poor man, deduct the fair value of the produce from his account and eat the tithes himself with his family, since tithes are permitted food for anybody.

\(^{129}\) Once the poor person becomes disqualified for public assistance, he has to inform the farmer.

\(^{130}\) They might want to pay off the outstanding balance to establish a record of good credit.

\(^{131}\) If the setup was part of a public document, the heirs would have to negotiate with the farmer to change its terms.
Halakhah 7: "If somebody lent money to a Cohen," etc. Rebbi Abbahu in the name of Rebbi Simeon ben Laqish: This follows Rebbi Yose; as we have stated there\textsuperscript{132}: "Rebbi Yose says, anything whose replacement is in the Cohen's hand is freed from the gifts, but Rebbi Meir obligates." Did Rebbi Yose not speak only if it did exist? But here, he still needs to sow\textsuperscript{133}! Rebbi Abbahu in the name of Rebbi Johanan: The Mishnah speaks of acquaintances of Cohanim or Levites\textsuperscript{134}. But did we not state "a poor person"? Does a poor person have acquaintances\textsuperscript{135}? There came a case before Rebbi Immi: A Cohen or Levite who owed money to an Israel and told him\textsuperscript{136}, separate from my part for my account. He said to him, did we not state: "If somebody lent money to a Cohen, a Levite, or a poor person to separate on their account." When the loan was given under these conditions. Therefore, not if it was not a condition of the loan! Rebbi Ze'ira said, even if it was not a condition of
the loan. Rebbi Ze'ira's force is from the following\textsuperscript{137}: "Similarly, a Levite who owed money to an Israel and said to him, separate on my account; only he should not collect and separate because no Levite makes a Levite." He only said, he should not separate\textsuperscript{138}, but from his own he may separate.

132 Mishnah Bekhorot 2:8. The Mishnah speaks of a rancher whose ewe gave birth to twin lambs, one of which is a firstling but it is not known which. A firstling has to be given to a Cohen (Deut. 15:19); it may not be shorn (or, if a calf, used for work). The rancher can fulfill his monetary obligation by giving one of the two lambs to the Cohen; the other lamb has to be put out to graze until it develops a defect; then it can be eaten by its owner (Deut. 15:21-22). If it was known which lamb was a firstling, that one would have to be given to the Cohen and if the other lamb were slaughtered, some parts would have to be given to a Cohen (Deut. 18:3). But in the case under consideration, R. Yose holds that no gifts to the Cohen are due since potentially the lamb was the Cohen's and a Cohen who slaughters does not have to give away anything. He equates potential possession and real possession. The application to the Mishnah here is that the Cohen can dispose of the heave as if he had received it.

R. Meir holds that the gifts are due since they would be due if it was known which one was the firstling.

In the Babli, 30a, this is Ulla's opinion.

133 Since nobody can acquire anything nonexistent (Ketubot 5:5, Note 113), R. Yose's argument cannot be applied to our case.

134 The expression is Biblical (2K. 12:6,8); it refers to people who regularly give all their priestly gifts or tithes to the same Cohen or Levite. Then heave and tithes have the status of annuities and cannot be said to be nonexistent.

In the Babli, 30a, this is Rav's opinion. Samuel requires that heave or tithes be actually given to a third party Cohen or Levite, acting as recipient for the debtor, who then returns the produce to the farmer. That opinion has no parallel in the Yerushalmi.

135 The tithe of the poor has to be
given to the first poor person who applies.

After the loan was given, the debtor then asked to be excused from repayment using the method outlined in the Mishnah.

Tosephta Demay 7:15. The Levite cannot tell the Israel to arrange with other farmers that they pay him to give tithes for them and deduct the sum from the Levite's debt, since no Levite can dispose of another Levite's tithes.

Missing in the text: Other people's tithes.

There is no "he does not worry," since he has to worry lest the poor became rich. It was stated so: "If somebody lends money to a poor and rich person he cannot separate for him, for one does not separate for what was lost."

It seems that the text is slightly corrupt; the translation follows the text of Tosephta 3:1: "If somebody lends money to a poor and rich person since that tithe was lost for the borrower. The Yerushalmi text considers poor and rich as different persons residing in the same body since they fall in different legal categories.

The last clause means that if the poor person temporarily became rich (i.e., was ineligible for public welfare as defined in Peah 9:9) and then poor again, the lender cannot use the tithe of the poor of the time of ineligibility but must give it away to another poor person.
Rebbe Hiyya bar Uqba in the name of Rebbe Yose in the name of Rebbe Hanina: The Mishnah speaks of the heirs in priesthood and Levitic status. But concerning the poor, the poor has no inheritance. Bar Qappara stated: No person is immune from this; if not he then his son, if not his son then his grandson. This means, he can change the terms. Can the creditor change the terms? Let us hear from the following: "If somebody lends money to a first rich and then poor person he cannot separate for him, for one does not separate for what was lost and the poor acquired what is in his hand." This implies that the creditor cannot change the terms.

139a This probably should read "son of".
140 The creditor has to renew the contract if the heirs are priests or Levites. This excludes the poor from this rule, as well as cases in which a Cohen or Levite has only daughters married to Israel husbands.
141 Poverty.
142 "This" is not Bar Qappara’s homily but the Tosephta stated earlier and repeated later, that the poor debtor who became rich cannot continue the arrangement but must pay off the debt. This means that if the circumstances change, the debtor can change the terms to terms less favorable to him.
143 The last sentence is also in the Tosephta, Note 139, quoted in the Babli, 30b. If the poor remains rich, the creditor has no way to recoup his money.
144 In the Tosephta, 3:1, this is an explicit statement. In the Babli, 30a, both the statement that the debtor can change the arrangement but the creditor cannot are attributed to the late Amora Rav Papa; both Talmudim are unaware of the Tosephta.
Does this¹⁴⁵ not disagree with Rav? Since Rav said, an heir is like a holder of encumbered property. Just as a loan given before witnesses cannot be collected from encumbered property¹⁴⁶, so it cannot be collected from heirs. He explains it for a documented loan¹⁴⁷. Rebbi Abbahu in the name of Rebbi Johanan: A loan given before witnesses can be collected from heirs, on condition that they inherited real estate¹⁴⁸. As¹⁴⁹ those from the house of Rav Nehemiah, who lent money to the public¹⁵⁰. The case came before the rabbis who said, the public is neither all rich nor all poor.

¹⁴⁵ The statement that after the Cohen's death the creditor has to renew the agreement with his heirs.

¹⁴⁶ In rabbinic practice, mortgages are not written on specified parcels but are liens on all real estate the debtor owned at the time the loan was given. If such real estate is later sold, the lien of the mortgage holder is not removed; if the debtor cannot pay, the creditor can foreclose from the buyer. A loan arrangement made orally before witnesses is not a mortgage; the loan can be foreclosed neither from any buyer nor from debtor's property subject to another person's lien. If the loan cannot be foreclosed, there seems to be no reason why the creditor can ask anything from the heirs.

¹⁴⁷ A mortgage.

¹⁴⁸ He agrees that a loan cannot be foreclosed from encumbered property, but if the debtor has unencumbered property, free of any lien, it can be foreclosed on the testimony of the witnesses. Therefore, as long as the
heirs inherit any real estate (in the language of the Babli, 30b, at least the area covered by a needle), the oral loan remains in force and the creditor has reason to approach the heirs.

149 This is an illustration of the Mishnah, not of the preceding rules.

150 They advanced money to the public welfare fund, to be repaid from future collections. The question was raised whether money collected for the relief of the poor can be diverted to repay the capitalists. The answer is positive since the committee overseeing charity always will have clients on whose behalf they took the money in the first place and on whose behalf they may repay.

Mishnah 8: If somebody sets aside produce to be used for future heave and tithes, or money to be used for Second Tithe, can refer to them on the presumption that they exist. If they were lost, one worries about them for 24 hours back, the words of Rebbi Eleazar. Rebbi Jehudah says, three times a year one has to check the wine: At the time of East wind after Tabernacles, when the vines blossom, and when fluid starts to enter unripe grapes.

151 At the beginning of the harvest he sets aside a quantity of produce so that for the remainder of the harvest he simply can declare that all heave and tithes due at the moment of declaration should be taken from a certain spot of the set-aside. He can do that from a distance and does not have...
actually to go to the produce and separate heave and tithes for the next batch. For the rules of heave, see Tractate Terumot.

152 To redeem the Second Tithe the moment it becomes due; cf. Introduction to Tractate Ma'aser Šeni.

153 Any heave and tithes which were supposed to be referred to the produce set aside earlier than within 24 hours of the discovery that they were missing are still considered in good order; only produce referred to in the last 24 hours before discovery has to be tithed a second time.

154 The Tanna, ben Shamua.

155 That it remained wine and did not turn into vinegar, since vinegar cannot be used to tithe wine.

156 A fall hamsin wind.

Halakhah 8: "If somebody sets aside produce," etc. Rebbi Eleazar ben Antigonos in the name of Rebbi Eleazar ben Yannai: This means that nothing is in disorder for 24 hours but the last day153. Rebbi Johanan said: Nothing is in order for 24 hours but the first day157, as we have stated there158: "If a miqveh was measured and found deficient." Hinena the son of Rav Assi bar Mamal in the name of Rebbi Eleazar159: That is to negate the words of Rebbi Eleazar154, as we have stated: "If they were lost, one worries about them for 24 hours back, the words of Rebbi Eleazar.160"
date have to be tithed again. Both opinions are also reported in the Babli, 31a, with the Babli leaning towards the interpretation of R. Johanan as the correct one.

158 Mishnah *Miqwa'ot* 2:2: If a *miqweh* was measured and found deficient (containing less than 40 *se'ah* of water), all things and persons purified by immersion in the *miqweh* after the last preceding check are considered impure. As pointed out by M. Margalit, R. Johanan proves too much since by his reason everything should have to be re-tithed, even what was put in order during the first 24 hours.

159 The Amora, ben Pedat.

160 The Mishnah in *Miqwa'ot* is inconsistent with that in *Gittin*. This proves that the Mishnah here, which is formulated in the name of a single person, represents a minority opinion. The Mishnah in *Miqwa'ot* is from the anonymous majority. The same argument is quoted in R. Eleazar's name in the Babli, 31b.

There, we have stated 161: "If someone buys wine from Samaritans." It was stated 162: "Rebbi Yose and Rebbi Simeon prohibit to do so, for the wine bag might spring a leak and it may turn out retroactively that he drank *tevel* 163." Does the Mishnah here not follow Rebbi Yose and Rebbi Simeon 164? Rebbi Ze'ira said, there 165 it was not in order from the start. But here it is not in order from now to the future.

161 Mishnah *Demai* 7:5; Notes 60-62.

The Mishnah states that one may drink Samaritan wine (which is kosher but certainly not tithed) immediately on condition that one declare that one will take a stated amount from it as heave and tithe as soon as the wine is in storage.

162 Halakhah *Demai* 7:5, Note 63.

163 *Tevel* is untithed produce, whose
consumption at times other than during the harvest is a deadly sin.

Since the Mishnah permits to tithe by relying on produce stored elsewhere, and which might have disappeared in the meantime.

RR. Yose and Simeon may agree with the Mishnah here. In the case of Samaritan wine, it was known that the wine was not tithed, but here there is a presumption following the status quo ante that everything is in order.
For freshly pressed wine one can allow for up to forty days presuming that it is wine; Rebbi Jehudah says, up to a break point. You find that there is a leniency and a restriction following Rebbi Jehudah, and a leniency and a restriction following the rabbis. A leniency following Rebbi Jehudah, if a break point arrived before forty days had passed, and a restriction if forty days passed without break point that he cannot give heave. A leniency following the rabbis, if forty days passed without break point that he cannot give heave, and a restriction, if a break point arrived before forty days had passed that he cannot give heave. Rebbi Simon asked: If the fortieth day arrived and he did not check. He was lazy for two or three days, then he came and found it to be vinegar. Is it retroactively considered to be vinegar or only from there on to the future? What is the difference? If he had transgressed and given heave. If you say that retroactively it is considered to be vinegar, his heave is heave. From there on to the future it is not heave. If he had checked an amphora to continuously give heave from it. When he returned, he found it to be vinegar. Rebbi Simon in the name of Rebbi Joshua ben Levi: The first three days it certainly is wine, the last vinegar, and the middle ones are in doubt. Rebbi Abbahu said, I heard that from Rebbi Joshua ben Levi; Rebbi Johanan did not say so but the first three days it certainly is wine, after that it is in doubt. Do they differ in the treatment of doubt? What Rebbi Johanan said refers to the case that he came and found it to be stale vinegar. What Rebbi Joshua ben Levi said refers to the case that he came and found it to be strong vinegar. Or their difference equals another difference, for what we have stated there: "A rusty or broken needle is pure." It was stated: He put it
down smooth, then he came and found it rusty. Rebbi Simon in the name of Rebbi Joshua ben Levi: The first three days it certainly is impure, the last pure, and the middle ones are in doubt. Rebbi Abbahu said, that is what Rebbi Joshua ben Levi said; Rebbi Johanan did not say so but the first three days it certainly is impure, after that it is in doubt. Rebbi Ila, Rebbi Abba and Rebbi Eleazar in the name of all rabbis who are frequenting the House of Study: Concerning wine and needle practice follows Rebbi Joshua ben Levi.

166 It is difficult to judge whether fermenting freshly pressed cider will turn out to be wine or vinegar. Since in most cases one obtains wine, the fermenting juice can be considered to be wine and if a vessel full of fermenting cider was set apart to serve as heave for the entire harvest, one may declare parts of it to be heave for successive batches up to 40 days.

167 One of the three meteorologically dangerous dates listed by him in the Mishnah when wine is apt to turn into vinegar.

168 The following two sentences are garbled. One should read: A restriction following Rebbi Jehudah, if a break point arrived before forty days had passed, he cannot give heave, and a leniency if forty days passed without break point that he can give heave. A restriction following the rabbis, if forty days passed without break point that he cannot give heave, and a leniency, if a break point arrived before forty days had passed that he can give heave.

Since wine and vinegar are considered two different products for the purpose of heave, it is forbidden to give heave for wine from vinegar and vice-versa (Mishnah Terumot 3:1).

169 The previous paragraph shows that in this sentence one has to read: His heave is no heave. In the next sentence, one has to read: His heave is heave. The text already was corrected in editio princeps.

170 From here to the end of the Halakah there exists a parallel text in Baba Batra 6:1 (15b/c) edited differently. The first part also has a parallel in the Babli, Baba Batra 96a.

171 Since heave has to be given from the finished agricultural product,
it is in order to set aside a small amphora of the first wine of the season to be used to provide heave for the entire harvest. From the moment the first small volume of wine is declared as heave, the entire contents of the amphora can be consumed only by a ritually pure Cohen. This does not alter the fact that most of the contents are still profane and can be used for future declarations of heave; cf. Note 151.

172 In the Babli, R. Johanan’s opinion is supported by a baraita. There it is explained that they differ in the analysis of the process which turns wine into vinegar. This cannot be the background of the Yerushalmi since then the comparison to the status of the needle would be impossible.

173 It was exposed to oxidation for a prolonged period after turning into vinegar.

174 Turned into vinegar only recently.

175 Mishnah Taphorot 3:5. There, "pure" means "cannot be impure" and "impure" "can become impure". The only items which can become impure are humans, food, vessels, and tools. An impure tool or vessel is purified when it becomes unusable.

176 In this state it is not usable. It is stated in Tosephta Kelim Baba Mesi’a 3:10 that if it was impure, rusted and became pure, then was rubbed clean, it returned to its original impurity.

177 In Baba Batra 6:1, practice is decided following R. Joshua ben Levi only in the case of the needle. The Babli Baba Batra 96a implies that practice follows R. Johanan in the case of the amphora (understood in this sense by Maimonides and R. Moses of Coucy.)
Rebbi Crispus asked: Does he check every year or only once every three years\textsuperscript{178}? Let us hear from the following\textsuperscript{179}: If somebody sells unspecified wine to another person, he has to warrant it until after Tabernacles. Rebbi Yudan\textsuperscript{180} said, explain it for those Galileans who harvest only after the beginning of Tabernacles\textsuperscript{181} and you cannot deduce anything. That which was said, "old from the preceding year, very old aged three years\textsuperscript{182}", should we say because of the tasting? This means that any time it is declared old he has to warrant it for two years\textsuperscript{183}. This means that very old [wine] has to be warranted until Tabernacles. This means that he has to check every year\textsuperscript{184}. How does he check? May one check one amphora on which all others depend that they would not become vinegar? Rebbi Shammai said, there are people who knock on the barrel from the outside and know what is inside\textsuperscript{185}.

\textsuperscript{178} This question is asked only for R. Jehudah who identifies times dangerous for wine.

\textsuperscript{179} This belongs to trade rules, one of the topics of \textit{Baba Batra}. If wine turns into vinegar before Tabernacles, usually in October, the buyer can declare the transaction as executed under false pretenses, return the wine, and request restitution of his money.

\textsuperscript{180} This is the name in \textit{Baba Batra}. There is no Amora called "R. Judah" without additional qualifier.

\textsuperscript{181} Since harvesting is forbidden on Tabernacles, they harvest overripe grapes to make sweet wine after the end of the holiday (for Tokay wine this is called \textit{Ausbruch}). This wine has to be guaranteed until the next Tabernacles and automatically has to be checked at R. Jehudah's three break points.

\textsuperscript{182} Mishnah \textit{Baba Batra} 6:3. Wine sold as old is warranted to be aged at least a full 12 months.

\textsuperscript{183} The year it was made and the
184 The seller who does not check all his wine after Tabernacles cannot sell his wine without risking to have to take it back. The entire paragraph only deals with money matters, not with heave since it is forbidden to give heave from one year's produce for that of another year.

185 Vintners do not have to open the amphoras and taste; they learn how to check quickly and accurately; the rules of warranty do not require an undue amount of work.
Mishnah 1: If somebody sent a bill of divorce to his wife and caught up with the agent, or if he sent another agent after him and said: the bill of divorce I gave you is annulled, it is annulled. If he met his wife or he sent an agent to her and said: the bill of divorce I sent to you is annulled, it is annulled. After the bill of divorce came into her possession, he no longer can annul it.

1 It is not active and cannot be reactivated. If the husband changed his mind again, he would have to write a new bill.
Halakhah 1: "If somebody sent a bill of divorce to his wife," etc. This disagrees with Rebbi Johanan, since Rebbi Johanan said that a person invalidates the agent appointed by him by a declaration. He explains it by the stringency of the rules of incest. If he appointed an agent to deliver the bill of divorce, the latter has to deliver it in the presence of two [witnesses]; the agent is not counted as one of the two. If another agent went to invalidate the bill of divorce, he has to invalidate it in the presence of two [witnesses] and the agent is counted as one of the two. If he met him on the road and asked him, what about the bill of divorce I gave you? He answered, I delivered it to her. While they were talking there, he dropped it. He said, did you not tell me that you delivered it to her? He explained, I delivered it to her and she said, keep it for me. What? Can he be believed since it is in his power to divorce, or can he not be believed because it is in his hand? If the agent fell sick, how do you treat this? By the rules of divorces or the rules of preliminary marriages? By the rules of divorces one can divorce through the agency of anybody. By the rules of preliminary marriages one cannot preliminarily marry through the agency of anybody.

2 If a person can declare the agency void by a declaration at his place without informing the agent, why does the Mishnah accept voiding the agency only if either the agent for delivery or the recipient of the bill is informed of the annulment? R. Johanan’s statement is also in Qiddusin 4:9; in the parallel in the Babli, Qiddusin 59a, his reason is that words can be invalidated by words; he is opposed by R. Simeon ben Laqish. As
an Amora, R. Johanan should not have the authority to contradict a Mishnah.

3 Adultery is always included under the rules of incest. R. Johanan may hold his opinion in matters of agency in civil law, but marriages and divorces are also matters of criminal law since as long as a woman is married, she is forbidden by criminal law to have relations with men other than her husband. Therefore, agency for delivery of a bill of divorce has to follow the standards of criminal law.

4 Since the agent represents the husband, he is party and cannot be a witness under the rules of criminal procedure.

5 This follows the rules of civil procedure since the husband could have invalidated the agency alone and without witnesses.

6 The husband cannot invalidate the divorce retroactively.

7 The bill of divorce fell from the agent’s hand. This seems to indicate that it was not delivered and the husband still can invalidate it.

8 The question is not answered; it can easily be resolved by asking the (ex-)wife.

9 The second agent, sent to inform the first that his agency was terminated. It already was stated in Chapter 3 that the original agent can appoint successor agents.

10 Cf. Chapter 3, Notes 114-115.

Mishnah 2: In earlier times, he could go to a court at another place and annul [the bill of divorce]; Rabban Gamliel the Elder instituted that one should not do that because of the public good. In earlier times, his name and her name and the names of his and her towns could change; Rabban Gamliel the Elder instituted that one should write Mr. X and all his names, Mrs. Y and all her names, because of the public good.
11 Hillel's grandson, the grandfather of Rabban Gamliel of Jabneh.
12 If it was not assured that both the agent and the wife were informed of the annulment, all kinds of complications could arise which are described in the Halakhah.
13 For example, if he lived in the city where the bill was written under a name different from the one he used earlier in the city where his wife still lives, the court in his wife's city will not recognize the bill as valid for divorce of the wife.
14 It is not clear, and there were different interpretations given in rabbinic practice, whether the Mishnah requires that a bill enumerate correctly all names under which either party ever lived, or only a statement that the parties (or the town) also were known by other names.

Halakhah 2: "In earlier times, he could go to court," etc. Does this\textsuperscript{15} not disagree with Rebbi Simeon ben Laqish, since Rebbi Simeon ben Laqish said that nobody can annul an agency by speech\textsuperscript{2,16}. Explain it in a fully constituted court\textsuperscript{17}.

15 This question is based on the interpretation of the term "court" in the Mishnah as an \textit{ad hoc} court, that the husband was able \textit{ad hoc} to assemble three people as a court, and declare before them that he was revoking the agency given to the agent. This is the explanation accepted in the Babli in the name of Rav Nahman, 32b.
16 For money transactions, this is credited to R. Johanan in the Babli, 32b.
17 He will hold that even in earlier times the agency could be revoked only by a public act of the local court who was presumed to transmit a copy of the document to the court at the wife's place of residence.
"Because of the public good." They say in the name of Rebbi Simeon ben Laqish: That she should not risk bastardy. Some say in the name of Rebbi Simeon ben Laqish: That she should not remain anchored. He who said, that she should not remain anchored, [is afraid that] she turns out to be anchored if she thought that he annulled when he did not annul. He who said, that she should not risk bastardy, [is afraid that] her children will be bastards if she thought that he did not annul when he annulled, she goes and marries without a bill of divorce. If she thought that he annulled when he did not annul, another man comes and marries her preliminarily; the preliminary marriage is valid but she thinks it is invalid. She waits until her first husband dies, then she goes and marries [another man]; the result is that her children will be bastards. Rebbi Mana said, I went with a caravan and heard Rebbi Jacob bar Aha and Rebbi Immi in the name of Rebbi Simeon ben Laqish: That she should not risk bastardy. Rav Huna said, even the one who said that she should not remain anchored also agrees that she should not risk bastardy.
18 In the Babli, 33a, this is R. Johanan's opinion.
19 This is a technical term. Just as an anchored ship cannot move, so an abandoned woman without a clear bill of divorce cannot move into another man's house.

In the Babli, 33a, this is R. Simeon ben Laqish's opinion.
20 That the bill of divorce delivered to her was worthless since the husband could have annulled it at a place unknown to her.
21 She received the bill in due form in the presence of two witnesses. The husband can later reappear when she is remarried and declare her divorce void and her children from the second husband bastards born in adultery.
22 Any adulterous or incestuous marriage is null and void (cf. Yebamot 1:1, Note 64).
23 Then in reality she is [preliminarily] married to the man to whom she thinks she is not married; her new [definitive] marriage is adulterous and her children bastards. In all these cases, the adultery is unknown to her and the world; the children are bastards only in the eyes of Heaven; it is the duty of the judicial system to see to it that such cases do not occur.

If he transgressed and annulled? Let us hear from the following24: “If he annulled it is annulled, the words of Rebbi. Rabban Simeon ben Gamliel says, he can neither annul it nor add to his condition.” Rabban Simeon ben Gamliel says it correctly25. What is the reason of Rebbi? It is the word of the Torah that he has the power to annul26 but they27 said, he
shall not annul. Can their word uproot the words of the Torah? But is it not from the Torah that one may [give as heave] olives for oil and grapes for wine, but because of robbing the tribe they said not only that one may not give heave [in this way] but if he transgressed and gave, his heave is not heave. Rebbi Oshaia bar Abba said to Rebbi Yudan the Prince: Who could tell exactly what your ancestor meant?

24 Tosephta 3:3, Babli 33a. Did Rabban Gamliel the Elder decree that any annulment not in the presence of agent or wife was null and void?

25 It seems that the names of Rebbi and Rabban Simeon ben Gamliel are switched here and in the next sentence. The Babli, 33b, decides practice following Rebbi.

26 The biblical text decrees that the husband has to hand his wife a bill of divorce if he has decided to divorce her. The text contains no hints to any restriction as to the exercise of his free will.

27 In this case, the rabbinic authorities of the first half of the first century C. E.

28 Terumot 1:4, Mishnah and Note 137. Biblical heave is due only for "grain, cider, and oil". The prohibition to satisfy the tithing duty with unprocessed grapes and olives is strict only according to the House of Hillel; they hold that if olives were given as heave for olive oil then both the olives and the oil remain tevel, untithed, by rabbinic decree and their consumption is a deadly sin.

29 In modern Hebrew, אבא means "grandfather". In the Talmudim, generally it means "old man"; since "grandfather" usually is formulated as פִּקּוּךָ אֲבָא can also mean "great-grandfather". The interpretation of the word depends on the reading of the names in this discussion.
Mr. X and all his names." Think of it, if his name was Reuben and he went away\textsuperscript{31} under the name of Simeon. But: "I am X and\textsuperscript{32} every other name which I have."  \textsuperscript{33}In addition, they said if he had two wives, one in Judea and one in Galilee, and he is known by two names, one in Judea and one in Galilee. He used [his name] in Judea to divorce the one in Galilee and [his name] in Galilee to divorce the one in Judea. Neither one is divorced." This \textit{baraita} if he was in Judea\textsuperscript{34} and wrote to divorce in Galilee or in Galilee and wrote to divorce in Judea. But if he was in Judea and wrote to divorce in Judea, or in Galilee and wrote to divorce in Galilee, she is divorced\textsuperscript{35}. Rebbi Ilai said, according to the rules he has to say: "I am X with every other name which I have in Galilee.\textsuperscript{32}" If he was at another place, he can divorce either one he wishes\textsuperscript{36}. Rebbi Yose said, one says that if he did it\textsuperscript{37}. But to start out\textsuperscript{38} he has to follow Rebbi Ilai. Rebbi Abin said, if he is known by (another) name at another place, he has to mention all three.

\textsuperscript{30}This paragraph is quoted by R. Nissim Gerondi in his commentary to Alfassi (#456). While his spelling is still more babylonized than the ms. text and it is not clear that his deviations from our text are from his text or are his interpretation, his text is very clear in its meaning and is followed in the commentary.

\textsuperscript{31}R. Nissim: יִשְׂרָאֵל "he changed it
R. Nissim: with every name, i.e., all the names have to be spelled out. This is the ms. text later in the name of R. Ilai, so probably the ms. text here is original.

Similar texts are in the Babli, 34b, and Tosephta 6:5.

The translation uses the text of R. Nissim: with any [name] he chooses. The ms. text could be read as: If he used the name from Judea,

If only the local name was used. The divorce is valid only if both the witnesses signing the document and the witnesses to the delivery are able to identify the husband; therefore, both names (possibly with an indication where which name is being used) are required.

If he asks for instructions, he has to be told to enumerate all names under which he is known. (It is not clear whether the reference, in the edict on Jewish names by the German Emperor Joseph II, to Jews having different names at different places, refers to a reality in the 18th Century or to the talmudic discussion.)
There, we have stated\(^{39}\): "One writes a bill of divorce for a man even if his wife is not with him, and a receipt\(^{40}\) for a woman even if her husband is not with her, and the husband pays the fee\(^{41}\)." Rebbi Abba said, he\(^{42}\) has to know both of them. Rebbi La\(^{43}\) said, he has to know the husband for the bill of divorce and the wife for her receipt. Rebbi Abun bar Hiyya asked before Rebbi [\(^{44}\)]: Think of it, if he brought another woman and divorced by means of her\(^{45}\). He said to him, let the witnesses come and testify. But did not Rebbi Simeon ben Laqish say\(^{46}\) that they considered witnesses who signed a document as if their testimony had been cross-examined in court? There, if they said, we did not sign at all. But here if they say, we signed this but not that\(^{47}\). The Mishnah disagrees with Rebbi Abba: "In earlier times, his name and her name and the names of his and her towns could change." If he knows them, why would he change their names\(^{48}\)? There are people who know others by sight but do not know their names. The Mishnah disagrees with Rebbi Ilai: "Rabban Gamliel the Elder instituted that one should write Mr. X and all his names, Mrs. Y and all her names\(^{49}\), because of the public good." The Mishnah about one who is forced to divorce\(^{50}\), Rebbi Ilai speaks about one who divorces on his initiative; some want to say if he divorces at another place\(^{51}\).

\(^{39}\) Mishnah Baba Batra 10:4. The statements of rabbis Abba and La (Ilai) are also quoted there in Halakhah 10:4.

\(^{40}\) A receipt for the amount of the
ketubah due her at her divorce.

41 The scribe's fee.

42 The scribe.

43 He is R. Ilai. In the Babli, Baba Batra 167b, his statement is attributed to Rav.

44 Clearly, a name is missing. R. Abun bar Hiyya is known to have asked questions of R. Ilai (Yoma 3:5).

45 Can the agent of an absent husband not fraudulently give the bill of divorce to another woman, not the wife, and have that woman foreclose the ketubah from the husband's local property?

46 Cf. Ketubot 2:3, Note 56, Ševi'it 10:5, Note 96 (Baba Batra 10:16, 14d 1.26); Babli 3a, Ketubot 18b. Signatories of documents cannot claim that they never signed unless they claim that the signatures are forgeries.

47 The witnesses can identify the persons for whom they signed; this is not a second testimony.

48 If the scribe knew all persons involved, he could not be tricked into writing a misleading document.

49 The Mishnah treats husband and wife on an equal footing but R. Ilai does not.

50 One of those cases in which the wife can force a divorce (cf. Ketubot 7:10) when the husband's cooperation cannot be taken for granted.

51 Where he has to prove his and his wife's identities to the scribe.

52 For example Doso, Dodo's brother, divorced his wife. The case came before the rabbis who said that she should pay the fee. But did we not state: "the husband pays the fee"? Rebbi Ilai in the name of Samuel: If she forgives him her ketubah.

52 This discusses the statement of the Tosephta that the husband has to pay the expenses for the divorce document. The statement that the husband cannot change the conditions of the divorce once the document is no longer in his hands was discussed in Chapter 3, Note 45.
53 The Babli, *Baba Batra* 168a, agrees that current rabbinic practice requires the wife to pay the scribe to prevent the husband from dragging his feet once the couple has decided on a divorce.

54 If he makes money out of the divorce, he will not drag his feet and one can make him pay.

Mishnah 3: A widow can be paid from the orphans' property only by an oath. When they avoided letting her swear, Rabban Gamliel the Elder instituted that she should make a vow on the instruction of the orphans for anything they would decide on and collect her ketubah, and that witnesses sign the bill of divorce because of the public good. Hillel instituted *prozbol* for the public good.

55 If the widow continued to live in her husband's house, she is suspected to have taken from her husband's property more than was necessary for her guaranteed support and, therefore, if she decides to leave that house she cannot collect her ketubah without swearing that nothing of her ketubah already came into her hand, similar to a woman who had received a down payment on her ketubah, cf. *Ketubot* 9:8,9.

56 The rabbis became worried that the widow while caring for the orphans took things which she thought were payment for her work but which legally should be counted as part payment of the ketubah; if she then swore that she had received nothing, the widow involuntarily transgressed the prohibition of false oaths and the rabbis the prohibition of "putting a
stone in the path of the blind."

57 A vow that she would prohibit on herself the use of anything (food, vessel, place) chosen by the orphans if she had received any down payment for her ketubah. For these "vows of mortification", see Introduction to Tractate Nedarim.

58 Prozbol is a document which turns a private debt (subject to the laws of revocation in the Sabbatical year) into a public debt (exempt from these laws) in order to maintain an operating banking system; cf. Sevi'it 10:3 ff.

Halakhah 3: "A widow can be paid from the orphans' property only," etc. Earlier they swore falsely and buried their children, since it is written59: "For vain [vows] I smote your children." In addition, they fear vows more than oaths60. If she transgressed and swore? Rav Huna said, if she swore, she swore61. Rav said to his daughter-in-law: If I were not a person readily making concessions, even the cover on your head would be my property. Samuel said, she acquires the garments which she is wearing62. A Mishnah supports Samuel: "Neither his wife's garments nor his children's are his property63."

59 Jer. 2:30. For the statement that children die for the parents' sins of vows cf. Ketubot 7:7, Note 66.

60 For example, there is an annual revocation rite, Kol Nidre, for vows with oaths only mentioned as an afterthought; cf. introduction to Tractate Nedarim, Note 4.
61 If she swears on her own initiative to expedite the process, it is valid and she has to be paid. The same statement in the Babli, 35a.

62 The same disagreement, whether or not garments, which the husband has to supply during the marriage, are counted against the ketubah, is in the Babli Ketubot 54a.

63 'Arakhin 6:5. The family's clothing cannot be counted as the husband's property in bankruptcy proceedings. In the Babli, nevertheless practice is decided following Rav, against the Yerushalmi.

Rav Huna said, why did they require a date on the bill of divorce? Because of an actual case. It so happened that a man was married to his sister's daughter who committed adultery when she was still married. He predated the bill of divorce and said, it is better she should be judged as single rather than as a married woman.

64 In the Babli, 17a/b, R. Johanan Babli assumed that this Yerushalmi was refers to this story; the editors of the generally known.
Rav Huna said, I asked before Rebbi Jacob ben Aha: Following him who says tithes are from their words. But following him who says tithes are from the Torah, does Hillel institute anything against the words of the Torah? Rebbi Yose said, from the moment that Israel was exiled to Babylonia, did they not become free from all commandments connected with the Land, but the remission of debts applies both in the Land and outside the Land from the words of the Torah? Rebbi Yose turned and said, (Deut. 15:2) "this is the word of the abandonment, remit" as long as abandonment is followed in the Land as a word of the Torah, remission of debts applies both in the Land and outside the Land from the words of the Torah, but when abandonment is followed in the Land as their word,
remission of debts applies both in the Land and outside the Land from their word. There, they say that even one who holds that tithes are from the Torah will hold that the Sabbatical is from their word. (Deut. 15:2): "This is the word of the remission, remit!" Rebbi says, two remissions are the Sabbatical and the Jubilee. As long as the Jubilee is operative, the Sabbatical is from words of the Torah. If the Jubilees are abolished, the Sabbatical is operative from their words. When were the Jubilees abolished? (Lev. 25:10) "For all its inhabitants." In the time when they lived on it, not when they went from it into exile. If they lived on it but did (not) intermingle, the tribe of Judah in Benjamin, and the tribe of Benjamin in Judah, I could think that the Jubilee was operative. The verse mentions its inhabitants, "All its inhabitants;" you find that when the tribes of Reuben, Gad, and half the tribe of Manasseh went into exile, the Jubilees were disestablished.

This looks like a gloss using the language of the Babil.  

The readings from Şevi'i, "Rebbi Huna", "Rebbi Jacob", are the only ones which make sense in place and time.  

This clearly is a scribal error; see the variant readings.
Mishnah 4: If a slave was kidnapped and ransomed, if it was as a slave he shall serve, if as a free person he shall not serve; Rabban Simeon ben Gamliel says, in any case he shall serve. A slave whom his master gave as mortgage to others and then freed in strict law does not owe anything, but for the public good one forces the master to formally manumit him and he writes a bond for his own value. Rabban Simeon ben Gamliel says, only the one who manumits writes.

69 A Jewish community at another place ransomed him. Since he is under the laws of the Torah, any Jewish community is obligated to ransom him.

70 If they knew that he was a slave and ransomed him as such.

71 His former master, who has to indemnify the community which provided the ransom.

72 A person who was a free Jew even for one moment cannot be enslaved.

73 He holds that a slave can be freed only by a formal act of manumission, otherwise he will be forbidden to marry a Jewish woman. Since the act of ransom does not change the slave's status in marriage law, it cannot change it in civil law.

74 The act of manumission breaks the chattel mortgage; this is declared as a general principle in the Babli, 40b.

75 Since the evil act was his master's, not his own.

76 Lest the creditor come and enslave a free person.

77 The slave, who owns no money.

78 The slave is free and free from debt.
If a slave was kidnapped and ransomed," etc. Rebbi Abbahu in the name of Hizqiah: It would be logical that even as a slave he should not have to serve. And why did they say, he has to serve? That a slave should not run away to the kidnappers. Rebbi Ze'ira said, a baraita implies this: "His master pays his ransom and frees him." They said that only about his master, not anybody else. Rebbi Ilai in the name of Rebbi Yasa: It would be logical that even as a free person he should have to serve. Why did they say that he does not have to serve? Not to damage the reputations of free persons. Rebbi Yose said, but it is so: "Rabban Simeon ben Gamliel says, in any case he shall serve; just as Israel are obligated to ransom free persons so they are obligated to ransom slaves." The first Tanna is of the opinion that they are obligated to ransom free persons but they are not obligated to ransom slaves. Rebbi Jacob bar Idi in the name of Rebbi Simeon ben Laqish: Practice follows Rabban Simeon ben Gamliel.

79 In the Babli, 37b, Hizqiah is quoted in a discussion whether the ransom mentioned in the Mishnah occurred when the owner still had hope to recover his slave or whether he had given up this hope. Since the case that the owner had given up hope and therefore relinquished his claim to ownership is discussed later, the Yerushalmi must hold that the Mishnah deals with the case that the slave still was a slave in fact, not only in name, i.e., that the original owner had not given up hope to recover him. As R. Yose explains later, the slave should not have to serve since he was
ransomed as a Jew.

80 Offer himself to kidnappers as a sure way to gain his freedom.

81 Tosephta 3:4; Babli 37b.

82 If the master wishes, he may free him once the community which provided the ransom is reimbursed.

83 It is not clear what is the meaning of the *baraita* clause that the master frees the slave. The Tosephta implies that the community which ransoms the slave sends his master the bill with the slave. No other person has an interest in the slave.

84 Since there was no formal manumission, there seems to be no reason why the slave, redeemed in the erroneous belief that he was a free Jew, should not remain a slave.

85 If it were possible later to enslave a person redeemed as a free person, nobody would be safe.

86 Since Rabban Gamliel has to spell out his opinion in the Tosephta, it follows that the dissenting opinion also applies in this case. The slave of a Jew is obligated to keep the Sabbath and eat only kosher food; since he cannot do that as slave of a Gentile, the Jewish community is responsible for him.

87 In the Babli, it is a Saboraic principle that "practice follows Rabban Simeon ben Gamliel in his statements in the Mishnah" almost always (*Ketubot* 77a); the Babli does not have to state that practice follows him.

Rebbi Simon in the name of Rebbi Joshua ben Levi: Yossi ben Shaul said in the name of Rebbi: A person who had given up hope to recover his slave\(^{88}\) is not entitled to enslave him but has to write him a bill of manumission. Rebbi Johanan\(^{89}\) heard this and said, Rebbi Joshua ben Levi taught us that correctly. Did they not infer the rules of a bill of
manumission from women\textsuperscript{90}? Just as a woman is not freed if [the husband] has given up hope\textsuperscript{91}, but she needs a bill of divorce from him, so a slave is not freed if [the master] has given up hope, but he needs a bill of manumission.

88 It is a general rule that anything abandoned becomes ownerless and may be taken by anybody who finds it. If a person gives up hope to recover something he lost, this is abandonment (\textit{Baba mezi'a} 2:1, first line). It is stated later that an adult slave, being able to become a responsible person, acquires himself if he becomes ownerless. Since then he is a full Jew, if the owner later finds him, he cannot reduce him to slavery. But the former slave cannot marry a Jewish partner without a bill of manumission.

89 In the Babli, 39a, the entire statement is in R. Johanan's name.

90 This is nowhere explicit in the Yerushalmi or the halakhic Midrashim; it is found in the Babli (\textit{Gittin} 29b,41b; \textit{Hagigah} 10a; \textit{Qiddusin} 23a) from a comparison of the language used for the manumission of a handmaid (\textit{Lev.} 19:20) and the divorce of a wife (\textit{Deut.} 24:1).

91 If a woman left her husband and the latter has given up hope that she ever would return to him, she still cannot remarry without a formal bill of divorce.

Simeon bar Abba in the name of Rebbi Johanan: If a slave fled from the kidnappers to his master, the master may not enslave him\textsuperscript{92} but has to
write him a bill of manumission. Rebbi Abbahu said in the name of Rebbi Johanan: If somebody declares his slave as ownerless he can neither enslave him nor write him a bill of manumission. Rebbi Ze'ira said to him, everybody says that he needs one; do you say that he does not need? Would he hinder him from eating the Passah sacrifice? As it was stated: "The slave of any man, acquisition of his money, if you circumcise him." Anytime he serves his master, he prevents his master from eating the Passah; if he does not serve his master, he does not prevent his master from eating the Passah.

Since he was not ransomed, it is as if his owner had given up hope to recover him. In order to permit him to marry a Jewish partner.

Since a bill of manumission can be written only by the owner and this master has formally declined ownership, there is nobody who can write a bill of manumission for this slave. The Babli, 39a/b, holds in the name of R. Johanan that the owner can only renounce his ownership in money matters; for ceremonial law he can divest himself of ownership only by writing a bill of manumission. The Babli agrees that if the original owner dies before writing the bill of manumission, his children do not inherit any rights to the slave and the latter cannot be rescued from his state in limbo, free but unable to marry.

In the Babli, 39a, this is a statement of Ulla in the name of R. Johanan.

A person is prevented from eating the Passah sacrifice if any member of his familia is not circumcised (or if a female slave, not inducted into the Jewish faith by immersion in a miqweh), Ex. 12:43-45.

Therefore, the slave declared ownerless is no longer part of his owner's familia; the master no longer is a patron.
If [the master] blinded [the slave’s] two eyes simultaneously, or broke two of his teeth simultaneously, the slave thereby obtains his freedom. One after the other, he obtains his freedom from the first [injury] and [the master] has to pay for the second. Rebbi Ila in the name of Rebbi Simeon ben Laqish: Following the opinion that [the master] does not have to write a bill of manumission for him. But following the opinion that [the master] has to write a bill of manumission for him, can you say that he has to pay him? Not only does this apply to one who gains his freedom for a tooth or an eye, from where also that he may gain his freedom by a cap, or the king’s freedom? The verse says, "he shall send him to freedom", in any way. What is the status of his children? The children of him who leaves for a tooth or an eye are slaves, the children of him who leaves by the loss of hope are free. Rebbi Yose ben Rebbi Abun said, that is unreasonable; it is the other way around. The children of one who leaves for a tooth or an eye are free because the Torah freed him. The children of one who leaves by the loss of hope are slaves because the Torah did not free him.
98  Ex. 21:26-27 ordains freedom to a slave whose owner destroys one of his eyes or teeth. By rabbinic interpretation, this is extended to all important body parts.

99  For the second injury, the slave can already require the damages due to a free person.

100 In the Babli, 42a (quoted also Qiddushin 24b), this is a dispute among Tannaim which is resolved by deciding that a bill of manumission is not needed for injury to teeth or eyes since the verse represents the bill of manumission, but is needed for all other body parts whose loss results in freedom to the slave only by rabbinic interpretation. The following sentence shows that this interpretation is not accepted in the Yerushalmi. In case a bill of manumission is required, damages can be claimed only after delivery of the bill.

It seems that the baraita in Mekhilta dR. Ismael, Mišpaṭim 9, contains a polemic against the argument here since it emphasizes that the verse requires to send the slave to freedom for his tooth or for his eye; the singular implies that the slave can request payment for the second injury independent of his legal status.

101 Even an authority who requires a bill of manumission for the slave freed by the Torah will not insist that the rules of these bills be followed to the letter but all forms of manumission accepted in Gentile courts are acceptable.

102 A Phrygian cap given to the slave by his master as a sign of freedom.

103 These words are unexplained. In the Babli 20a, speaking of manumission in general, not of the slave freed by the Torah, it is stated that a bill of manumission engraved on a writing tablet is valid, but not one written on a cap and קספ kings. explained in Arukh as text woven into the cloth (but see next paragraph).

In Massekhet 'Avadim, end of Chap. 3, the baraita quoted here appears in one ms. as: "If he broke his two teeth simultaneously, or blinded his two eyes simultaneously, the slave goes to freedom and is not paid anything, one after the other he obtains his freedom for the first and is paid for the second. If he cut his flesh or destroyed a tooth which did not come out yet, he is freed by האמסקן, a tablet, a writing tablet, but not by קספ kings." The word האמסקן was read by Pineles, vindicta, a reading accepted by
all later lexicographers. It is likely that "ironm and its variants also represent forms of *vindicta* in Babylonian spelling, which does not show the usual exactness of transliterations in the Yerushalmi, standing for *manumissio per vindictam*, manumission by having the slave touched with a *vindicta*, or staff, by a duly authorized government official. Such a manumission is invalid in any case not ordered by the Torah.

104 The acts of manumission recognized in Roman law, *manumissio per vindictam, inter amicos, and per epistulam*, also manumission in Egyptian law by declaration before a notary public and payment of the applicable tax (cf. R. Taubenschlag, *The Law of Greco-Roman Egypt in Light of the Papyri*, New York 1944, p.73).

105 This should read "her" here and in the sequel since a male slave cannot marry and has no family relationship with his children.
If a convert died and Jews plundered his property, if there were slaves, either adult or underage, they gain their freedom. Abba Shaul said, the adults gain their freedom, the minors do not become free. Why? They are no longer property after their owner's death. Then even adults? Rebbi Abba said, since adults are competent to acquire themselves, they gain their freedom. Minors, who are not competent to acquire for themselves, do not gain their freedom. Rebbi Joshua ben Levi said, practice follows Abba Shaul. The opinions of Rebbi Joshua ben Levi are contradictory. There, Rebbi Simon in the name of Rebbi Joshua ben Levi and Rebbi Yossi ben Shaul in the name of Rebbi said: A person who has given up hope to recover his slave is not entitled to enslave him. They said, what Rebbi Joshua said about enslaving, if he did not give, he did not give; perhaps practice would be to enslave him, therefore he has to write him a bill of manumission. And here, he says so! We heard that Rebbi Johanan said, Rebbi Joshua ben Levi taught us that correctly, perhaps practice follows Abba Shaul. The slave girl of Rabba bar Zutra ran away and he gave up hope to recover her. He went to ask Rebbi Hanina and Rebbi Joshua ben Levi. They said, he is not entitled to enslave her. How is it to write her a bill of manumission? They said to him, if you wrote, you did the right thing. Rebbi Hanina in the name of Rebbi Ismael ben Rebbi Yose said, a slave who married as a free person in the presence of his master gained his freedom. Rebbi Johanan said, yesterday I was sitting and formulating: If somebody writes a document of preliminary marriage for his slave or a document of definitive marriage for his girl slave, Rebbi says, they acquired, but the Sages say, they did not acquire. The first Tanna follows Rebbi: he acquired.
106 He failed to start a Jewish family. Since he no longer is a member of his Gentile family and did not acquire Jewish heirs, his property becomes ownerless.

107 Since they become ownerless, they go free, cf. Note 94. This Tanna holds that the ownerless slave does not need a bill of manumission. In the Babli, 39a, Rav Nahman explains that since the rules of bills of manumission are derived from those of bills of divorce, since a widow does not have a bill of divorce, the slave who gains freedom by his master’s death does not need a bill.

108 And can be acquired by anybody who takes them.

109 The Babli, 39a/b, agrees and is ambivalent in the matter, as is the Yerushalmi.

110 And he asserts that the master has to write a bill of manumission for the slave. But the adult slave who gains his freedom by his master’s death does not need a bill of manumission.

111 The owner cannot be forced to write a bill of manumission for the absconded slave.

112 It may be that any ownerless slave is automatically free without a written document; it also may be that the runaway slave whose master has given up hope of recovery is not free. Therefore, that slave cannot marry in the Jewish community without being formally freed.

113 Practice follows Abba Shaul, not as a necessity but as recommended action.

114 Even if he found her later, he could not bring any action to recover her as a servant.

115 He cannot be forced to write a bill but, since the runaway girl probably will reappear as a Jewish woman in some distant community and marry there, for the benefit of the community it is appropriate that the former owner write her a bill of manumission and appoint a local person to receive it in her stead (since one may give benefits to absent persons without their knowledge) to legitimize the children from any marriage she might contract.

116 The Babli, 39b/40a, and the editio princeps read Ι'Ιίπ Π3 "a free woman" instead of fjin Π "a free man" in the ms. One has to assume that the Venice typesetter was influenced by the Babli since the ms. shows no correction by the editor of the print; the text makes perfect sense as it stands. Since a slave cannot marry, if the master organizes a marriage for
him it is obvious (a) that the owner manumits the slave and (b) that the woman he marries must be free.

117 He accepts the marriage document as a bill of manumission; the slave acquires his own legal personality with the marriage document.

118 Since a slave’s hand is his master’s hand, a slave cannot acquire a document for himself unless he first was manumitted.

119 R. Ismael ben R. Yose.
Who frees? Rav says, either his first or his second master. Rebbi Johanan says, only his first master alone is able to free. Rebbi Haggai objected before Rebbi Yose: Does not a baraita disagree with Rav? If a Jew gave a loan to a Gentile on the latter's leavened matter, it is permitted after Passover. If you say that the Jew has property rights in it, it would be forbidden. What does Rav do with this? Rebbi Yudan said, manumission is made easy, as it was stated: If somebody gives his slave as mortgage, if he sold him, he is not sold; if he freed him, he is freed. The strength of Rebbi Johanan is from the following: Rabban Simeon ben Gamliel says, only the manumittor writes. If somebody mortgaged his field to another, then went and sold it, can the creditor not come and foreclose? Rebbi Abbahu said, in this matter Rebbi Johanan opened for us a door to illuminate. We do not find that a slave can again be enslaved after having been freed. If that is so, he should not have to write a bond for his value! Rebbi Ila said, it is better that a person say to him, give me the 200 zuz which you owe me than say to him, you are my slave! The rabbis of Caesarea say in Rebbi Nasa's name: Rabban Simeon ben Gamliel follows Rebbi Meir. Just as Rebbi Meir imposes a fine for words, so Rabban Simeon ben Gamliel imposes a fine for words. As it was stated: With a bond documenting both principal and interest one can collect neither principal nor interest, the words of Rebbi Meir. But the Sages say, one collects the principal but not the interest.

120 A parallel is in Pesahim 2:2, 1. 24 ff.; variants noted 9.
121 Here starts the discussion of the last part of the Mishnah, viz., the mortgaged slave who was manumitted.
122 Both the owner and the
mortgage holder can free the slave (Babli 40a).

123 A mortgage holder is not a proprietor.

124 The translation follows a.

125 In fact, Mishnah Pesahim 2:2 states that leavened matter pledged to a Jew is forbidden after Passover. This is explained in both Talmudim to refer to a contract which in case of foreclosure would retroactively transfer property rights to the creditor from the moment the loan was given. If the loan was given before Passover and foreclosed after Passover, the leavened matter was in the Jew’s possession during Passover and is permanently forbidden to Jews. In the Yerushalmi baraita one assumes that the contract states explicitly that the creditor would acquire property rights only after foreclosure.

126 Ye' benefit 7:1, Notes 23-27.

127 The moment the slave gains his freedom he is a full Jew and is protected by all biblical laws regarding treatment of converts.

128 The only reason the rabbis require the ex-slave to write a bond to the creditor is for his own protection.

129 Cf. Baba Me'si'a 10a 1.60; Babli 72a, Baba Qama 30b, Baba Batra 94b. Rabban Simeon ben Gamliel holds that the manumission of a pledged slave is illegal and therefore the perpetrator has to pay.

130 The bond is valid and those parts which conform to the law can be enforced.
Mishnah 5: A person who is half slave and half free works for his master one day and for himself one day, the words of the House of Hillel. The House of Shammai say, you provided for his master but you did not provide for him. He can marry neither a slave woman nor a free woman: shall he be alone? But the world was created only for procreation and increase, as it is said: "He did not create it to be empty, He formed it to be settled." For the public good one forces his master to manumit him and he writes a bond for half his value. The House of Hillel changed and instructed following the House of Shammai.

131 The free part in him is forbidden any sexual relation with a slave.
132 The free woman is forbidden any sexual relation with the slave part in him.
133 Is. 45:18.
134 This entered Roman law by a decree of Justinian, c. 1. C. 7,7. Most earlier jurists rejected the idea of partial manumission; cf. R. Taubenschlag (Note 104), p. 75.

Halakham 5: "A person who is half slave and half free," etc. How is it possible that anyone be half slave and half free? Explain it either following Rebbi, since Rebbi said that a person can free half of his...
slave\textsuperscript{135}, or following everybody in the case of a slave belonging to two partners, when one of them manumitted his part. If he found anything of value, on his master's day it belongs to his master\textsuperscript{136}, on his own day it belongs to him. But would he not on the next day turn it over\textsuperscript{137} to his master? If he entered a preliminary marriage. On his master's day, one would not consider his marriage\textsuperscript{138}, on his own day one would consider his marriage\textsuperscript{139}. But did not Rebbi Hiyya say in Rebbi Johanan's name: If a person who is half slave and half free entered a preliminary marriage, one does not consider his marriage\textsuperscript{140}. In parallel, if he divorced one does not consider his divorce\textsuperscript{141}.

\textsuperscript{135} In the Babli (41b, 23b, Temurah 25b) one holds that in the opinion of the rabbis opposed to Rebbi a person cannot free half of his slave but the freedom of a slave can be bought in installments.

\textsuperscript{136} Since at least for R. Meîr a slave's hand is his master's hand (Ketubot 6:1, Note 10; Nedarim 11:8, Note 70), what he finds belongs to his master.

\textsuperscript{137} Reading mav for mas. Since a slave cannot own property, all he has would be intermittently his owner's. This is legally an impossible situation; even without the argument of the House of Shammai it would be necessary to totally free the partially manumitted person or to declare the partial manumission as void.

\textsuperscript{138} As a slave, he cannot marry. A woman who receives valuables from a slave for a preliminary marriage is free to marry any other man without a divorce; she is not considered married.

\textsuperscript{139} While the marriage could not be consummated (Note 132), there seems to be no reason why the preliminary marriage should not be valid according to the House of Hillel, who hold that on alternate days he is a free person.

\textsuperscript{140} By a rabbinic decree, the half-free person is disqualified from entering a preliminary marriage.

\textsuperscript{141} If a half-free person entered a preliminary marriage and then, upon being informed that his act was invalid, gave the woman a bill of divorce; the recipient was never either married or divorced and is free to marry a Cohen.
HALAKHAH 5

There\(^{142}\), we have stated: "One does not marry women on a holiday\(^{143}\)." Simeon bar Abba in the name of Rebbi Johanan: Because of refraining from being fruitful and increase\(^{144}\). They asked before Rebbi Yose: May a slave marry a woman on a holiday\(^{145}\)? He told them, let us hear from the following: "Shall he be alone? But the world was created only for procreation and increase!" And Rebbi Simeon bar Abba said in the name of Rebbi Johanan: Anybody commanded to be fruitful and increase is forbidden to marry on a holiday\(^{146}\).

142 Mishnah Mo'ed Qatan 1:7.
143 The intermediate days of the Passover and Tabernacles holidays when acquisitions are permitted and in biblical law the man could acquire a wife and the woman the *ketubah* rights.
144 The prohibition to organize weddings on the intermediate days of a holiday is purely rabbinical, so that people should not refrain from marrying during the rest of the year in order to save money. In Mo'ed Qatan 1:7 1. 26ff. and the Babli, 8b/9a, the reason for the prohibition is a matter of disagreement among several authors.
145 The question is difficult to understand since the slave cannot marry as long as he is a slave but is a full Jew subject to all Jewish laws the moment he is manumitted. Maybe the question is about a slave manumitted on the holiday.
146 Even if in this case the marriage has to be postponed for a few days. A slightly different version of this paragraph is in Mo'ed Qatan 1:7 80d l. 30, quoted by Tosaphot Hagiga 2b, Gittin 41b, s. v. *kg*. Tosaphot point out that in a certain sense a male slave cannot fulfill the commandment to be fruitful because he cannot have any family relationship with his biological children.
Mishnah 6: If somebody sells his slave to Gentiles or outside the Land, the slave gains his freedom\textsuperscript{147}. One does not ransom kidnap victims for more than the going rate\textsuperscript{148} because of the public good. One does not smuggle kidnap victims out because of the public good; Rabban Simeon ben Gamliel says, because of the welfare of the kidnap victims\textsuperscript{149}. One does not buy Torah scrolls, phylacteries, and mezuzot from Gentiles for more than their worth because of the public good\textsuperscript{150}.

\textsuperscript{147} Since a slave is required to obey all of the biblical prohibitions imposed on Jews, a sale to a Gentile is equivalent to the slave's removal from Jewish practice. Also, there are more commandments to be observed in the Land than abroad. In both cases, it is a rabbinic decree that the master has to buy the slave back and then formally manumit him. (In Sifry Deut. 259, this is connected to Deut. 23:16-17.)

\textsuperscript{148} If the kidnap victims were sold as slaves on the open market. If it were known that Jews be ready to ransom their co-religionists for any price, no Jew would be safe from kidnapping.

\textsuperscript{149} The majority holds that one never tries to free kidnap victims without paying because then the robbers would put their next victims in chains and otherwise mistreat them. Rabban Simeon ben Gamliel holds that one may not try to steal the kidnap victims if one cannot free all of them in the hand of a group of kidnappers, because those left behind then would be mistreated. He does not fear an adverse reaction in a larger context.

\textsuperscript{150} Gentiles should not get the impression that stealing Jewish cult objects might be a particularly profitable business.
Halakhah 6: "If somebody sells his slave to Gentiles," etc. To a Gentile even in the Land. Who frees him? His original owner pays for him and the second frees him.  "Or outside the Land," even to a Jew. Let us say that if the second owner knew, both of them split the price; otherwise the first pays for him and the second frees him. "I X ben Y sold my slave Z to Antiochia," he gains his freedom. But if he is in Lydda, he did not gain his freedom. It was stated: A slave goes outside the Land with his master. Therefore, if he sold him there, he is sold.

If he came from outside the Land to the Land with the intention to return, one forces him to return. With the intention not to return, one does not force him to return. If he fled from outside the Land to the Land, he may return him. If he fled from the Land to outside the Land, Rebbi Joshia in the name of the Elder Rebbi Hiyya said, it is...
permitted. The great Rebbi Hoshaia said, it is permitted. Rebbi Marinos, the son of the great Rebbi Hoshaia said, it is forbidden. Rebbi Ze'ira said, they do not disagree. He who says, it is permitted, if he is used to flee there. But he who says, it is forbidden, if he is not used to flee there. Rebbi Yose said, they do not disagree. He who says, it is permitted, if he can return him from there; but he who says, it is forbidden, if he cannot return him from there.

151 This sentence and the next should be switched since if the slave was sold to a Gentile it is obvious that the Jewish owner has to manumit the slave; Mishnah 1:5 states that the manumission of a Jewish slave by the rules of a Gentile court is invalid. The original text probably was close to Tosephta ‘Avodah Zarah 3:18: "If somebody sells his slave to a place outside the Land he gains his freedom and the second master has to write him the bill of manumission." The Babli, 44b, infers from the Tosephta that the sale in itself is valid, otherwise the buyer would not have the power to manumit the slave.

152 That the sale was illegal by rabbinic rules.

153 The seller has to repay only half the sale price.

154 This is much clearer in the Tosephta, loc. cit., in the name of Rabban Simeon ben Gamliel: "I X ben Y sold my slave to Antiochia', he gains his freedom; 'to Z the Antiochian who dwells in Lydda' he does not gain his freedom." This is qualified in the Babli, 44b, by the statement that the Antiochian has to own an apartment in Lydda.

155 In the Tosephta and the Babli, this is restricted to Syria. There is no indication in the Yerushalmi of any restriction on a person to take his slave with him on a trip as a valet.

156 Since the slave was legally taken on the trip. The sale is only illegal if contracted in the Land.

157 If a diaspora Jew comes to the Land for a visit, his slave cannot refuse to return with him. But if he came to immigrate, the slave acquires the rights of residence. A slightly garbled version is in the Tosephta.

158 The owner of the slave can take
him back. \((\text{Deut. } 23:16,17)\) refers to the slave of a Gentile owner.

159 To forcibly return the slave to the Land.

160 The question arises how the son can disagree with his father.

161 In that case, the slave gained his freedom when the owner gave up hope to recover him; cf. Note 88.

162 If the slave was bought on condition that he could be resold outside the Land, the deal might be valid.

163 If the condition was stipulated with the slave, it is valid.

164 This could even be a sale within the Land to a Gentile if the buyer guaranteed that the slave could continue following Jewish law, keeping the Sabbath and eating kosher.

165 Name of an unidentified place,
probably a corruption. As a noun, the word means "their daughters".

166 When the slaves were caught outside the Land, he asked how he could dispose of them there within the rules. The explanation of this passage follows J. N. Epstein, *Tarbiz* 8 (1937) 316-318, with a note by I. Ostersetzer, *Tarbiz* 9 (1938) 395-397.

167 Greek ὠνή "sales contract, purchase". The outright sale of the slave outside the Land is forbidden.

168 Greek ἀντίχρησις "loan for use," reading ὑπάντιον for ὑπονίον, which is possible in such a heavily Babylonized text. An antichretic loan is a loan in which the creditor obtains the use of the mortgaged object, and the rental fee, instead of being paid to the borrower, is used to amortize the loan (cf. Taubenschlag, Note 104, p. 218, on antichretic loans of slaves.) Since the slave remains the property of the owner, there is no sale. J. N. Epstein points out that R. Immi in *Baba Mesi'a* 5:3 (10b 1.20) explicitly states that antichretic mortgages are valid and do not violate interest prohibitions. (In an earlier article, Epstein had read ἀντίδοσις "exchange").

169 Greek παραχώρησις "cession, surrender, assignment." Rabbinic law accepts the division between possession (possessio) and ownership (dominium) found in Ptolemaic and Roman law. Parachoresis means handing over the pledge (in this case, the slave) by the debtor to the creditor for possession to be turned into ownership if the debtor fails to repay the loan. It is now stated that the sale of the slave in form of a fictitious chattel mortgage (when the owner of the slave has no intention to repay the sum he received) is of questionable character; it would be valid if the owner had the intention of repaying the loan and taking back his slave since, as antichresis shows, the (temporary) transfer of possessions without transfer of ownership is perfectly legal. Cf. Taubenschlag, pp. 172,316. (In an earlier article, Epstein had read ἐπίχειρον "wages, pay of manual labor").
"One does not ransom kidnap victims for more than the going rate because of the public good. Rabban Simeon ben Gamliel says, because of the welfare of the kidnap victims." That they should not be put in chains. "One does not smuggle kidnap victims out because of the public good."

It was stated: "It is prohibited to buy from a Gentile who sells Torah scrolls, phylacteries, and mezuzot." But was it not stated: "It happened that a Gentile in Sidon sold phylacteries and mezuzot. The case came before the Sages who said that it was permitted to buy from him." That one was a Gentile who reverted to his error.

170 Since probably he is a fence. Babylonian sources in theory (Babli 45b, Tosephta Avodah Zarah 3:6) permit to buy from the Gentile if the writing follows all established rules, in practice disapprove, 45b.

171 Babli 45b, Tosephta Avodah Zarah 3:7. This Tosephta is a polemic against the Yerushalmi baraita.

172 He was a proselyte who had learned to write Jewish sacred texts. Since the status of being Jewish cannot be lost, when he reverted to Gentile ways he remained a Jew. Therefore, he is entitled to write these texts; he is not a fence. The Babli has the same explanation, 45b.
Mishnah 7: If somebody divorces his wife because of bad reputation\textsuperscript{173}, he cannot take her back\textsuperscript{174}; because of a vow\textsuperscript{175}, he cannot take her back\textsuperscript{174}. Rebbi Jehudah says, for any vow known in public\textsuperscript{176}, he cannot take her back; not known in public, he can take her back. Rebbi Meir says, for any vow which needs investigation by a Sage, he cannot take her back; if it does not need investigation by a Sage, he can take her back\textsuperscript{177}. Rebbi Eleazar said, they forbade one because of the other\textsuperscript{178}. Rebbi Yose ben Jehudah said, it happened in Sidon that one said to his wife, a qonam\textsuperscript{179} if I do not divorce you, and he divorced her, and the Sages permitted him to take her back\textsuperscript{180}, for the public good.

\textsuperscript{173} She has the reputation of an adulteress but he has no proof.

\textsuperscript{174} As explained in the Halakhah, to protect the wife's children in a subsequent marriage. This is in the public interest.

\textsuperscript{175} Because of a vow she made.

\textsuperscript{176} Which according to R. Jehudah cannot be dissolved; cf. \textit{Nedarim} 5:4, Note 56.

\textsuperscript{177} A vow made in error which never was binding.

\textsuperscript{178} This is explained in the Halakhah.

\textsuperscript{179} He forbade certain things on himself if he did not fulfill the conditions he imposed on himself; cf. Tractate \textit{Nedarim}, Introduction.

\textsuperscript{180} This is unproblematic since he fulfilled his vow. The case is quoted only to show that the prohibition to take her back is due only to a vow of hers, not his.
"If somebody divorces his wife because of bad reputation," etc. And it was stated: "Why did the Sages say that he who divorces his wife because of bad reputation cannot take her back? For if he divorced his wife because of bad reputation, when she went, married another, and bore him children, after some time it turned out that the accusations were baseless and he said, if I had known that the accusations were baseless, even if somebody had offered me a hundred minas for my wife I would not have divorced her, then the bill of divorce would be invalidated and her children bastards. But since he knows that if he divorces her, she will be forbidden to return to him, from the start he gives her a perfect bill of divorce."

181 Babli 46a, Tosephta 3:5.
182 The court will not let him take her back. While a divorce as a matter of principle is a private affair between husband and wife and needs only two witnesses for the document and two for the delivery, a divorce because of probable cause of adultery is a public affair. The husband can divorce his wife without paying her ketubah only if he can show probable cause in court. If he divorces her and pays the ketubah, it is not classified as "divorce because of bad reputation".
183 Since Deut. 24:1 make the divorce dependent on the husband's will, if later he retracts that will, he retroactively invalidates the divorce. This is also accepted in the Babli; in modern practice the husband has to agree that any later change of heart must be disregarded.
It was stated: "Why did they say that he who divorces his wife because of a vow cannot take her back? For if he divorced his wife because of a vow, when she went, married another, and bore him children, after some time it turned out that the vow was void and he said, if I had known that the vow was void, even if somebody had offered me a hundred minas for my wife I would not have divorced her, then the bill of divorce would be invalidated and her child a bastard. But since he knows that if he divorces her, she will be forbidden to return to him, from the start he gives her a perfect bill of divorce." Rebbi Ze’ira said, you can see that he was looking for a pretext to divorce her since it must have been a vow which does not need investigation by a Sage! Rebbi Ze’ira said, you can see that he was looking for a pretext to divorce her since it must have been a vow which was not public knowledge! "Rebbi Eleazar said, they forbade one because of the other." The law should be that he can take her back even if it was a vow which needs investigation by a
Sage, for the Elder uproots the vow. Why did they forbid a vow which needs investigation by a Sage? Because of a vow which does not need investigation by a Sage.188

184 Tosephta 3:5.
185 The only invalid vows are those which do not need an Elder to be nullified. Therefore, the husband could have annulled the vow (Nedarim Chapters 10-11).
186 Also for a public vow, the situation described in the Tosephta cannot arise.
187 This is quoted in Ketubot 7:9, explained there in Notes 117,118.
188 In which case the situation described in the Tosephta could arise.

Mishnah 8: If somebody divorces his wife because she is a she-ram,189 Rebbi Jehudah says, he cannot take her back, but the Sages say, he may take her back. If she was married to another man, had children by him, and requests her ketubah, Rebbi Jehudah says, he tells her: Your silence would be better than your talking.190

189 A woman lacking secondary female sex characteristics; she is presumed to be infertile. If she was married when very young and then failed to develop, the husband can claim the marriage and his obligation of ketubah was entered into in error. Cf. Yebamot 1:1, Note 65; Ketubot 7:7, Note 77. R. Jehudah holds that a she-ram should not be married, Mishnah Yebamot 6:5.
190 This gives R. Jehudah’s rationale. If she was divorced without payment of the sum promised her in
the *ketubah* and it turns out that she is not infertile, the husband tells her that if she goes to court, he will declare that he would never have divorced her, had he known that she was not infertile (or, according to Rashi, that he would have to pay the *ketubah*), and turn her children from the second husband into bastards.

**Halakhah 8:** It was stated: "Why did they say that he who divorces his wife as a she-ram cannot take her back? For if he divorced his wife as a she-ram, when she went, married another man, and bore him children, and he said, if I had known that she can have children, even if somebody had offered me a hundred minas for my wife I would not have divorced her, then the bill of divorce would be invalidated and her child a bastard. But since he knows that if he divorces her, she will be forbidden to return to him, from the start he gives her a perfect bill of divorce." Rebbi Ze'ira said, you can see that he was looking for a pretext to divorce her since there are women she-rams who are married and since [their husbands] are satisfied with them they keep them.

He rejects the Mishnah and its implications. If the court would tell him that he was lying when he claimed
infertility, it could force him to pay the ketubah or let him take her back.

Rebbi Jehudah says, he cannot take her back," and you say so? Rebbi Johanan said, there is no Rebbi Jehudah but Rebbi Meir. It was stated thus in Rebbi Meir's name: Your silence would be better than your talking.

192 Since R. Jehudah prohibits him to take her back and he knows that the divorce is irrevocable, how can he then claim that he would not have divorced her?

193 Who is represented by the "Sages" in the Mishnah. The Babli, 46b, disagrees and holds that for R. Meir the bill of divorce is valid and immune from attack by the first husband unless the bill of divorce was delivered with the explicit declaration that it be valid if and only if she is a sterile she-ram.

Mishnah 9: If somebody sells himself and his children to Gentiles, one does not buy him back, but one buys his children back after their father's death. If somebody sold his field to a Gentile and then a Jew bought it back from him, the buyer brings first fruits because of the public good.
As slaves. With public money. In the Land of Israel. During the growing season, when the produce already was exempt from the obligation of First Fruits as Gentile property.

In order to encourage people to buy agricultural properties in the Land.

Halakhah 9: "If somebody sells himself and his children to Gentiles," etc. The Mishnah, if he sold himself repeatedly. But if he sold himself once, one buys him back, but if he sold himself to the games, one does not buy him back. There was a case of one who sold himself to the games; the case came before Rebbi Abbahu, who said, what can we do? He did it for his livelihood.

The Babli agrees, 46b. As a gladiator. Otherwise he would have starved. He agreed to buy him back with money given for charity. In the Babli, 47a, this scenario is restricted to the case of a gladiator who continues to eat only kosher.

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The Mishnah is Rebbi Meir's, since Rebbi Meir says that a Gentile may not acquire real estate in the Land of Israel to remove it from tithes; Rebbi Jehudah and Rebbi Simeon say, a Gentile may acquire real estate in the Land of Israel to free it from tithes. Rebbi Immi in the name of Rebbi Simeon ben Laqish: The reason of Rebbi Meir (Lev. 25:46): "You shall transmit them by inheritance to your sons after you, to inherit by the rules of real estate." This brackets slaves with real estate. Just as you may buy slaves from them but they cannot buy from you, so real estate you may buy from them but they cannot buy from you. Rebbi Eleazar ben Rebbi Yose said before Rebbi Yasa, the following supports Rebbi Meir (Lev. 25:23): "The land shall not be sold permanently," absolutely. He said to him, that in itself supports Rebbi Simeon. "It shall not be sold", because if it was sold, it would be sold absolutely. Rebbi Huna from Sepphoris said, Rebbi Hanina instituted in Sepphoris following Rebbi Simeon.

202 This is from Demay 5:9. Variants are denoted by Τ explained there in Notes 104-109. 203 This is the correct reading in Τ.
Rebbi Ze'ira said before Rebbi Abbahu in the name of Rebbi Eleazar:

Even though Rebbi Meir said that a Gentile may not acquire real estate in the Land of Israel to remove it from tithes, he agrees that he has property rights. What are property rights? Rebbi Abba said, the usufruct as we have stated: "the buyer brings First Fruits because of the public good," otherwise he could have brought First Fruits by the word of the Torah.

All the yield rightfully belongs to the Gentile; the land is not ownerless and taking anything from there would be theft.

If somebody bought a field during a Jubilee period. Rebbi IIa said, he acquired ownership of the ground, Abba bar Mamal said, he did not acquire ownership of the ground. Rebbi Abba bar Mamal objected to
Rebbi Ila: In your opinion, since you say that he acquired ownership of the ground, why can he not dig cisterns, ditches, and caves? He said to him, the Torah said, "he shall return to his inheritance," as it was. Rebbi Jacob bar Aha brought this topic before them and did not know that they still disagreed: Rebbi Johanan said, he brings and recites; Rebbi Simeon ben Laqish said, he does not bring and recite. Rebbi Eleazar ben Rebbi Yose said before Rebbi Yose: Everybody agrees that he brings. Where do they disagree? Rebbi Johanan said, he brings and recites; Rebbi Simeon ben Laqish said, he brings but does not recite.

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206 This discussion is purely theoretical since the institution of the Jubilee was abolished with the exile of the Ten Tribes, not to be re-instated; cf. Note 66; Sevi'it 1:1 Note 7, 10:3 Notes 83-88.

207 A sale of ancestral agricultural land in a Jubilee period is really a long-term lease since the land returns to the owner in the Jubilee year. The buyer certainly acquires possession; the question is whether he also acquires ownership (cf. Note 169).

208 The prohibition to alienate agricultural lands from their status is not found otherwise in either one of the Talmudim. There may be a hint of this in Sifra Behar, Perek 5(7); also Parasha 4(6) where it is stated that cisterns, ditches, and caves follow the rules of houses, which sometimes are not returned in the Jubilee year, but not those of agricultural land, which always is returned. The buyer/lessee has no right to change the legal status of the land; this seems to indicate that he has no ownership.


210 In the Babli, 47b/48a, it is clearly stated that R. Johanan holds that possession is like ownership, R. Simeon ben Laqish holds that possession and ownership are distinct. In this, practice of the Babli strictly follows R. Simeon ben Laqish.

211 Possession of the land is sufficient for the property to be subject to the duty of first fruits but not enough for the farmer to declare (Deut. 26:10) "I brought the First Fruits of the land which You gave me, o Eternal"; cf. Mishnah Bikkurim 1:2,6.
Mishnah 1: For tort victims one estimates with best quality land\(^1\), for a creditor with average quality, and for a woman’s *ketubah* with lowest quality. Rabban Simeon ben Gamliel\(^2\) says, also for a woman’s *ketubah* with average quality.

1. If a person is due damages and is not paid, he can ask the court for foreclosure. If the guilty party owns several pieces of land, the tort victim is indemnified, up to the value of his claim, from the land which carries the highest value per unit of surface area. A creditor whose mortgage does not specify a particular piece of land is indemnified from land which the court’s experts assess to be of average value among all of the debtor’s holdings.

2. In all other Mishnah sources mentioned in M. S. Feldblum, *Dikduke Soferim - Gittin* (New York 1966), the name is R. Meir.
Halakhah 1: "For tort victims one estimates with best quality land," etc. "By an inference de minore ad maius, for Temple property." Rebbi Abba bar Pappaios said before Rebbi Yose, where do we hold? If to qualify as damages, is that not what we stated "his neighbor's ox" but not the ox of Temple property? If for bodily damages, is that not what Rebbi Hiyya stated: A private person can claim damages but not the Temple? But we must deal with one who said, I obligate myself to give 100 minas to the Temple, when his ox went and did damage. You should not say, [the Temple] is a creditor and should collect from average quality land. Therefore, it was necessary to say that "for tort victims one estimates with best quality land, by an inference de minore ad maius, for Temple property."

3 A statement by R. Aqiba in Mekhilta dR. Ismael, Mišpatim 14, also quoted by the Babli, 48b.

4 What does the statement about Temple property mean?

5 Ex. 21:35; Mishnah Baba Qama 4:3. The rules of damages do not apply to Temple property, not for damages inflicted by Temple animals nor damages done to them. Quoted in the Babli, 49a.

6 The formulation is ambiguous; it also could mean that the Temple never pays damages.

7 The following clause is missing in the quote of the passage by Tosaphot Gittin 49a, s. v. רוש, and in the Constantinople edition of the Yerushalmi. If one accepts the text as it stands, one has to explain that the person making the vow thought that he could pay his vow in cash, but before he could do this, he had to pay damages and now he is short of cash. If one does not read the clause, then there is a straightforward statement that debts to the Temple in all cases are privileged like debts for damages (a statement considered and rejected by the Babli, 49a). The interpretation of the Babli, that damages inflicted on Temple property always must be paid in full, is incompatible with the Yerushalmi.
Rebbi Hyya stated: "Full and partial damages are collected from encumbered property." One understands full damages. Are partial damages not collected from the animal's body? Rebbi Yose said, explain it when it was a docile ox which did damage and then his owner went and sold it. Its body already was encumbered to the injured party. The rabbis of Caesarea said, explain it if he converted it into a loan. Then it should be foreclosed only by average quality land! Since the debt originated in a damage claim, he may collect from best quality.

8 Ex. 21:36 requires the owner of an animal with a history of causing damages to pay all damages in full. If the animal's owner cannot pay cash, the Mishnah decrees that the damages be liquidated by the best available land, even if mortgaged.

9 Ex. 21:35 requires the damages inflicted by an animal which never before had caused damage to be paid from proceeds of a sale of the animal itself.

10 The "encumbered property" mentioned in the baraita is not mortgaged land but the animal causing the damage, which can be repossessed by the owner of the damaged property from a buyer of the aggressive animal.

11 The owner of the injured animal did not insist on immediate payment but agreed that the debt be liquidated as if it were a loan.
"His field" except if it was mortgaged. "His vineyard", except Temple property. Where do we hold? If somebody caused damage and then dedicated to the Temple, that is what we have stated: "If he dedicated 90 minas but his debt was 100 minas." If somebody dedicated to the Temple and then caused damage, that is what we have stated: ""His neighbor's ox" but not the ox of Temple property." Rebbi Yudan said, explain it if an ox of Temple property grazed on a private field. Rebbi Mana told him, we require Temple real estate and you say "on a private field"? But we must hold about one who said: I am obligating myself for 100 minas to the Temple; then went and caused damage. You should not say that between damages and a loan given before witnesses damages are privileged, and here damages are privileged against the Temple; therefore it was necessary to say "his vineyard", except Temple property.

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12 Ex. 22:4: "If a person destroys a field or a vineyard through animals by sending his livestock to graze on another's field, the best of his field or the best of his vineyard he shall give in payment." This is the basis of the Mishnah requiring that damages be paid with best quality real estate.

13 "His field" excludes third-party interests.

14 What relation can Temple property have with damages due from a private person?

15 Mishnah 'Arakhin 6:2: "If somebody dedicated his property to the Temple while he owed a ketubah to his wife or a debt to a creditor, neither the woman nor the creditor can collect from the Temple; but the redeemer redeems on condition to pay the..."
ketubah to the woman or the debt to the creditor. If he dedicated 90 minas but his debt was 100 minas, [the redeemer] adds another denar and redeems these properties on condition to pay the debt to the creditor." In order to combine two conflicting principles, viz., that vows cannot be used to escape obligations towards third parties, and that Temple obligations override all others, it is decreed that the Temple has to put the dedicated properties up for sale but collects only for the amount by which the value of the properties exceeds the obligation, with the third party buyer accepting the obligation to pay off the liens on the property. (It has to be a third party buyer since the person making the dedication would have to add another 25% to the redemption amount, Lev. 27:19.) Claims for damages have to be handled in the same way.

16 Not in documented form; the witnesses do not sign anything. Such a loan is not a mortgage and is not privileged.

17 The statement about Temple property is not to exclude Temple property from damage claims but to privilege Temple property relative to all civil claims.

"His field," except movables. "His vineyard," except potential property which is not similar in status to that in possession. "His field," except movables." About those who did not claim movables from the start. Is this different from what we stated: There is not only real estate; from
where if he wanted to pay money? The verse says: "Money he shall return to its owner." What did you mean to say that real estate is primary? Or should we say that money is primary? Then it should be irrevocably given to [the claimant] from the start! Do we not see rabbis who irrevocably give him real estate! "His vineyard," except potential property which is not similar in status to that in possession." Rebbi Eleazar in the name of Rebbi Nisa: If his father dug a cistern which caused injury during his father's lifetime. Property fell to him after his father's death. I might say that this property should be encumbered for that damage; therefore, it was necessary to say "his vineyard" to except potential property which is not similar in status to that in possession.

18 Ex. 21:33, speaking of somebody digging a hole in the public domain which then causes injury to another person's animal. This damage has to be paid in money (or, in the Babli's interpretation, in money's worth). In the Babli, Baba Qama 7a, 14b, money is legal tender to liquidate all debts. The Yerushalmi gives the injured party the right to claim real estate in those cases in which the verse prescribed payment in real estate.

19 א is Babylonian spelling for Galilean א or א, א is "if", א is "not". The first alternative applies here.

20 In the public domain, cf. Note 18.

21 The injury claim was not paid during the father's lifetime. By accepting the inheritance, the son became liable to pay the injury claim. If later he received inheritance from another source, e.g., grandparents, the later inheritance is not liable for claims stemming from a prior inheritance even if the son was the only known heir and therefore the grandparent's property was potentially his.
The best of his field and the best of his vineyard he shall pay,\textsuperscript{12} i.e., the party responsible for the damage, the words of Rebbi Ismael\textsuperscript{22}. Rebbi Aqiba says, "the best of his field and the best of his vineyard", of the person suffering the damage. It is difficult for Rebbi Aqiba, he suffered damage, and you say so\textsuperscript{23}? But the court see what the field was worth before it was damaged and estimates accordingly. As it was stated, it is possible if the grazing was on best quality land, one estimates from best quality, from lowest quality one estimates from lowest quality. How is this? The best of the lowest quality is quite good. If you say so you provide a windfall for the person suffering the damage\textsuperscript{24}. One looks at the field as if it was full of first quality [produce] and estimates for him from the best quality land; least quality one estimates from least quality land. It turns out that he pays with best quality for best quality and from least quality for least quality. From where has Rebbi Aqiba that "for tort victims one estimates with best quality land"\textsuperscript{25}? It is not from the Torah, it is a decree. \textsuperscript{26}"Why did they say, 'for tort victims one estimates with
best quality land'? Because of the robbers? That a man should say, why should I have robbed [land] in my hand, or land subject to a suit for damages on my hand? Tomorrow, the court will see my good field, take it from me, and support it by the verse, 'the best of his field and the best of his vineyard he shall pay.' So far his real estate. His pledge was inferred from his real estate. Since his real estate [is taken] from the best quality, also his pledge [is taken] from the best.

22 In the Babli, 48a, the attribution of names is switched; the same is implied by Mekhilta dR. Ismael, ed. Horovitz-Rabin p. 296; the interpretation of R. Ismael is quoted anonymously in Mekhilta dR. Simeon bar Iohai, ed. Epstein-Melamed p. 196, together with the interpretation given later to the opinion of R. Aqiba.

23 Why should the person responsible only pay corresponding to the best remaining parts of a ruined field?

24 According to R. Aqiba, the holdings of the person suffering the damage are graded into best, average, and lowest quality. In each category, the value of the damage is established and paid by the person responsible with his best real estate in the given category, up to the value established in court.

25 Since he reads the verse as referring to the method of estimating the damage, not payment, the Mishnah has no biblical foundation.

26 This is a baraita, quoted in the Babli, 49b, in the name of R. Simeon (in some sources, R. Simeon ben Eleazar.) A similar, anonymous, text is in Tosephta Ketubot 12:2.

27 Since a robber of land is also inflicting damage on the person robbed.

28 If the person responsible cannot pay directly, any pledge taken should be of his most valuable possessions.

בִּכְשִׁלִי חַיָּב בֵּבָטָנִית. מִפְּנִי הַבְּרָאִיתָה. ישָׁא לְהַא אֶזְרֶם רְאוֹת אַתָּה (46c line 43)

שֶׁרְאֵת יָכַת בְּמִלּוּות אָזְנוּת עַזְעֹתָת עֹיֵנָקָו וָנְקָלָה מְמַנְּה. מְעַתֶּה לְאַנְשֵׁמָו לֵ}
“For creditors, average quality,” because of tricksters. That a man should not see a desirable field in his neighbor’s hand, lend him money, and contrives to take it from him. Then one should estimate only from the least quality! Rebbi Jehudah said, that is correct; but not to lock the door before people needing to borrow. For tomorrow he may need to borrow and does not find [a lender]."

A continuation of the Tosephta (Note 26). In the Babli, R. Jehudah agrees that loans should be foreclosed only by least quality land but R. Meir states that to support credit one has to allow loans to be foreclosed from average quality.

Rebbi Simai preached: "And the man, that is the agent of the court". For if the creditor enters, he removes the best. If the borrower enters, he removes the worst. How is this? The agent of the court enters and removes from average quality. Rebbi Ismael says, it is a word from the Torah that the creditor should enter, for it is written: "The man whose creditor you are should bring the pledge out for you." That is, his pledge. His real estate was inferred from his pledge. Since his pledge [is taken] from average quality, also his real estate [is taken] from average quality.
30  *Deut.* 24:11, about a creditor taking a pledge, quoted in full later in the paragraph.

31  *Sifry Deut.* 276 seems to read as "and any man," to include the

agent of the court" since the verse obviously refers to the creditor.

32  The context would require to read "debtor;" this is an Amoraic

statement in the Babli, 50a.

This is obvious: A loan that is disputed is not remitted. A loan that

was disputed but is now a [confirmed] loan, is remitted. Rebbi Jeremiah

asked: Is this also true for judgments? A loan that was disputed can be

collected. A disputed loan turned into a [confirmed] loan is collected from

property of average quality.

33  *Sevi‘it* 10:2, explained there in judgments are not subject to the rules

Notes 75-77, variant readings noted of the Sabbatical.

The Mishnah notes that court is not collected from

that court by the court.
If there is only best quality, one collects from the best quality, [only] average quality one collects from average quality, [only] worst quality one collects from worst quality. Best and average, torts are assessed from best quality, creditors and a woman's *ketubah* from average. Average and worst, torts and creditors are assessed from average, a woman's *ketubah* from worst. If his best quality was like everybody's best quality, it is best quality. If his average quality was like everybody's average quality, it is average quality. If his worst quality was like everybody's worst quality, it is worst quality. If his best quality was like everybody's average quality? Rebbi Ze'ira and Rebbi Ila asked: Let us hear from the following: Average and worst, torts and creditors are assessed from average, a woman's *ketubah* from worst. But just as you need in the case that you have best and average quality, torts push creditors to the average, so in this case, of average and worst quality, should not torts push creditors to the worst quality? Rebbi Yose bar Abun in the name of Rav Hisda: Explain it that he had best quality which he sold, and the creditors were already pushed to average quality.

35 The statement up to here is a *baraita*, quoted as such in the Babli, *Baba Qama* 7b. One can foreclose only existing property; the only question which arises is how to classify claims if there are properties of two different qualities but claims for all three. The Babli formulates this as: Do the notions of best, average, and worst refer to the available land or are these general notions used by realtors to classify properties?
36 If his best quality is classified by realtors as average, nevertheless it is his best, reserved for satisfaction of tort judgments, and creditors should be satisfied with second best quality, even if that is worst in universal classification. This seems to prove that the classifications mentioned in Mishnah and baraita are universal, not referring to the debtor.

37 His explanation is also given by Rav Hisda in the Babli, *Baba Qama* 8a. As Rashi explains, the loan was taken when there was best quality land; then automatically the average quality land was pledged to the creditor. When later the best quality land was sold, the pledge was not removed. When then a claim for torts was entered, it only could be additional to the existing lien. (The Babli lists three other possible explanations, all agreeing that in a normal case in which only two qualities of real estate are available, the better one is declared best, reserved for the satisfaction of tort claims.)
"For a woman’s ketubah with lowest quality." Rebbi Jeremiah said, they taught only for a ketubah of a mina or 200 [zuz], but a ketubah of a thousand denar she collects from average quality. Rebbi Yose said, even a ketubah of a thousand denar she collects only from lowest quality. It turns out that this disagreement parallels the following disagreement: "While she lives in her father’s house, she always can collect her ketubah; if she lives in her husband’s house, she can collect her ketubah for 25 years." Rebbi Simon in the name of Rebbi Joshua ben Levi: One stated this only for the ketubah of a mina or 200 [zuz]. But a ketubah of 1,000 denar she collects forever. Rebbi Abbahu quoted in the name of Rebbi Johanan: Even a ketubah of 1,000 denar she can collect only up to 25 years. It turns out that Rebbi Yose follows Rebbi Johanan and Rebbi Jeremiah Rebbi Joshua ben Levi. As we have stated there: "If somebody signs over his property to his sons and signs over some real estate to his wife, she loses her claim to ketubah." Rav said, if he sells through her. Samuel says, if he distributes in her presence. Rebbi Yose ben Hanina said, they stated here a relaxation of the laws of ketubah. Rebbi Abba said, the reason of Rebbi Yose ben Hanina is that it applies not only to a ketubah of a mina or two hundred, but even regarding a ketubah of one thousand denar they proclaimed a relaxation of the laws of ketubah.

40 This paragraph is a rearrangement of a paragraph in Ketubot 12:5 (Notes 54-59) and one in Peah 3:9 (Notes 182-189).

41 The obligatory minimum she collects only from the lowest quality land; any excess she can take from average quality. The Yerushalmi does not give a reason why a woman can collect only from lowest quality real estate; the Babli (49b-50a) after a lengthy discussion decides that this is a
necessary institution to induce men to get married.

42 Mishnah *Ketubot* 12:5.

43 Mishnah *Peah* 3:9.

44 In *Peah*, "if he lets them acquire through her agency." One has to assume that this is meant here also.

45 "Encumbered property" is property sold when there was a lien on it. If the lienholder cannot get satisfaction from the debtor, he can have regress on the buyer. But as long as the debtor has any real estate left in his possession, it has to be foreclosed before any claim can be raised against a buyer.

46 As long as the orphans are underage.

47 If a robber took land by force, had its use for some time, and then sold it, the land itself can be reclaimed from the buyer but payment for the illicit use of the land can be exacted only from the robber himself.

48 If the buyer of some property makes improvements, such as planting fruit trees, and then loses the property through the foreclosure of a prior lien, he can recoup his expenses for the improvements only from the original seller directly.
49 It is a required condition in a ketubah that after the husband's death his widow and unmarried daughters be sustained by the estate (Ketubot 4:11-12). While the ketubah itself is a mortgage lien on all real estate acquired by the husband, the additional conditions cannot be foreclosed as a mortgage.

50 All other Mishnah sources have an additional clause, either as original text or addition: "The finder shall not be made to swear, for the public good." Since the statement is quoted in the Halakhah (Note 88), it should be read here also.

Halakhah 3: "One cannot collect for usufruct," etc. 52Rebbi Johanan said in the name of Rebbi Yannai: One pays from an orphan's property only a document on which interest is due, and some say, also a woman's ketubah. Rebbi Yannai said, because of her sustenance. Rebbi Mattaniah said, who is worried about sustenance? Rebbi Simeon! Since Rebbi Simeon said, it depends on the collection. What about it? For attraction, that everybody should be eager to marry her. Some say, also for robbery and torts. Rebbi Yose said, we stated both of these. Robbery from the
following: "If it was mortgageable, he has to pay." For torts from the following: "One pays from an orphan's property only from the least valuable." So is the Mishnah: One pays for torts from an orphan's property only from the least valuable. But was it not stated: If the son took his father's place, one estimates torts from the most valuable land, creditors from average quality, and a woman's ketubah from the least valuable. Rebbi Yose ben Rebbi Abun said, there about an adult orphan, here about an underage orphan.

51 Vocalization of the ms.
52 This paragraph is from *Ketubot* 9:8, explained in Notes 187-197. The variant readings (including a parallel text in *Shabuot* 5:5) are given in *Ketubot*.

Halakhah: "One does not collect from encumbered property," etc. Rebbi Hanina said, because they have no fixed amount.

53 This quote from Mishnah 2 is not in its place. The reference is to Mishnah 3 and the list of items which cannot be subject to foreclosure from a buyer.
54 Mortgage liens are only fixed amounts. The same statement is in the Babli, 50b.
If [Reuben]\(^{55}\) robbed a field from Simeon and sold it to Levi\(^{56}\), then Simeon came\(^{57}\) and foreclosed it from Levi; then Levi collects from Reuben’s encumbered property and Simeon collects the usufruct from Levi’s free property\(^{58}\). If Levi in the meantime improved [the property], Levi collects the capital from Reuben’s encumbered property and the improvement from Simeon’s free property. Rebbi Hiyya in the name of Rebbi Johanan said, only if a third party’s buying preceded the improvement by this one\(^{59}\). But if the improvement by this one preceded a third party’s buying, Levi can collect the capital even from Simeon’s encumbered property\(^{60}\). Rebbi Abba, Rebbi Hiyya in the name of Rebbi Johanan said: With usufruct one proceeds in the same way\(^{61}\). If he spent four denars and the improvement is worth six, Levi collects four denars from Reuben’s encumbered property and another two from Simeon’s free property. Rebbi Abin in the name of the rabbis there: Since he did not enter with permission, his hand is weak against Simeon\(^{62}\). Rebbi Yose ben Rebbi Abun in the name of the rabbis there: Since he entered with permission, his hand is strong against Reuben\(^{63}\).

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55 Missing in the text but clearly demanded by the sequel.
56 In all cases discussed, Levi is presumed to be an innocent buyer who did not know that the seller had no title.
57 Who could prove his ownership in court.
58 This follows the Mishnah and is unproblematic.
59 If Simeon sold property before he knew that Levi had improved the
property which he is going to retake, the eventual obligation of Simeon towards Levi is no lien on the real estate sold to the third party. In the Babli, 51b, a similar but tannaitic statement applies only in case the field was sold by the buyer from the robber to another person, whose innocent purchase is protected.

In this opinion, whose problematic aspect is discussed later, Simeon’s potential liability is an automatic lien on all his properties.

There also, it depends on when the obligation of payment started. The Babli agrees, Baba Mesi’a 14b, where the situation described here is alluded to.

Since for Simeon all that Levi did in his field was unauthorized, Simeon does not have to pay at all since he would pay only an amount equal to the smaller of investment or improvement, but since the investment is collected from Reuben, there is no enforceable claim against Simeon. (Cf. also Yebramot 15:3, Note 71.)

Since Reuben sold the field to Levi, the latter can collect from Reuben the value of the improvement, not only the amount of investment.

Reuben robbed a field from Simeon and sold it to Levi; Levi went and gave it to Jehudah as a gift. Then Simeon foreclosed it from Jehudah. Jehudah has no regress on Levi since it was a gift. Levi has regress on Reuben since it was a sale. Did he not give it away as a gift? He can say to him, it was my intention to give it to him so he would return me favors. Reuben robbed a field from Simeon and gave it to Levi as a
gift; Levi sold it to Jehudah. Jehudah has regress on Levi since he sold it; Levi has no regress on Reuben since it was a gift; as Rebbi Yose said in the name of the rabbis: No easement is created by a gift.

64 This paragraph is discussed by Rashba in a letter to Mei'ri (Responsa attributed to Nahmanides, #96). The text is practically identical with that of the ms.

65 While goodwill cannot be easily quantified in monetary terms, it is of value and can be used in a claim against a robber.

Reuben robbed a field from Simeon and sold it to Levi, and he did not have time to write the foreclosure document before he died: whose is it? Rav Huna and Hiyya the son of Rav: One said, if he wrote the foreclosure document, it is Reuben’s, if not, it is Levi’s. The other one said, whether he wrote or did not write, it belongs to Levi. Rebbi Mana said, it is reasonable that it does not belong to Reuben since he can say to him, I sold you something which was not mine. Rebbi Yose said, it is not reasonable that it should not be Levi’s, since Reuben can tell him, is this not before you? You are good to confirm the sale.

66 "He" seems to be Simeon, who has to go to court and obtain a document which gives him the right to take the field from Levi.

67 It should be obvious that the field is Simeon’s and after him his
The paragraph is difficult to understand; the commentators all emend the text to fit their explanations, which can be disregarded. It seems that the question is to whom do the heirs have to address their foreclosure document.

The problem is an old one; Meiri, after Rashi the second most important Medieval commentator, asked Rashba for an explanation (cf. Note 64). Meiri's text read רכש "his foreclosure document," Rashba's read רכש "his sales document." This is Rashba's answer:

"It is my opinion that our text is defective and it should be as follows: Reuben robbed a field from Simeon and sold it to Levi, then Reuben bought it from Simeon but before he could write the sales contract, he died. That is the case about which Samuel asked Rav in (Babli) Baba Meși'a (15b), viz., if it turns out that the field was not his, but he went and bought it from the original owners, what are the rules? He told him, the first (the robber) sold to the second (the buyer) any present and future rights to the parcel. . . . And this is the explanation of this text according to my understanding: Reuben had robbed a field from Simeon and sold it to Levi who did not realize that it was robbed. Afterwards, Reuben bought the parcel from Simeon, but Simeon had not yet written the sales contract when Reuben died: who is the owner? Rav Huna and Hyya bar Rav: One says if the document was first, if the sale was completed before he died, the sale was final and Reuben did not transfer [the field] to Levi; this shows that Reuben did not intend to leave the field in Levi's hands, ostensibly to leave it to his heirs. He does not spell this out since the sales document was not yet written. The other one said, there is no difference between written and not written, he wants the field to be Levi's since he did not dispose of the field in a will. (The same Rav Huna and Hyya bar Rav disagree in the Babli Baba Meși'a (16a) about the time available to the robber to act to protect his credit.) Rebbi Mana has a different explanation: He says that in any case the field belongs to Reuben, following Rami bar Ḥama (in the Babli, Baba Meși'a 16a) who said that Levi's contract was not worth the paper it was written on. But Rebbi Yose bar Abun is of the opposite opinion, since Levi can tell him, is the field not now before you that you can turn the sale into a valid one. This follows Rava (in the Babli, Baba Meși'a 16a) who told
Rami bar Hama that Levi acquired the property by the trust he put in Reuben.

But following your reading, since you read "כש" with "כ", it is possible that this refers to a foreclosure document which Levi obtained against the robber after he had lost the field to Simeon, and that is the same disagreement we find there (in the Babli, Baba Meši'a 16a); how long does a person have credit, Rav says until the start of court proceedings, Hiyya bar Rav says, until the foreclosure document was signed, and Rav Papa said, until the public sale."

Can one collect dowry from encumbered property? Rebbi Ze'ira said that Rebbi Johanan does not collect. Who collects? Rebbi Hanina and Rebbi IIa collect. Rebbi Yasa was appointed custodian of orphans' property. There were orphan [girls] who asked for dowry. He brought the case before Rebbi Eleazar and Rebbi Simeon bar Yaqim. Rebbi Simeon bar Yaqim said, is it not better to provide for them from their father's estate rather than from charity? Rebbi Eleazar said to him: If
such a case came before our teachers, our teachers would not touch it; would we act? Rebbi Yose said, I shall give to them, and if some orphans would get up and complained, I would give it to them. They stood up and complained\(^\text{72}\). 

\(\text{70\hspace{1cm} Since providing a dowry for daughters is one of the obligatory conditions attached to a ketubah; cf. Ketubot 6:6.}\) 

\(\text{71\hspace{1cm} This text is from Ketubot 6:6 (30d 1.59), explained there in Notes 93-97. Variant readings are noted.}\)

\(\text{72\hspace{1cm} This is the opposite of what is asserted in Ketubot.}\)

A judgment was rendered\(^\text{73}\) for Sippor bat Absalom. Rebbi Simon and Rebbi Jacob bar Idi in the name of Rebbi Simeon bar Abba: I and our teachers collected for her from moveables\(^\text{74}\), following the custom of her place.

\(\text{73\hspace{1cm} In Ketubot (6:6, Note 98) it is only asserted that a judgment was given following R. Hanina.}\)

\(\text{74\hspace{1cm} Following the principle that local custom is the overriding determinant in the judicial interpretation of ketubah obligations; cf. Ketubot 6:4, Note 67.}\)
Rav wrote to Rebbi, who transferred it to the Elder Rebbi Hiyya and Rebbi Hiyya wrote between the lines. If the orphans sold against the rules\(^{75}\), one collects for dowry but one does not collect for sustenance\(^{76}\). If they accepted a lien\(^{77}\). I do not know what this lien is\(^{78}\). Levi stated: Both for a lien made by the father and for a lien made by the son, one collects for dowry\(^{79}\) but one does not collect for sustenance\(^{80}\). Rebbi Abba said, there is no mention of a lien made by the father, only a lien made by the son. If one cannot collect during the father’s lifetime\(^{81}\), not so much less after the father’s death? Rebbi Hama bar Uqba in the name of Rebbi Yose bar Hanina: If the daughters are married, the widow is sustained by them\(^{82}\). Rebbi Abba follows his own [opinion] and Rebbi Jehudah\(^{82}\) follows his own [opinion]. For the sister of Rebbi Yose bar Hanina in the name of Rebbi Yose ben Rebbi Haggai: Even if they died, the widow is sustained by them.

\(^{75}\) Since by talmudic rules, all obligations of a *ketubah* are to be satisfied by real estate, any sale while some of the obligations are still open is against the rules.

\(^{76}\) The daughters, who do not inherit if there are sons, have a claim of (in general) 10\% of their father’s estate as dowry. Cf. *Ketubot* 6:6. Since this claim exists even during the father’s lifetime, it has precedence over the widow’s claim to sustenance which starts only at her husband’s death.

\(^{77}\) This was Rav’s question. The lien is a mortgage obligation.

\(^{78}\) This is R. Hiyya’s note. Was the mortgage taken during the father’s lifetime or after his death? In the Babli, *Ketubot* 69a, the question from
the start was about a mortgage the heirs took out on real estate of their inheritance.

79 From real estate sold or pledged.

80 This is also quoted as Rebbi’s opinion in the Babli, *Ketubot* 69a.

81 Mishnah *Ketubot* 4:6.

82 In the Babli, *Ketubot* 51a, the question never arises since the claims of the widow and the daughters are accorded equal status; this rule is quoted in *Yebamot* 15:3 (14d 1.68), *Ketubot* 4:8 (29a 1.25).

82 There is no R. Jehudah quoted in the matter, but in the Babli, *Ketubot* 49b, instead of “the sister of R. Yose ben Hanina” one reads “R. Jehudah, the son of the sister of R. Yose ben Hanina”. One has to assume that the name was omitted by the scribe in the next sentence.

What is the situation of grandchildren? Rebbi Mana said, grandchildren are like children. Rebbi Yose said, grandchildren are not like children. Rebbi Samuel, son of Rebbi Yose ben Rebbi Hanina and Rebbi Mattaniah were sitting together. They wanted to say, the same situation applies to grandchildren here as there. Rebbi Yose ben Rebbi Hanina said to them, inheritance by biblical law jumped on grandchildren.

83 The Text is from *Ketubot* 4:8, given there.

Notes 200-201. Variant readings are
There\textsuperscript{84}, we have stated: "You\textsuperscript{85} have in your hand a mina of my father's; you\textsuperscript{86} have to get from me only 50 denars. He does not have to swear since he is like a person who returns a find\textsuperscript{87}." Rebbi Eleazar said, in this case they instituted a regulation as they instituted for a find, as we have stated\textsuperscript{50}: "The finder of a lost object shall not swear because of the public good\textsuperscript{88}." Rebbi Abba said, this Mishnah [applies] when he said to him, you found my two oxen\textsuperscript{89}. But if he\textsuperscript{90} said, I found your two oxen and returned both of them, but the other\textsuperscript{91} said, you returned only one, in that case they did not institute the rule\textsuperscript{92}. Rebbi Pedat in the name of Rebbi Johanan: In this case they did institute\textsuperscript{93}. But in the first case\textsuperscript{89}, it is a word of the Torah, as it was stated: I could think that if he said to him, you found my two oxen\textsuperscript{94}, but the other said, I found only one, should he be obligated [to swear]? The verse\textsuperscript{95} says, "or if he found a find and disowned it;" that excludes this one who did not disown. But if he said to him, I was standing on my roof when I saw you dragging away two tied oxen, two tied oxen you dragged away from me\textsuperscript{96}, and he says, only one I dragged away; in that case they made no regulation. Similarly: "I
was standing with my father when he was dying and he claimed from you a mina and you agreed to it\textsuperscript{97}," and the other says, "I agreed only for 50;" in that case they made no regulation.

84 Mishnah \textit{Sevu'ot} 6:1. The subject is the biblical oath imposed on a person who denies an obligation (\textit{Ex.} 22:8). The rabbinic interpretation of the expression \textit{טַלַע} \textit{אָמַר} \textit{אֵין} \textit{יָסָרָנוּ} is "if he [the defendant] agrees that there is a case." If the defendant in a civil suit, in which there are no witnesses and no documents, denies the entire claim, he does not have to swear a biblical oath (he may have to swear a rabbinical oath). But if he agrees to part of the claim, he has to swear a biblical oath to free himself from the remainder. Only if the claim is advanced as tentative, then any admission by the defendant is a gift to the claimant and by rabbinic rule no oath of any kind is due.

85 The speaker is the claimant.
86 The speaker is the defendant.
87 The heir is not conversant with all the details of his father’s business dealings. Since he cannot swear that the father had not received payment, he has no case if the defendant denies the entire claim. The partial admission of the claim is the equivalent of a gift by the defendant to the claimant.
88 If the owner claims to have lost more than the finder returns, the finder cannot be made to swear that he did not retain anything for himself, since otherwise nobody would return any find.
89 As explained later, one ox was found but the owner claims to have lost two. Returning one ox is not accepting part of a claim of two.
90 The finder.
91 The original owner.
92 He has to swear since both parties claim to be sure of their case.
93 This is a case of returning a find and the finder is protected.
94 This cannot be more than a conjecture; the claimant cannot make a defendant swear about a hypothetical case.
95 \textit{Lev.} 5:22, speaking of the sacrifice required of the person who swears falsely in the situation described in \textit{Ex.} 22:8.
96 The claimant asserts as a certainty that he saw his two oxen in the finder’s possession.
This is an assertion of a certain claim which falls under the rule of Ex.

Mishnah 4: If orphans rely on a property owner for them; these are obligated to tithe their produce. A guardian appointed by the orphans’ father shall be made to swear; if he was appointed by the court he shall not be made to swear. Abba Shaul says, it is the other way around. If someone causes impurity, or dema, or libation wine, if it was unintentional he is free, intentional he is obligated. If Cohanim in the Temple intentionally made [a sacrifice] piggul, they have to pay.

98 If orphans are adults (older than 13 years) but not able to act in real estate matters (younger than 20 years) and they seek assistance from a relative or acquaintance, that person is not a guardian but by rabbinic usage he has some rights and obligations of a guardian, in particular to see to it that the produce of the orphan’s fields is tithed so it becomes available for sale or for their own use. In general, a third person cannot give heave and tithe for others; this is another example of a “regulation for the public good.”


100 At the end of his service, the court shall require him to swear that he retained nothing of the orphan’s property for himself.
101 The guardian appointed by the father’s will shall not be made to swear, so people will not refuse to serve. The court appointee, who does not have the deceased father’s trust, can be made to swear.

102 This and the following cases all concern invisible defects which cannot be detected by inspection. Causing impurity to food can imply a diminution of value, since the food cannot be sold to people eating only in purity, or it can make it unfit for use, if the item was heave or any other sanctified food.

103 *Demai* is profane food mixed with heave, which is forbidden to lay persons and only permitted to priests, who will pay only a fraction of the value. Cf. *Demai* 1:3, Note 175.

104 Wine used in a pagan libation rite. Such wine is prohibited for all usufruct and makes all food and drinks it comes in contact with forbidden in the most minute amount.

105 Since the damage is invisible, it does not fall under the tort laws.

106 By a rabbinic rule for the public good (Tosephta 3:7), that people should not do damage with impunity.

107 מזון by biblical definition (Lev. 19:7) is sacrificial meat on the third day after slaughter. The root seems to be preserved in Arabic فَخْل “to be soft”, as in Aramaic רדיש "radish", i.e., a soft, edible root. Applied to meat, which starts to decompose, probably a better translation would be "to be mushy".

In rabbinic interpretation, the deadly sin is not to eat the meat when it becomes unsanitary but to slaughter and offer the blood to the altar with the idea of eating the sacrifice after its allotted time. Since the blood is only handled by the Cohen, not the person offering the sacrifice, the Cohen could disqualify the sacrifice and inflict a heavy financial loss on the faithful bringing the sacrifice simply by telling him that he handled the sacrifice with the wrong intention. Since this also is an invisible damage, it is clear that some penalties are in order for the public good (Tosephta 3:8).
If orphans rely on a property owner, etc. (Num. 18:28) "you" excludes partners, "you" excludes guardians, "you" excludes one who gives heave from what is not his. Did we not state (Terumot 3:3): "Partners who gave heave one after the other?" But one must be for Great Heave, the other for heave of the tithe. Did we not infer the laws of the Great Heave from heave of the tithe? But one is for practice, the other for action. "You" excludes guardians; but did we not state: "Orphans dependent on a home owner, or for whom the father had appointed a guardian, must tithe their produce." The colleagues say, here for a permanent guardian, there for a temporary guardian. Rebbi Yose asked, does that apply to: "he may sell slaves but not real estate?" But here one deals with an adult orphan, there with an underage orphan.
Rebbi Johanan said, as a matter of principle one does not appoint guardians for orphans to their detriment, only to their profit; but if they are detrimental, they are detrimental. Rebbi Yose bar Hanina said, neither as a matter of principle nor as a reaction, neither for profit nor for detriment. A Mishnah disagrees with Rebbi Yose bar Hanina: "One appoints a guardian for them." There is a difference about an ox, lest it continue to cause damage. If it did do damage, from whom does one take payment? Rebbi Johanan said, from the orphans. Rebbi Yose bar Hanina said, from the guardian. And even if Rebbi Johanan never taught this, does not his word imply it since he said if in the end they are detrimental, they are detrimental?

There is a different but parallel treatment of the subject of this paragraph in Baba Qama 4:5 (4b 1.50).

If the estate of underage minors is sued, the court does not appoint a guardian to conduct their defense but one tells the claimant to wait until the orphans are adults. But if the estate has a claim to pursue, the court may appoint a guardian to prosecute their case; if the guardian is not successful, the orphans cannot sue him.

All suits involving an estate, whether by a defendant or a claimant, have to be postponed until the orphans are adults.

Mishnah Baba Qama 1:5: If an animal of an irresponsible person (a minor, an insane, or a deaf-and-dumb person) did damage, the court has to
appoint a guardian to take care of the matter. This seems to imply that one appoints guardians for underage orphans who are defendants in a damage suit.

115 The Mishnah does not express a biblical principle but a rabbinic rule for the public good, that a dangerous animal should be slaughtered to prevent more damage.

116 If the animal did additional damage when the guardian already was in charge.

A guardian appointed by the orphans’ father shall be made to swear, for usually he is not checked out. If he was appointed by the court he shall not be made to swear for usually he was checked out. Abba Shaul says, it is the other way around; a guardian appointed by the orphans’ father shall be made to swear, for he is like one who is paid; if he was appointed by the court he shall not be made to swear for for he can say to him, I am doing this as a favor to you. It turns out that Rebbi Johanan follows the rabbis and Rebbi Yose ben Hanina Abba Shaul. Does Rebbi Johanan follow the rabbis? Even if he holds with Abba Shaul, a person acts as a trustee in order to be declared trustworthy. Does Rebbi Yose ben Hanina [follow] Abba Shaul? Even if he holds with the rabbis, a person is apt to slip away from an oath but not from payments.
A private person usually does not have the ability to judge the honesty of his friends.

This should read: "appointed by the court".

Even if he is not paid, the reputation he obtains by publicly being trusted by the court may be worth money to him. Therefore, a person will not refrain from serving even if he has to swear in the end. The Babli agrees, 52b.

This should read: "appointed by the father."

Tosaphot (52b, s. v. הלול) quotes a slightly different text: "a person would be ready to pay money".

Therefore, he can be made to swear.

If people know they will have to swear, they will not be available to be appointed guardians. They will think that they are competent enough not to have to pay; very few people will refrain from becoming guardians because of the potential liability.

Rebbi Yudan did not go to the assembly. He was standing with Rebbi Mana and asked him, what new was said? He said: So says Rebbi Yose, a person causing impurity does not have the status of a perpetrator, from
the following\textsuperscript{125}: "Heave which became impure." He answered: Explain it, if it became impure by itself\textsuperscript{126}; then you cannot infer anything, because of a Mishnah\textsuperscript{127}: "If somebody judged, absolved the guilty and obligated the innocent, declared the pure impure and the impure pure."

For Rav Jeremiah said in the name of Rav: If he touched it with his hand\textsuperscript{128}. Samuel said: If he touched it with his hand. Rebbi Jehudah ben Rebbi says, it should have been logical that even intentionally he should have been free. Why did they say that he is obligated\textsuperscript{129}? That he should tell. And Rebbi Johanan said, it should have been logical that even unintentionally he should have been obligated. Why did they say that he is free\textsuperscript{130}? Because of a fine. The strength of Rebbi Johanan comes from this: "If someone causes anything to become impure, or dema', or libation wine, if it was unintentional he is free, intentional he is obligated," and Rebbi Johanan said, he pays a fine. A \textit{baraita} supports Rebbi Johanan: "A person who puts a yoke on another's cow is free in human law but guilty in Heaven's law.\textsuperscript{131}"

\textsuperscript{124} Because an outside observer could not notice any change in the food which was made impure.

\textsuperscript{125} Mishnah \textit{Baba Qama} 9:2. If somebody stole heave and it became impure in his possession, he can hand it back to the owner and tell him, this is yours. But pure heave was food and impure heave can only be used as fuel; the difference in value cannot be claimed in court.

\textsuperscript{126} The passive formulation in the Mishnah invites this interpretation.

\textsuperscript{127} \textit{Bekhorot} 4:4. The Mishnah is part of R. Yudan's argument since it states that if a person who is not duly ordained exercises the function of a rabbi or judge, he is personally responsible for any damage he causes by a wrong decision. In the Babli, 53b, the same argument is made by Rav Papa.

\textsuperscript{128} The obligation to pay in this case is not by the declaration that
something is impure, but by the act of the incompetent judge who handles the material in question when he declares it impure. Since a person can make impure only by an action, either touching or moving, he equally will be responsible under the laws of torts.  

129 It is obvious that "free" and "obligated" have to be interchanged. Since the prior argument showed that causing impurity is causing damage under the laws of torts, the person causing unintentional impurity should have to pay. The reason that courts refrain from applying the rules of torts in this case is that the damage is not visible and, in order to guard the owner of the impure food and others from unintentional sin, it is necessary to induce the person causing the damage to come forward and tell by granting him immunity.  

130 Here also, it is obvious that "free" and "obligated" have to be interchanged. Since the damage cannot be detected, it cannot be claimed in court. The obligation to pay is not derived from the laws of torts but is a regulation "for the public good" in line with the other rules of this chapter.  

131 In the times of the Temple, a red (probably meaning reddish-brown) cow without any black hair was worth millions (as material for the purification from the impurity of the dead, Num. 19) provided it never was used for work and never wore a yoke. Putting a yoke on such a cow for the shortest of times robs its owner of an enormous sum of money but, since the damage is not visible, it is not claimable in a human court. This follows the doctrine of R. Johanan that damages which cannot be observed on the object cannot be claimed in court.

(47a line 42)

שהמהת קסמותה. יישמעינה מה נדה. כלכוהו שפיגול למสังเก מויימי מימי.  
שאו אמי קימיום. אמי קסבורה כם שלמה חולין. נש פיגול בחלין. אמא המ אמא  
קימיום בינימר בקבר שלמה קדש. קסבורה לומר שמהת קפלן בקאדש. נקאת בינימר  
שהמהת קסבורה קזר שמהת קסמותה.

So far if he thought that it was profane. If he knew that it was heave but he thought that it was permitted to make it impure? Let us
hear from the following: "If Cohanim in the Temple intentionally made [a sacrifice] piggul, they have to pay." Could the Cohen think that it was profane? Is there piggul of profane things? But we must hold that he knew that it was holy but thought that it was permitted to make piggul of sacrifices. And here, if he knew that it was heave but thought that it was permitted to make it impure.

132 This refers to the statement in the Mishnah that the person who inadvertently causes damage by making food impure does not have to pay. The only food where there would be a measurable diminution in value is sanctified food, of which heave is the most common example.

133 Since the Mishnah does not state that "the Cohanim who cause piggul in the Temple have to pay", it follows that there must be a scenario in which a Cohen could cause piggul inadvertently.

Rav Huna in the name of Rav: If he mixed, at the start he committed a capital crime and at the end he has to pay? Rebbi Abba objected: Think of it, if he killed somebody and broke the flask, at the start he committed a capital crime and in the end he has to pay? Rebbi Yose objected: Think of it, if he set fire to somebody's grain stack on the Day of Atonement, at the start he committed a capital crime and in the end he has to pay? "If
someone causes anything to become impure, or turn into *dema'* or libation wine, if it was unintentional he is free, intentional he is obligated," and Rebbi Johanan said, he pays a fine.  

134 He took wine which was used for a pagan rite and is forbidden for any use by a Jew, and mixed it with permitted wine of the same kind, so that the damage was not visible. In the Babli, 52a, this interpretation of "libation wine" in the Mishnah is attributed to Samuel.  

135 In the Babli, this is the interpretation of Rav.  

136 Since rabbinic doctrine excludes multiple punishment for one offense (cf. *Terumot* 7:1, Notes 19-70) and idolatry is a capital crime, it seems difficult to understand why the culprit should pay. The Babli, 52b, notes that the argument is faulty in its understanding of the double penalty clause. The libation and the later mixing are two different acts. Even if there is only a libation, not followed by mixing with other wine, the libation can only be performed after the wine was poured into a vessel and the vessel lifted. Since we are speaking of wine belonging to a person other than the perpetrator, the latter becomes liable for all damages by lifting the vessel, some time before he commits the capital crime. It is clear, therefore, that the Yerushalmi view of the double punishment clause does not allow for splitting one action into separate parts.  

137 If somebody committed murder by administering poison in another person's flask and in the act broke the flask, nobody will require the murderer to pay for the flask.  

138 Everything forbidden on the Sabbath is forbidden on the Day of Atonement (except that the crime will be punished by Heaven, rather than by the earthly court.) Since both making a fire and arson on the Day of Atonement are crimes punishable by Divine extirpation, no money is due (cf. *Terumot* 7:1, Note 62.)  

139 Since the payment is a fine, not a judgment following biblical law, the principle of single punishment does not apply. This argument is mentioned in the Babli, 53a.
Mishnah 5: Rebbi Johanan ben Gudguedah testified about a deaf-mute girl\textsuperscript{140} who was married off by her father, that she must be divorced by a bill of divorce\textsuperscript{141}, and about an underage girl who was married to a Cohen\textsuperscript{142}, that she may eat heave and her husband inherits from her if she dies, and about a stolen log which was used to build a house\textsuperscript{143}, that [the owner] has to take the value\textsuperscript{144}, and about a purification sacrifice of a stolen animal\textsuperscript{145} which was not known in public, that it atones because of the order of the altar.

\textsuperscript{140} She is presumed not to be able to read and write. Since she has no means of communication with the outside world, she is incompetent in law. She herself could not conclude a marriage valid by biblical standards, but her father can marry her off when underage in a biblically valid marriage. Cf. Yebsamot, Mishnah 14:3, Notes 20-24. "Testified" usually means a statement of practice from Temple times accepted by the Jabneh Academy as binding.

\textsuperscript{141} Since a divorce is a unilateral act by the husband as long as she is able to receive the bill. An insane woman, who cannot keep her bill of divorce, cannot be divorced.

\textsuperscript{142} Even if the father had died and she was married in a rabbinically valid marriage by her mother or brothers, from which she may walk out without formality before she reaches adulthood (cf. Yebsamot 1:2, Note 38).

\textsuperscript{143} In Babylonian versions of the Mishnah, it is added "for the benefit of repentant sinners", as explained in the Halakhah.

\textsuperscript{144} He cannot sue the robber for restitution of the original log.

\textsuperscript{145} It is a sinful act to use any stolen or robbed animal as a sacrifice. If such a sacrifice would be declared invalid, no Cohen would volunteer to
serve in the Temple for fear of unwittingly committing the sin of eating from an invalid sacrifice.

Therefore, a sacrifice can be rejected only if it is known that it was obtained by illegal means.

Halakhah 5: 146 “Rebbi Johanan ben Guedgedah testified,” etc. Rebbi Hananiah asked before Rebbi Immi. His testimony seems reasonable for a hearing woman of sound mind, that she is divorced with or without her acquiescence. But a deaf-mute woman who has no will should not be divorced except with her acquiescence. But is it not testimony "that is an example" 147; does one add to a testimony? Rebbi Hanania is of the opinion that this refers to a hearing girl who was married off by her father (and mother 148) and became deaf-and-dumb. Rebbi Yose is of the opinion that this refers to an underage girl who was married off by her father (and mother 148) and became divorced.

146 This paragraph is from Yebamot 14:2, Notes 25-28. The readings from there are noted *.

147 This is the text from Yebamot. The text here, "his father is the same", does not make any sense; it indicates that the text in Yebamot is original.

148 The mention of the mother is an addition here; legally the mother has no authority over her daughter.
Rebbi Johanan said, why did they say "an Israel underage girl eats heave," that all should be eager to marry her for her attractiveness. Rebbi Shammai said, only if she knows how to keep her [valuables given for] preliminary marriage. Rebbi Immi said, a Mishnah said so, "married to a Cohen she eats heave." Rebbi Hananiah said, since Rebbi Johanan said, for her attractiveness, that means, even if she does not know how to keep her [valuables given for] preliminary marriage.

149 And not be reluctant to take a very young girl off her parent's hands.
150 He wants to abolish the theoretical age of 3 years and one day for the marriage of girls and requires that she know the difference between something given for a legal obligation and a toy.
151 Since the Mishnah changes the topic from a deaf-mute to a minor it implies that only an Israel underage girl, which will reach understanding, but not a deaf-mute, is able to eat heave. It follows that as long as the girl is like a deaf-mute, having no understanding, she is not included. (A similar Mishnah, Niddah 5:4, speaking of a girl 3 years and 1 day old, could be used as counter-argument since such a girl, if married off by her father, is married even if mentally handicapped.)
152 R. Johanan could have said that a minor can eat heave because she has understanding, to emphasize the difference between the minor and the deaf-mute. Since he chose to represent the ruling as rabbinical, to help marrying off underage girls, it follows that he does not require the girl to understand the situation. If the girl is given in marriage by her father, she is married by biblical rule, is part of the priestly clan, and eats heave by biblical law. If she was an orphan married off
by her mother or brothers, if she actually lives with her husband she is part of her husband’s household and was acquired by his gift of valuables (Lev. 22:11).

Rav Hamnuna in the name of Rebbi Assi: An underage girl has no definitive marriage to let her eat heave. Rebbi Immi said, a Mishnah said so, "married to a Cohen she eats heave." Rebbi Abin asked: If she was definitively married but had no intercourse, [the husband] sent her to her father’s house and she grew up, may she eat heave? Let us hear from the following: "Based on her earlier definitive marriage."

153 In the Babli, he always is called Rav Assi.
154 An underage Israel girl married to a Cohen acquires the right to eat heave only by living with her husband, not by the definitive marriage ceremony.
155 Niddah 5:4. The Mishnah does not say "by definitive marriage ceremony" but "being married to", i.e., living with her husband.
156 Since an adult married to a Cohen can eat heave immediately, during the wedding meal, before sleeping with her husband.
157 There is a baraita, not otherwise attested to, which does not require any additional action to give all her rights to the adult married woman. The Babli (Yebamot 58a) quotes dissenting opinions without deciding the matter.
"If somebody stole a log and used it in building. The House of Shammasi say, he has to tear down the entire building and return it. But the House of Hillel say, for the benefit of repenting sinners, that he has to pay its full value." Rebbi Eleazar said, where do they disagree? If he stole it planed, but if he stole and planed it himself, he owes him money. If he stole and planed it on the spot, what is the rule? Let us hear from the following: "If somebody appropriates another person's ruin and rebuilds it without premission, one appraises it and his hand is weak. If he wants to take his logs and stones, one does not listen to him." Rebbi Jacob bar Aha in the name of Rebbi Joshua ben Levi: It was asked in the name of Rav Nahman bar Jacob: If somebody stores his bundle in somebody else's ruin and wants to take it from there, does one not listen to him? He had not heard that Rebbi Jacob bar Idi said in the name of Rebbi Joshua ben Levi: Because of civilisation. Rebbi Yose said, this is correct. We would have thought that they disagree only in the Land, but not outside the Land. Since Rebbi Jacob bar Aha said, because of civilisation, this implies that there is no difference between the Land
and outside the Land. If he wants to take [the value of] his logs and stones, what is the rule? One tells him, wait until he dwells in it. Samuel said, one pays him immediately.

158 Quoted in Baba Qama 9:1, Tosephta Baba Qama 10:5, Babli Gittin 55a.

159 If he stole a piece of raw wood and turned it into building material, it cannot be returned to its original state. The robber acquired ownership of the material by changing it into something new; at the same time he incurred a debt to the original owner in the value of what he had taken (Mishnah Baba Qama 9:2).

160 Does acquisition by changing the object require removing it from the domain of the original owner?

161 Tosephta Ketubot 8:10, Baba Qama 10:6,7; Yerushalmi Baba Qama 9:1 (6d 1.28); as an object of controversy Babli Baba Mesi'a 101a.

162 As explained in the Tosephta, the owner of the bundle pays the builder the smaller amount either of the increase in value of his land and the building expenses.

163 Which already form part of the building.

164 This should be "Aha".

165 One does not destroy houses except for an urgent need, either to avoid a collapse or to improve the housing stock. The question (Note 160) is answered in the negative.

166 The formulation is universal, "civilization", not narrow "settlement of the Land of Israel".

167 The illegal builder.

168 The owner of the land.
Ulla bar Ismael: By law, it should not atone even if it was [not] known in public\textsuperscript{169}. Why did they say that it atones? Not to let the altar be deserted\textsuperscript{145}. Rebbi Simeon ben Laqish\textsuperscript{170} said, by law, it should atone even if it was known in public. Why did they say that it does not atone? Not to let the altar accept robberies. How many are "public"? Rebbi Gorion in the name of Rebbi Simeon ben Laqish: Three people. Rebbi Abin in the name of Rebbi Johanan: "You brought robbed goods with the lame and the sick.\textsuperscript{171}" Since lame and sick are obvious, so everything must be obvious.

\textsuperscript{169} Babli 55a. There, Ulla explains that the sacrifice is not acceptable once the original owners have given up hope of recovery, since while abandonment makes a thing ownerless (Chapter 4, Note 88), ownership requires a conscious act of acquisition by the person in actual possession.

\textsuperscript{170} In the Babli this is attributed to Rav Jehudah and it is explained that abandonment by the former owner makes the object the property of the person in possession.

\textsuperscript{171} Mal. 1:13.

Mishnah 6: There was no law of \textit{siqarii}\textsuperscript{172} in Judea for those killed in the war\textsuperscript{173}. After those killed in the war there was a law of \textit{siqarii}. How is this? If one bought from a \textit{siqarius} and afterwards from the original...
owner, his acquisition is void\(^{172}\); from the original owner and afterwards from the *siquarius*, his acquisition is valid. If one bought from a husband and afterwards from the wife, his acquisition is void\(^{175}\); from the wife and afterwards from the husband, his acquisition is valid. This is the earlier Mishnah; a later court said that he who buys from a *siquarius*\(^{176}\) gives a quarter to the original owner.

\[\text{משנה 6: אימתי. ביאך ישיאו בנה ליהש אбел יש בנייה ליהש והחקמיين} \]
\[\text{לכל억ם. רביה יושב ויהש בת יד וקמום ישאם ישאם שישהו בכפיי ח.between יבישים רבין.} \]

**Mishnah 7:** When is this? If they have no means to buy, but if they have the means to buy, they precede everybody else\(^{177}\). Rebbi (Joshua) assembled a court who voted that if it was in the *siquarius*’s hand for twelve months, any who wants to buy shall buy\(^{178}\) and give a quarter to the original owner.

\(^{172}\) *סיקרים* or *시스קרים* (in the Halakhah and everywhere in the Babli) is usually interpreted to refer both to *sicarii* (members of organized crime bands armed with a *sica*, "curved dagger", and the rules promulgated to deal with these.

A. Gulak [*Siqariqon, Tarbiz 5* (1934) pp. 23-27] objects to the derivation of *siqariqon* from *sicarii* since it is inconceivable that Rebbi’s court, in the early years of the third Century C.E. had to deal with the aftermath of the first revolt against the Romans, the Yerushalmi squarely refers it to the revolt of Bar Kokhba. We know of no general confiscation of Jewish land after the first revolt; after the second there was at least the seizure of all Jewish property in and

 proposes to see in the word a compression of סון קֶּרְקָּקִית to ־סונקֶּרְקָּקִית "by herold" referring to the public sale of properties confiscated by the government which always was done by publicly announced auction. [While the Babli clearly connects the law of *siqariqon* with the first revolt against the Romans, the Yerushalmi squarely refers it to the revolt of Bar Kokhba. We know of no general confiscation of Jewish land after the first revolt; after the second there was at least the seizure of all Jewish property in and
around Jerusalem. Since both Talmudim emphasize the cordial relations of Rebbi with the administration of the Severan dynasty and Rebbi clearly addressed a current problem, it seems rather that the law refers to a problem arising from a breakdown of internal security. Talmudic law certainly authorizes buying of property confiscated for nonpayment of taxes. Gulak's interpretation is difficult to square with Mishnah Bikkurim 1:2.

A forced sale is intrinsically invalid since the seller can hope that in the future, when law and order are re-established, he may have a chance to appeal to a court and regain his property. But if a band of known sicarii give a property owner the choice of selling his land for a pittance or be killed together with his family, one may assume that he willingly gives the land to stay alive. In that situation, the land becomes the sicarii's not only in possession but also in ownership, and may be sold by the current owner to any buyer. It is a matter of judgment of the court as to which situation does apply.

173 "The war" refers to the revolt of Bar Kokhba and its aftermath, as shown by the parallel in Ketubot to the first sentences in the Halakhah. S. Lieberman (Tosefta kiFshutah Gitin p. 844) has noted that the reading "R. Joshua" in Mishnah 7 is clearly a scribal error since Rav, a student of Rebbi, states both in the Yerushalmi (Note 205) and the Babli (58b/59a) that he himself was a member of the court relaxing the sicariqon rules. Also, the Halakhah never refers to R. Joshua or any of his contemporaries. Therefore, one has to read in the Mishnah, with all sources other than the Mishnah in the Yerushalmi, "Rebbi assembled a court" in the first quarter of the third Century, to deal with the problem of organized crime in his own day. Together with the rules about kidnappings, this shows that the forces of the Roman Empire (at least starting with the Severan dynasty) were barely able to guarantee the external, but not the internal, security of the Empire.

The Mishnah states that land taken from Jews during the war can be bought by anybody who has the means, without regard to any prior owner. (In this case, sicarii is a code name for Roman soldiers.) The Babli connects the Mishnah to a long string of tales about the first war against the Romans; this should not be taken as indication that the Mishnah refers to that war.
It was decided that the original owner retains claim to title even though he probably sold the land to save his life. Therefore, a potential buyer must first buy the right to title before buying the land.

The husband is not the owner of his wife's (paraphernalia) properties, but their administrator. While the details of the sale must be contracted by the husband, prior consent of the wife is needed; otherwise, the husband is not authorized to deal and anything he agrees to is illegal.

Without needing prior consent. This is a regulation "for the public good", to retain as much of the Land as possible in Jewish hands.

If the original owner has the cash available, he can pay the full price to the buyer and take back his title to the land.

After 12 months, the original owner lost his right to regain the land.

Halakhah 5: "There was no law of sigariqon in Judea" etc. 179 In earlier times they decided on a persecution in Judea because they had a tradition from their forefathers that Jehudah had killed Esaw, as it is written: "Your hand is on your enemies’ neck." They went and enslaved them, took their fields and sold them to third parties. The original owners could come and repossess 180; therefore the land was left absolutely in the hand

הלא הלא לא הלא סקריקון ביהודה כל. קריאתיה יגור ל흔י (47b line 10) על יונו. שא מוסרתי ב긴 מאמותיה. ירדנה ירג את עצי. דכתב יד בazorיא אולוביא. זיהיו הלכתי ומשעבדי בקוי בין לוליין שידעתיון ומקורי אזהר ליאר הניש בצידי סקריקון. וניה בצל ב?>/ה ביאיו (ו)ימיון זיהיה זארא חלוש לבני סקריקון. ממון מליכת. זיהיה שא לא סקריקון ביהודה. זעה דבירס אמוריא. בכרזגימ ממלכתי לפי ממלכתי. זבל חורוסים שנותרו ממלכתיו ויהל alumno. זבח מושלם סקריקון. והורונים שלבים ממלכתו לא לכמאר המלכה ויהל alumno. ז批示ים Stück סקריקון גזהל זימה. לא ספיר מפורז עד Stück סקריקון. לכל חעוד. שא זא הלא ממלכתי. על חודה ב(Canvas בכס Lchos תודר ב שיוודדה 2

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of the siqariqon since they refrained from buying. "They decreed that the law of siqariqon should not apply in Jehudah. When was this said? About war killings before the war. But about anybody killed in and after the war, the notion of siqariqon does not apply." But are those killed before the war not like those killed after the war? Explain it that a siqariqon came and robbed and suppressed; there was no time left to write the sales contract before murder engulfed the entire world, that practice should not be partial.

179 This sentence and part of the next is also in Ketubot 1:5 (Notes 196-199). Variants are given by 2.
180 After the Jewish court system was reestablished under R. Jehudah.
181 As long as the court held that a forced sale was invalid.
182 Nobody had the right to reclaim from third parties land he had given away to save his life.
183 In the anarchy between the begin of the revolt and the occupation of the Land by Roman forces.
184 In Tosephta 3:10: "But about anybody killed in and after the war, the notion of siqariqon applies." The Yerushalmi text should not be corrected based on Tosephta or Babli. Since one refers to the war of Bar Kokhba and the Hadrianic decrees in its aftermath, it is clear that the situation during and after the war was worse than before the war. One does not speak of a forced sale but of the rights of the heirs of a person who was killed and his land taken by Roman soldiers or civilians. It is clear that there was no sale. Since the greater part of the Jewish population of Judea was either killed in the war or deported as slaves, it made no sense for the organizers of the survivors to take notice of prior ownership. One has to assume that "Judea" means the Judean hills, to exclude the settlements in the plain centered around Lydda.
185 Robberies during the anarchy before the Roman invasion cannot be separated from what happened during the war; in both cases no documentation can be recovered.
The law of *siquaroq* always applies in Galilee. The law of *siquaroq* does not apply to movables. It was stated: "The law of *siquaroq* does not apply to foreclosures for a debt and for tenant fees. [A foreclosure for nonpayment of] tenant fees waits twelve months for the owners." Rebbi Judah ben Pazi said, after twelve months one announces on four consecutive Sabbaths. He explained it in two ways. If he took it from a tenant and gave it to a tenant and the first wants to foreclose, he says to him, are you not a tenant? Leave it for me and what you cut, you cut. If he took it from the owner and gave it to a tenant, the [owner] wants to foreclose, he tells him, what use do you have if you take it from me and he will take it from you, but what I can afford I shall give to you.

186 Tosephta 3:10. In Galilee, the Hadrianic decrees were never applied to dispossess Jewish farmers.
187 If one buys movables from an organized crime enterprise, one does not have to give anything to the former owners since these had given up hope to recover (cf. Note 169).
188 Tosephta 3:10.
189 If a Gentile forecloses for a loan, the Jewish buyer does not owe anything to a former Jewish owner.
190 A. Gulak has shown that αναφορά ("offering, installment, means of repairing a deficiency") was the equivalent of Roman vectigal, the fee due by hereditary farmers of government land (cf. Ketubot 10:5, Note 91; Tosefta kiFshutah Gittin p. 846). The Babli, 58a, treats αναφορά as robbery. It is not clear whether the term was also used for fees payable by hereditary tenants to landlords other than the government.

191 If a hereditary tenant is evicted for non-payment of the vectigal, a Jewish farmer cannot apply to fill his place before 12 months after his eviction, to give the original tenant time to settle with the government. (The text is confirmed by Sefer ha'ltitur II, 68b; the explanation follows S. Lieberman in his commentary to Tosephta 3:11.)

192 After twelve months, there will be public announcements that the twelve months' grace period for the property (either one taken by organized crime or foreclosed for non-payment of the tax) has expired without action by the former owner.

193 The sicarius did not sell the property but installed a tenant farmer to produce a continuous stream of income.

194 Since the sicarii are not interested in selling, the original tenant cannot bid for the property. But during the 12 months accorded to him, he can offer the new tenant (who moved in in violation of the 12 months' rule) not to sue him in rabbinic court, to enter the property under the terms accorded by the sigariqon, and let the new tenant keep any yield he already had reaped.

195 A similar situation in which the sicarii are not interested in selling, exists where the new tenant can arrange with the original owner to stay in place if and when he manages either to buy from the organized crime group or to recoup his title with government help.
So far, if there were two contracts. If there was one contract? Rebbi Ze'ira and Rebbi Ilia both say, certainly the sale is invalid; i.e., if he bought from the wife and then bought from the husband. Rebbi Hanina and Rebbi Bevon both said, certainly the sale is valid; i.e., if he bought from the husband and then bought from the wife. But is not all the wife's property administered by the husband? For the yield.

196 This refers to the part of the Mishnah in which husband and wife sell from the wife’s real estate. It is clear that the Mishnah text underlying the Yerushalmi is not the Mishnah of the ms. (which frequently represents a different tradition) but that of the editio princeps of the Mishnah (Napoli) and the Vienna ms. of the Tosephta: "If one bought from a wife and afterwards from her husband, his acquisition is void; from the husband and afterwards from his wife, his acquisition is valid." S. Lieberman (Tosefia ki-Fshutah Gitin p. 847) considers this reading as "incomprehensible" and, against his declared intention, does base his text on the Vienna ms. in this case. But it seems that the text can be well understood, since all depends on the legal status of the property, whether it is mortmain or paraphernalia (cf. Yebamot 7:1, Note 1). Mortmain is the husband's property; at the dissolution of the marriage the wife is entitled to receive it or its value back; during the marriage all she has is a mortgage lien on her husband's properties. Therefore, if she sells mortmain properties, she sells what she does not have; this is invalid. But if the husband sells, she has a right of regress on the property if it should turn out that the estate is insufficient to cover her ketubah claim. A buyer may want to buy insurance against such a possibility by paying the wife for her final assent to the sale. If she receives a consideration for her signature, she cannot claim later that she only signed to please her husband. The Mishnah speaks of paraphernalia property, which is the wife's and of which the husband only has rights of administration.

197 In that case, the buyer might not pay separately for the wife's signature.

198 Of the paraphernalia property.
Rebbi Hizqiah in the name of Rebbi Aha: So it is: If he sold to a first person and she signed, to a second and a third and she signed, she can collect from the last. If it is insufficient, she collects from the one before the last. If this is insufficient, she collects from the one before the penultimate. On this, Rav said: For property which she brought him in her ketubah. But property which she brought to him as paraphernalia, she collects from any she wants.

199 She signed on the sales contract after her husband and claims that she did so to please her husband, not as a commercial transaction. The court will uphold this claim. But the earlier buyer can claim that when he bought the real estate, there were left sufficient assets to cover the wife’s ketubah mortgage and his property should be immune to the wife’s claims.

200 *Dos aestimata,* the value of which is written in the ketubah document and which establishes a mortgage on all the husband’s properties.

201 *Dos non aestimata,* property she inherited or otherwise acquired during the marriage; any sale by the husband is invalid even if the wife signs the sale document after her husband; cf. *Yebamot* 7:1, Note 1.
says, the field is always in the possession of the current owner\textsuperscript{204} since the burden of proof is on the claimant.

202 This heading is misplaced; it belongs after the next Mishnah. Probably it should read "Halakhah 7" and quote Mishnah 7.

203 Here starts the discussion of Mishnah 7. Who has to bring proof if the heirs of the original owner say that they had the means to buy back the property but the actual buyer disputes their assertion?

204 In 

205 This refers to the court convened by Rebbi which decreed that after 12 months the original owners or their heirs lost the right of first refusal but retained the right to an indemnity. The Mishnah does not spell out whether a third of the real estate should be returned or one speaks of a payment.

206 The same statement is in the Babli, 58b.

207 Greek γραμμάριον, the equivalent of Latin scrupulus, two obols, a third of a denar's (or drachma's) weight. As measures of land, the denar is $\frac{1}{96}$ and the scruple $\frac{1}{288}$ of a iugerum of 28'800 Roman square feet. R. Yose ben R. Abun holds that the "quarter" mentioned in the Mishnah is computed from above, a quarter of the total expense which is a third of the price paid to the criminal. The computation from above is that of Samuel in the Babli, 58b.
208 A third of an *aureus*: a large as a coin mentioned in *Threni rabba* 1(14)

Mishnah 8: A deaf-mute communicates in sign language, and Ben Bathyra says, in pantomimes, referring to movables. Underage children: their buy is a buy and their sale is a sale, referring to movables.

This is Rashi's explanation, jump" (*Cant.* 2:8) meaning that the based on *Job* 5:10. Maimonides's explanation is based on a meaning "to object.

"Ben Bathyra says, in pantomimes." He hires and is hired. The artless, small children. Rebbi Johanan said, because of their livelihood. Rebbi Mana said, even though Rebbi Yose raises difficulties in collecting forfeits, he agrees that those who give their children to artisans that they collect forfeits because of the livelihood of people.

This is the quote from the Mishnah but it is not discussed.

The uncommon Semitic word is compared to Greek ἀπόιητος "artless", παιδία "childhood".

(Explanation of H. L. Fleischer.) S.
Halakhah 9

Lieberman (Tosephta kiFshutah p. 847) explains μυστικός as Greek ἑπταετής, ἑπταετῆς, adj., "seven years old". There is no reason to single out that age.

213 He holds that nobody signs a contract that imposes a fine on himself with the idea that he really will have to pay the fine. Therefore, a contract which contains a forfeit clause for each party may be *asmakhta* and invalid (*Ketubot* 5:5, Note 117); the court is reluctant to enforce such a clause. (In modern Hebrew, רעשופים are labor union actions just short of a strike.)

214 If an artisan bows out of a contract for an apprentice, he will have to pay a fine since the child needs to learn a trade to be able to make a living.

Mishnah 9: The following was said for communal peace: A Cohen reads first, after him a Levite, after him an Israel, for communal peace. One puts an *eruv* in an old house, for communal peace. A cistern which is close to a water canal is filled first, for communal peace. Finds of a deaf-mute, or an insane person, or a minor fall under the category of robbery, for communal peace; Rebbi Yose says, complete robbery. Traps for wild animals, birds, or fish fall under the
category of robbery, for communal peace; Rebbi Yose says, complete robbery. If one knocks off [olives] from high up in the olive tree\textsuperscript{221}, it falls under the category of robbery, for communal peace; Rebbi Yose says, complete robbery. One does not hinder poor Gentiles [from taking] gleanings, forgotten sheaves, or \textit{peah}\textsuperscript{222}, for communal peace.

215 In any public reading from the Torah, a Cohen has to be given precedence (if there is one present), followed by a Levite. If there is no Levite present, the Cohen is called for a second reading since all Cohanim are Levites (\textit{Ma'aser Šeni} 5:5, Note 90).

216 In a common courtyard serving many houses with different owners one cannot carry on the Sabbath unless one symbolically unites all houses by depositing some common food in one of them. This is called \textit{niisn} "the combination of courtyards". If one house was the depository for some time, one cannot change the place of deposit without insulting the owner of that house; therefore, it is forbidden to change.

217 The order of filling cisterns (or irrigation of fields) is by the length of the side canal used by cistern or field, to avoid quarrels.

218 These cannot legally acquire anything they find since they have no legal standing. But it is forbidden to act on this fact.

219 The Halakhah will explain when taking finds from an incompetent person is a prosecutable offense.

220 If set in the public domain under rules which permit setting up such traps, the catch is private property and protected as such.

221 Olives are harvested by shaking the olive tree and collecting under the tree. Those which did not fall off are left for the poor. The person who climbs into the tree to knock off the remaining olives is a poor person, not the owner of the orchard. What he knocks off and causes to fall under the tree is protected as his property. (The Mishnah in the Babli and in several Mishnah mss. is more explicit in speaking about the poor.)

222 Since one supports the Gentile poor for communal peace.
"The following was said for communal peace," etc. The saying of Rebbi Simeon ben Iohai implies that it is of the words of the Torah, for Rebbi Simeon ben Iohai stated: "Moses wrote this Torah and gave it to the Cohanim, the Levites (etc.)" and afterwards "to all the Elders of Israel." The saying of Rebbi Joshua ben Levi implies that it is of their words, as Rebbi Joshua said, never did I recite the benediction before a Cohen and I did not allow an Israel to do it before him. The saying of Rebbi Hanina implies that it is of their words, as Rebbi Hanina said, in a city of only Cohanim, an Israel reads first because of communal peace.

223 Deut. 31:9. The implication is that in all matters of reading the Torah the Cohanim and Levites have precedence over Israel Elders. In the Babli, 58b, the author of the statement is given as the Amora R. Mattaniah.

224 If it were a Torah obligation to give precedence to Cohanim, there would be no reason to point it out as a sign of particular religiosity. In the Babli, Megillah 28a, the statement is attributed to the wonder-working R. Perida. In Yerushalmi Berakhot 5:5 (9d l.3), the reference is that R. Joshua ben Levi never let any non-Cohen publicly recite Grace in the presence of a Cohen (Halakhah 5:5, Notes 163,164.)

225 If it were a Torah obligation, then even to avoid quarrels it would not be possible to call an Israel.
Rebbi Aha and Rebbi Tanhum bar Hiyya in the name of Rebbi Simai: In a city of only Cohanim, all of them lift their hands. For whom do they recite the blessing? For their brothers to the North and South. Who answers after them? Women and children. Abbaie bar Benjamin stated: People who stand behind the Cohanim are not included in the blessing. For those in front of them, Rebbi Hiyya bar Abba said that even an iron wall does not interrupt. Those who stand to their side? Let us hear from the following: "If he intended to sprinkle before himself but..."
sprinkled behind himself, behind himself but sprinkled before himself; his sprinkling is invalid. Before himself but sprinkled sideways, his sprinkling is valid." This implies that those who stand to their side are included in the blessing. Rav Hisda said, it is necessary that the organizer be an Israel. Rav Hisda said, if there was one Cohen, he says "Cohen." For two, he says "Cohanim." But Rav Huna said, even for one he says "Cohanim" since he only calls the tribe, lest you say, probably person X is an adulterer or a murderer, and he shall bless us? The Holy, praise to Him, said: Who blesses you? Am not I blessing you? As it was said: "They shall put My name over the Children of Israel and I shall bless them."

226 A parallel is in Berakhot 5:5, explained in Notes 167-175. The readings of the Leiden ms. are noted by א, of the Rome ms. by ב.

227 There may be a material difference between the two texts since קנים refers to all underage children but נ כ only to those who still need their mothers. The Berakhot text might allow almost adult children to join their fathers in the priestly blessing.

228 The name attributions in Berakhot seem preferable since this style of repetition is not usual.

229 This is an exaggeration since a homicide is barred from reciting the priestly blessing. It simply means that people might be offended if others think that they could dispense blessings to them. It has to be emphasized that the Cohen is just fulfilling a hereditary duty; his person is not giving the blessing.

230 Lev. 6:27, the verse following the text of the priestly blessing.

"One puts an eruv in an old house." Rebbi Abin said, the Mishnah speaks of a prior dweller.
231 Not the house is offended if the eruv is removed from it but the owner of the house. Therefore, if there is a new owner in an old house, one may move the location of the eruv. The statement is copied in Erubin 6, 23d 1. 40.

232 In the Babli, 60b, this is one interpretation given by Samuel, that the owner of the cistern cannot be forced to install a lock. In Babylonia. This is not mentioned in the Babli, which prefers to have the situation handled without set rules. "Drink" may mean "being irrigated".

233 In the Babli, 60b, this is one interpretation given by Samuel, that the owner of the cistern cannot be forced to install a lock. In Babylonia. This is not mentioned in the Babli, which prefers to have the situation handled without set rules. "Drink" may mean "being irrigated".
Following the opinion of the rabbis there it is acceptable since there, they say in the name of Rav Nahman bar Jacob: One to whom one gives a nut and he throws it away, a pebble and he keeps it, what is found in his hand is as if found on a garbage heap; a nut and he keeps it, a pebble and he throws it away, what is robbed from him is robbed because of communal peace; a nut or a pebble he takes, hides them, and produces them later, what is robbed from him is total robbery. He can acquire for himself but not for others. Rav Huna said, just as he can acquire for himself so he can acquire for others. Everybody agrees that his gift is not a gift since it is written (Ex. 22:6): “If a man give.” The gift of a man is a gift, but the gift of a minor is no gift, the words of the Sages. Rebbi Jehudah bar Pazi in the name of Rebbi Johanan, Rebbi Jacob bar Aha in the name of Rebbi Johanan, robbing from him is not clear unless he grew two pubic hairs. Rebbi Abbahu in the name of Rebbi Johanan, that
is, to recover from him by a law suit, but to have to bring a sacrifice for [a false] oath only if he grew two pubic hairs. But following the rabbis here, Rebbi Yose asked that even for himself he should not be able to acquire since it is written (Ex. 22:6): "A man to his neighbor", until he be like his neighbor. Rebbi Yose ben Rebbi Abun in the name of Rebbi Samuel ben Rav Isaac explained it by the method of the artless. As we have stated there\textsuperscript{236}: "For underage children, their buying is buying and their selling selling, for movables." But did we not state there\textsuperscript{237}: "He cannot make them acquire through his minor son or daughter or his Canaanite male or female slave, because their hand is like his hand." The rabbis of Caesarea say, here a minor\textsuperscript{238} with knowledge, there a minor without knowledge.

234 The text is from \textit{Ma'aser Šeni} 4:4, Notes 80-90. Variants are noted מ. Cf. Note 236.

235 \textit{מְחַזַּי is a misspelling for מַחְזֵי, a Babylonian spelling for Yerushalmi מַחְזֵי "(logically) connected; clear". It is not derived from the Aramaic root מַחַז "pale". Cf. H. Guggenheimer, \textit{Zur Aussprache des Bet in talmudischer Zeit}, Bulletin des Vereins jüdischer Lehrer und Kantoren der Schweiz 21 (1977), 4-5.

236 Since the Mishnah is from here, this shows that the original is in \textit{Ma'aser Šeni}.

237 Mishnah \textit{Ma'aser Šeni} 4:4.

238 The talmudic expression נִפְּרָנָה שֶׁבֶת בֵּית בֵּינוֹn "schoolchildren" shows that the word denotes older children. The root is בל "to suckle".

"Traps for wild animals, birds," etc. That is\textsuperscript{239}, about large ones\textsuperscript{250}. But small ones are as if inside his house.
239 The difference of opinion between the Sages, who hold that taking from them is only rabbinically forbidden, and R. Yose, who holds that taking from traps is biblically a sin.

240 Where animals are trapped but not immobilized; they cannot be considered acquired by the owner of the trap, in contrast to small traps which immobilize the prey. In the Babli, 60a/61b, in the interpretation of Rashi and R. Hananel, it is stated similarly that animals or birds trapped in nets are acquired by the trapper but those caught in larger contraptions constructed of planks are subject to the controversy of the Mishnah.

"If a poor person knocks off [olives] from high up in the olive tree, what is under him falls under the category of robbery, for communal peace; Rebbi Yose says, complete robbery." That means, on the earth.

But if he plucks with his hand, his hand acquires for him.

241 The longer version of the Mishnah (indicated by italics) is close to the text of the Babli and most Mishnah mss.

242 What falls down on the ground is only protected by rabbinic rule. But what the poor person picks and puts in a vessel is his property by biblical standards.
"One does not hinder poor Gentiles [from taking] gleanings, forgotten sheaves, or peah, for communal peace." It was stated: "In a town where Gentiles and Jews live together, one appoints overseers of charity from Gentiles and Jews; one provides for the Gentile and Jewish poor, visits Gentile and Jewish sick, buries Gentile and Jewish dead, and consoles Gentile and Jewish mourners. Also, one washes Gentile and Jewish clothes for the sake of peaceful coexistence."

A weaver asked Rebbi Immi, what about a Gentile wedding feast? He wanted to permit it to them from this: "Because of peaceful coexistence." Rebbi Abba told them, did not Rebbi Hiyya state that the holiday of a Gentile wedding feast is forbidden? Rebbi Immi said, if it had not been for Rebbi Abba, we would have come to permit their strange worship; praised be He Who separated us from them.

The text, to the end of the Halakhah, is also in Demai 4:6, Notes 76-79. Variants from there are noted כ, a (Babylonian spelling) variant from the Venice print by 1. The text there is probably copied from a ms. which underwent fewer changes than the text here.
Mishnah 10: A woman may lend to her neighbor, whom she suspects in matters of the Sabbatical, a coarse sieve, a fine sieve, grindstones, or an oven, but she should neither cull nor grind with her. The wife of a Fellow may lend to the wife of a vulgar a coarse sieve and a fine sieve, she may cull, grind, and sift with her, but she may not touch hers once water has been put in because one does not support transgressors. All this has only been said for communal peace. One encourages Gentiles in the Sabbatical year but not Jews. One greets them for communal peace.

244 The entire Halakhah is from last two paragraphs are also from Sevi'it 5:9, Notes 80-98. The variant ms. Sevi'it 4:3, Notes 50-57. readings from there are noted ϱ. The
Halakhah 10: "A woman may lend to her neighbor," etc. Rebbi Ze'ira asked before Rebbi Mana: Does our Mishnah deal with the implicit case, rather than the explicit? He said to him, is the implicit case not explicit? He said to him, I can say a coarse sieve to count coins, a sieve to sift sand, grindstones to grind spices, a stove to put in flax bundles.

Rebbi Phineas asked: For what did they impose a fine? At a place where they sow and eat or at a place where they sow but do not eat? What is the difference? If one saw him buying from Saracens. It is forbidden; if you say at a place where they sow and eat, if one saw him buying from Saracens it is permitted.

246 See variant readings and the probably was omitted here.

Rebbi Yose bar Hanina asked: Has this been said for all of this chapter or only for this Mishnah? The rabbis of Caesarea in the name of Rebbi
Judah bar Titus: From the fact that we state this Mishnah in *Gittin* it follows that it was said only for this Mishnah.

There, we have stated: One does not knead or form bread with a baker working in impurity. And it was stated additionally: One should neither cull nor grind with him. And here, it says so? Rebbi La said, here for profane [bread], there for heave. Can you say heave at a baker’s? The colleagues say, one if he washes, there if he does not wash. The Mishnah supports the colleagues: "But she may not touch hers once water has been put in."
Rebbi Hiyya, Rebbi Ammi. One said: "Plough it well then, I will rent it from you after the Sabbatical." The other one said: "May you succeed." For him who says, plough it well, then I will rent it from you after the Sabbatical, what means "one greets them" in a Jewish way? "May you succeed." For him who says to the Gentile "may you succeed"?

Explanation: Rebbi Hinena bar Pappa and Rebbi Samuel bar Nahman passed by one of the ploughmen in the Sabbatical. Rebbi Samuel bar Nahman said to him, are you not Jewish? Rebbi Hinena bar Pappa said to him, did not Rebbi teach us (Ps. 129:8): "The passers-by did not say, the blessing of the Eternal be on you," these are the nations of the world who pass out of the world, they did not say to Israel "the blessing of the Eternal is on you." What does Israel say to them, "we bless you in the Name of the Eternal." All blessings that come into the world because of us are not enough for you; not only do you not say, come and take from these blessings for yourselves, but you roll over us pro-rated contributions and fines, head taxes and _annonae_.

The essence of the paragraph is missing in this copy; cf. the full text in _Sevi'it_ 4:3, (Notes 50-57). The paragraph should not be taken as a variant of the text but as a hint to look up the original.
האמרת החקבל פּרֵקָה שָׁשִי

משנה א: קאמרה החקבל יתן לאלישע ואוהל יתן לאלישע וא
רזה להקותי צחוי. האשה שאמרנה החקבל כי יתפי אום רצה להקותי ל
תחי.ليبך אום אמר למים אתי אף שחקבל ל龆אوحد שליחי שלוח אום
רזה להקותי צחוי.ךכב שמעון בן תפלייאל אמר אום קאמרה טבל כי יתפי.
אום רצה להקותי לא צחוי.

Mishnah 1: Somebody who says, accept this bill of divorce for my wife, or bring this bill of divorce to my wife, may retract if he wants to retract. If a woman said, accept the bill of divorce for me, he cannot retract even if he wants to retract. Therefore, if the husband said, it is not possible for me that you accept for her but bring and deliver it to her, he may retract if he wants to retract. Rabban Simeon ben Gamliel says, even if she says, take my the bill of divorce for me, he cannot retract even if he wants to retract.

1 If the husband appoints an agent, he may annul the agency any time as long as the bill was not delivered.
2 The husband cannot retract the bill of divorce once it has been delivered to the wife’s agent whose hand acts for her hand.
3 The husband may refuse to recognize the messenger as the wife’s agent but appoint him as his own agent. Then the messenger acts uniquely as the husband’s agent.
4 Even if the wife’s agency was not spelled out clearly.
Halakhah 1: "Somebody who says, accept this bill of divorce for my wife," etc. Everywhere you say that "accept" is the equivalent of "obtain," but here you say that "accept" is the equivalent of "bring"? There is a difference, for one can obtain something for a person without him being present. Rebbi Shammai objected: Think of it, if she was shouting to obtain a divorce? I say, maybe she changed her mind. But did we not state: "A woman herself may bring her bill of divorce"? Could you say that she may have changed her mind? There, she is damaging herself; here it is to her detriment.

5 If A says to B: "accept this gift for C", then if B has accepted the gift it is C’s property and A cannot retract the gift. Why can the husband annul the bill of divorce when he empowered the agent to receive the bill of divorce for his wife?

6 The divorce takes effect only by delivery of the bill into the woman’s hand.

7 In the language of the Babli (11b, Ketubot 11a, Ye’ebamot 118b, Qiddusin 23a, 24a, Eruvin 81b, Baba Meši’a 12a, Hulin 63a): "One may give a benefit to a person without his knowledge but one cannot put a detriment on him without his knowledge." Since a divorce is considered detrimental to the wife, the husband has no power to appoint an agent to receive the bill for his wife; his instruction has to be re-interpreted to mean that he has to deliver the bill to the wife.

8 Then the divorce would be a benefit to her.

9 Mishnah 2:8, Note 139.

10 If the husband hands the bill of divorce to his wife and stipulates that the divorce become valid only at the
moment she brings the bill to the court at her place of residence which is not his place, can she change her mind, return to her place, and not showing the bill, being then married to her husband without his knowledge?

11 By accepting to be her husband’s agent, she accepted the obligation to become divorced; this is with her knowledge and cannot be compared to the agency of a third party. This interpretation is by Rashba (on Yeḥamot 118b), quoted by Nimmuqeh Yosef (on Alfassi Yeḥamot, end of Chapter 15).

12 Rav Nahman bar Jacob said: If she said, bring me my bill of divorce, but he went and said to him, your wife said, accept the bill of divorce for me, even after the bill came into her hand it is not a valid bill of divorce, since he thinks that she will be divorced by the acceptance of the agent but she can be divorced only by her own acceptance. Rebbi Huna bar Hiyya objected: But did we not state that if a woman said, accept the bill of divorce for me, it is not a valid bill of divorce until it reaches her hand? Then even if the bill came into her hand it should not be a valid bill! For she thinks that she will be divorced by the acceptance...
of the agent but she can be divorced only by her own acceptance. If he knows that practice is that "accept" and "obtain" mean "bring". But did we not state: "If an underage girl said, accept the bill of divorce for me, it is not a valid bill until the bill of divorce reaches her hand." Then it should not be a valid bill even if the bill of divorce reaches her hand. For she thinks that maybe she is divorced by the acceptance of the agent, but she can be divorced only by her own acceptance. If he knows that a minor cannot appoint an agent.

12 A similar discussion is in the Babli, 62b-63a, quoting the same authors but in a different setting. (In the Babli, the husband shows that he does not quite believe the agent; here the husband acts on the agent's word.)

13 The wife's agent speaking to the husband.

14 Since the wife can empower an agent to accept the bill of divorce for her, "accept" in this context must mean "acquire". The agent violated the terms of his agency.

15 The husband.

16 Since Deut. 24:1 requires that the husband put the bill of divorce into the wife's hand, it is a biblical requirement that both husband and wife know the moment of divorce. In the case before us, the defect of the divorce is biblical and cannot be remedied except by a new bill.

17 The quote is elliptic; most probably it refers to a text close to Tosephta 4:2 where the wife appoints an agent to receive her bill of divorce and the husband instructs him to deliver the bill into her hand.

18 While the wife can appoint an agent to legally receive the bill in her stead, the husband cannot appoint such an agent and, as explained in the preceding paragraph, for him "receive" means "deliver". The husband is free to interpret the wife's instructions in terms of his own vocabulary. [The Babli, obviously dissatisfied with this solution, holds that the husband's instructions must be followed to the letter but since the wife can be divorced against her will, the husband's instructions override those of the wife and the latter's instructions were given only subject to the husband's approval.]
While an underage girl becomes emancipated from her father’s potestas by marriage (Ketubot 4:2, Note 42), she can become an adult only by reaching the age of puberty. If she is divorced while being underage, she becomes “an orphan during her father’s lifetime” and will need an adult guardian to execute legal acts in her behalf. The husband in this case has to empower the agent to deliver the bill; he cannot rely on the underage wife’s instructions.

Rav Huna said in the name of Rav: A woman cannot appoint an agent to accept her bill of divorce from her husband’s agent. Samuel heard this from him and repeated after him forty times.

Quoted in the Babli, 63b, and opposed there by the Galilean R. Hanina. Rabbinic practice follows R. Hanina. The Babli conjectures that a possible reason for Rav’s statement is that if the wife refuses to accept the bill from the husband’s agent but appoints her agent to receive the bill, she does this only to hinder the husband’s agent to fulfill his mission to deliver the bill to her. In that case, the wife would be entitled to appoint her agent if her appointment precedes her husband’s. Another conjectured reason is that there is a very remote possibility that things can go wrong if the bill is not actually delivered from hand to hand but deposited on her (or her agent’s) property. The basis for the possible complication is a rule which is not alluded to in the Yerushalmi and, therefore, should not be used to explain a statement in that Talmud.

The wife is the one who appoints her agent (47d line 38)

The wife is the one who appoints her agent (47d line 40)

20 Mishnah 6:3.

21 Quoted in the Babli, 63b, and opposed there by the Galilean R. Hanina. Rabbinic practice follows R. Hanina. The Babli conjectures that a possible reason for Rav’s statement is that if the wife refuses to accept the bill from the husband’s agent but appoints her agent to receive the bill, she does this only to hinder the husband’s agent to fulfill his mission to deliver the bill to her. In that case, the wife would be entitled to appoint her agent if her appointment precedes her husband’s. Another conjectured reason is that there is a very remote possibility that things can go wrong if the bill is not actually delivered from hand to hand but deposited on her (or her agent’s) property. The basis for the possible complication is a rule which is not alluded to in the Yerushalmi and, therefore, should not be used to explain a statement in that Talmud.
Rebbe Ze'ira asked: So far if she said, bring me, but [the agent] said [to the husband] "receive for me". If she said, receive for me but [the agent] said [to the husband] "bring me"? If was found stated in both cases,
this is a bill of divorce and if he wants to retract he cannot retract. But did we not state: "He shall deliver into her hand," that includes not only her hand, from where through his agent's hand, into her agent's hand, from his agent to her agent, and from her agent to his agent; the verse says, "he shall deliver, he shall deliver." Who said, "it is impossible for me"? Rebbi! As it was stated: "If she said, bring me my bill of divorce, but he said to him, your wife said, accept my bill of divorce for me: If he brought it to her, gave it to her, he acquired it for her, it was received for her; if he wants to retract, he may not retract, the words of Rebbi. Rebbi Nathan says, 'bring it to her, give it to her,' [if he wants to retract, he may retract; 'acquire it for her, receive it for her', if he wants to retract, he may not retract. Rebbi says, in any of these cases] he may not retract except if he says, 'It is impossible for me that you accept it for her, but give it to her.' It is difficult for Rebbi, "here you have it from my word", if he wants to retract, he may retract. It is difficult for Rebbi Nathan, "here you have it from her word", if he wants to retract, he may retract! Rav Huna said, he becomes his and her agent. Assi said, everywhere we have stated "his and her agent", she is both divorced and not divorced.

Rebbi Haggai said before Rebbi Yose: Is not this disagreement the same as that disagreement, as we have stated there: "If a man was talking with a woman about her bill of divorce or her preliminary marriage and gave her the bill of divorce or [some valuable for] preliminary marriage and did not spell it out, Rebbi Yose says it is sufficient; Rebbi Jehudah says he has to be explicit." Then Rebbi follows Rebbi Yose and Rebbi Nathan Rebbi Jehudah. He said to him, what do
you have in your hand, did not Rebbi Zeira, Hiyya bar Abin, Abba bar Taḥlifa, say in the name of Rebbi Hoshiaia, when do they differ? [If they thought about] other things but if he still was on the same subject, it is a bill of divorce. But here, even if they are still on the same subject there is disagreement.

22 The major source of this paragraph and the next is in Ma'aser Şeni 4:7, Notes 118-129. Since the introduction is different and some essential passages are missing here, it is clear that this passage is derivative. But since the text has suffered some rearrangement, it cannot be a direct copy (as noted in the Introduction.)

23 A Babylonism.

24 Since the agent was not appointed by the husband, he cannot legally deliver the bill.

25 Probably a text similar to Tosephta 4:2 (Babli 63a) following the three main sources of the Tosephta (a text rejected by S. Lieberman.) While the bill is considered delivered only when the wife receives it, the agent is not empowered to return it to the husband. The Babli, 63a, explicitly states that the divorce is valid from the moment the agent receives the bill.

26 This inference from the repetition of the expression רְמַע וְנָתַן in Deut. 24:1,3 is missing in other sources; cf. Halakhah 8:1. The Babli, Qiddušin 41a, derives the possibility of divorce by agent (רְמַע) from the expression נְתַן in Deut. 24:1 For the general principle that "an agent takes the place of a principal" cf. Qiddušin 2:1 (62a l. 41), Babli 41b. It is not trivial that a bill of divorce can be delivered by an agent since ḥališaḥ cannot be performed by an agent.

27 Here starts the text from Ma'aser Şeni, Notes 120 ff. The quote in Ma'aser Şeni is from Tosephta Gitṭin 4:1; the text here, while almost identical, has a totally different meaning. In the Tosephta, the husband instructs the agent to act for him; in the text here, the husband does not say anything but gives the bill to the agent who delivers it to the wife. It then is stated that the act of delivery validates the divorce.

28 In the Tosephta mss., "not" is missing.

29 From the text in Ma'aser Şeni, missing here but essential for an
understanding of the text. The omission from מֵּנִבּ to וְיִנָּה is easily explained.

30 If the husband explicitly appoints the agent as his own.
31 If the husband gives the bill and tells the agent to deliver, it should automatically invalidate the wife’s commission and let him retract.
32 If the husband tells the agent to do for him what the wife instructed him to do, he did not accept the agent as her agent and should be able to retract.
33 In either case mentioned here, it is not clear whose agent he is; the divorce is questionable and does not permit the wife to remarry. (Babli 63b, Rav Huna in the name of Rav).

34 Mishnah Ma'aser Šeni 4:7.
35 There were two witnesses present but the man did not alert them that he was going to divorce or marry, neither did he warn the woman that he was now going to act on his word.
36 It is sufficient that everybody involved understood what was going on.
37 R. Yose to R. Haggai.
38 Even R. Jehudah will agree that if two witnesses are present during the writing of a bill of divorce they do not have to be alerted for the delivery. But this has no implications for our case where the question is the due form of the appointment of an agent. In the Babli, Qiddusin 6a, this is the concurrent opinion of Rav and Samuel.
Rebbi Ze’ira asked before Rebbi Mana: Is it the same for a gift? Can a person appoint an agent for anything that is not his? He said to him, there the Torah gave her the right to a bill of divorce and she appoints an agent to receive what is rightfully hers. Can you say in regard to a gift that a person can appoint an agent for anything that is not his? In addition, from what Rebbi Yose and Rebbi Jacob bar Zavdi, Rebbi Abbahu in the name of Rebbi Johanan said, if somebody said to give a gift to another and he wants to retract, he may retract. Rebbi Yose stood near Rebbi Jacob bar Zavdi and said to him, is that a just "yes"? He said to him, at the moment he said it, it was a just "yes".

39 Lev. 19:36: "Your hin shall be just". The hin נ is a liquid measure (half a se’ah). But since biblical נ "yes" became rabbinic נ the verse is interpreted to mean that in money matters any "yes" has to be honest. The formal argument is that the verse already mentioned the ephah as correct measure; therefore the smaller hin נ requires symbolic interpretation. [This learned pun is in the name of R. Yose ben R. Jehudah in the Babli, Baba mesi’a 49a, Bekhorot 13b; Sifra Qedošim Pereq 8(7)].

If [the husband] said to [another person]: Bring my wife’s bill of divorce, or her daughter’s, or her sister’s, then he went and delivered it to her, it is no divorce. But if [the other] said: Give a bill of divorce to his wife, and [the husband] said, here is my wife’s bill of divorce, or her daughter’s, or her sister’s, and he went and gave it to her, it is a divorce.
Rebbi Yose ben Rebbi Abun and Rebbi Avin in the name of Rebbi Shammai: These are Rebbi’s words. But the Sages say, only if she says, it should be mine in your hand.\textsuperscript{41}

40 The text is not in good condition. A similarly corrupt text is in Tosephta 4:2, but from both texts the original can be approximated: If the husband said to a third party: Bring my wife’s, or (your or his) daughter’s or (your or his) sister’s, and he went and delivered it to her, it is no divorce since the third party was never appointed an agent for delivery. But if a woman appoints an agent, who goes and requests a bill of divorce from her husband and receives the bill without being appointed the husband’s agent of delivery, it is a perfectly valid divorce the moment the agent takes possession of the bill. (According to Rav Huna, this situation is preferable to one in which the agent also becomes the husband’s agent, unless the husband explicitly invalidates the wife’s commission.)

41 Rebbi accepts an implicit commissioning while the rabbis require an explicit statement.

Rebbi Hanina said, practice follows Rabban Gamliel\textsuperscript{42}: if she said "take for me, it should be mine in your hand."\textsuperscript{43} A man sent a bill of divorce to his wife. She told [the agent]: "It should be mine in your hand." The case
came before Rav, who said, if he wants to retract he cannot retract. Does he disagree? There is a difference between "it should be in your hand" and "it should be mine in your hand." Rebbi Hizqiah said, I know the beginning and the end. A woman appointed an agent to accept her bill of divorce from the husband’s agents. The case came before Rav, who said, if he wants to retract he cannot retract. Rav’s opinion has switched! There, Rav Huna said in the name of Rav: A woman cannot appoint an agent to accept her bill of divorce from her husband’s agent, and here, he says so? I say, he was standing behind the door and heard her voice.

42 This should read: Rabban Simeon ben Gamliel.
43 Not only the expression ר ה מ ס מ נ ה mentioned in the Mishnah but any equivalent expression is sufficient to appoint an agent for the wife. The Babli agrees, 63b.
44 Since the bill was never delivered into the wife’s hand, the husband then claimed that there was no divorce; but Rav decided that the appointment of the husband’s agent as the wife’s agent represented delivery of the bill.
45 It is not quite clear with what Rav is supposed to disagree. A similar story is told in the Babli, 63b, about a woman whose hands were dirty and who told the husband’s agent to keep the bill, that it should be in his hand. Rav Nahman, in the generation after Rav, decided that this was no delivery.
46 The second version is clearly an acceptance of the bill whereas the first one is not.
47 The relations between husband and wife were so bad that not only did the husband not want to deliver the bill to his wife who was nearby but the wife did not even want to receive it from the husband’s agent. Since the appointment of an agent by the husband under these circumstances was intended as an insult to his wife, her appointing her own agent was an adequate response. Since the husband was present during the entire proceedings, he must have agreed with his wife’s appointing her own attorney and there could be no reason to invalidate the proceedings. The statement of Rav Huna can be applied only to cases where not both parties are present.
Mishnah 2: A woman who said, accept my bill of divorce for me, needs two groups of witnesses; two who say that she appointed in their presence and two who say that in their presence he received it and tore it up, even if the first ones are the latter ones, or one of the first together with one of the latter and a third person is associated with them. A preliminarily married adolescent girl, or her father, can accept her bill of divorce. Rebbi Jehudah says, no two hands can acquire together; only her father alone can accept her bill of divorce. Any female who cannot take care of her bill of divorce cannot be divorced.

48 Since a divorce is a public act it must be executed in front of at least two witnesses. The agent certainly needs two witnesses for the delivery since the woman herself must receive the bill in front of two witnesses. It is only natural that the agent needs two witnesses to legitimize his status (or be appointed by a duly witnessed document.)

49 It is not necessary that the bill be torn up after delivery; this clause is added only to show that the divorce is valid even if the document never reaches the wife because it was torn up after delivery. (This has nothing to do with current rabbinic practice to cut up the bill of divorce after delivery in order to prevent outsiders from questioning the validity of the document.)

50 There do not have to be four different people; there may also be two or three.

51 Between the ages of 12 years and 12 years and six months; cf.
Nedarim 10:1, Note 1. Since she is over 12 years of age, she is able to act in law. But since she is not definitively married, she is still under her father’s authority.

52 This statement is independent of the preceding one; it deals with an insane woman or an underage girl who was definitively married and, therefore, is emancipated from her father’s power. If she is too young to understand the meaning of divorce and the need to keep the document until she has collected all the monies due her, she cannot be divorced and the husband cannot escape the obligation to feed and house her.

Halakhah 2: "A woman who said, accept my bill of divorce for me," etc. Two say that she appointed in their presence and two say that in their presence he received and tore it. But if he\(^{53}\) agrees, the agent should be able to be added. Explain it, it he was a relative\(^{54}\). This implies that a relative can act as agent.

53 The husband. The wife only needs testimony that the bill was delivered in order to be able to remarry. Why does the Mishnah not state that the agent together with another person can testify in her behalf?

54 A close relative who is inadmissible as witness.
A preliminarily married adolescent girl, or her father, can accept her bill of divorce." Rebbi Simeon ben Laqish said, like the disagreement about divorce is the disagreement about preliminary marriage. Rebbi Johanan said, everybody agrees about preliminary marriage that [her father] contracts but not she herself. Rebbi Simeon ben Laqish agrees about a definitive marriage that she is not empowered to marry herself off and let her father lose her earnings. In the opinion of Rebbi Johanan she has no legal standing relative to her father and cannot appoint an agent. In the opinion of Rebbi Simeon ben Laqish she has legal standing relative to her father and can appoint an agent. A Mishnah disagrees with Rebbi Johanan: A man contracts a preliminary marriage by himself.
and through his agent and a woman contracts a preliminary marriage by herself and through her agent." He explains it about an adult woman. But did we not state\(^{61}\): "If an underaged girl said, accept the bill of divorce for me, it is no valid bill until the bill of divorce reaches her hand.\(^{62}\)" He explains it about an orphan\(^{63}\). But did we not state\(^{61}\): "If her father\(^{64}\) said to [an agent]: Go and receive my daughter's bill of divorce, if [the husband] wants to retract he cannot retract." He explains that the Mishnah deals with cases; the first part about an orphan and the second part if she has a father. A Mishnah disagrees with Rebbi Simeon ben Laqish.  \(^{60}\)"A man may contract a preliminary marriage for his adolescent daughter either by himself or by his agent.\(^{65}\)" He explains that following Rebbi Jehudah\(^{66}\), since Rebbi Jehudah said, "no two hands can acquire together; only her father alone can accept her bill of divorce." Rebbi Yose said, a rabbi came out from the assembly and said, a case was decided following Rebbi Johanan\(^{67}\). Can one rely on that\(^{68}\)? It was no question of relying on him since it was as from the sea to the frying pan\(^{69}\).

55 A parallel is in Qiddusin 2:1; the readings there are noted \(\mathfrak{p}\).
56 The rabbis allow the adolescent girl to contract a preliminary marriage; R. Jehudah reserves this right to the father. The same discussion is in the Babli, Qiddusin 43b-44a.
57 Reading from Qiddusin. The text here has "mother"; but the mother has no say during the father's lifetime.
58 Since the father has the right to his adolescent unmarried daughter's earnings, Mishnah Ketubot 4:6. One must assume that R. Simeon ben Laqish holds that the girl must deliver to her father any valuables she received for her preliminary marriage.
59 But an orphan girl or a definitively married one becomes able to act in law (and appoint agents) once she reaches the age of 12 years and one day.
60 Qiddusin 2:1.
61 Mishnah Git\(\text{\textit{tin}}\) 6:3.
While the Mishnah confirms that the girl cannot appoint an agent, it seems to contradict the statement that the adolescent has no standing in law since she is able to accept her bill of divorce.

Including an "orphan during her father's lifetime", cf. Note 20.

If the Mishnah speaks about an orphan, there could be no father.

Since this is a sentence in the same Mishnah which stated that a woman may agree to a preliminary marriage, the absence of any mention of the power of the girl implies that she cannot enter a preliminary marriage on her own.

The Babli agrees, Qiddusin 44a.

The court denied the right of an adolescent girl to marry on her own initiative.

There is no name attached to this information; it is impossible to check the standing of the informant in the legal hierarchy.

The statement was made immediately after judgment was rendered. For the expression "from the sea to the frying pan" cf. Berakhot 4:5, Note 233; Babli Qiddusin 44a.

The colleagues said, they disagree about courtyard and four cubits. Rebbi Johanan said, she has both courtyard and four cubits. Rebbi Simeon ben Laqish said, she has neither courtyard nor four cubits. Rebbi Eleazar said, they disagree about the courtyard but she has no four cubits. What did Rebbi Johanan say about outstretched hands? Rebbi Eleazar asked, does an agent's courtyard act as his hand?

R. Johanan and R. Simeon ben Laqish disagree about the legal standing of a minor. The corresponding discussion in the Babli is Baba Meši'a 10b. This paragraph really refers to Mishnah 3.

As the Babli, Baba Meši'a 11a, explains in the name of the Galilean R.
Yose ben R. Hanina, a fenced-in property acquires for a person even if he is not aware of it. For example, if somebody lost an article without distinguishing marks on somebody else's fenced-in courtyard, that article becomes automatically the courtyard owner's property since it cannot be reclaimed by the person who lost it. Nobody else is allowed to take it.

In the Babli, the disagreement between R. Johanan and R. Simeon ben Lakish is explained to the effect that R. Johanan considers the courtyard as an extension of its owner's hand. Since Mishnah 3 states that a minor legally can receive her bill of divorce, she has a "hand" and, therefore, her courtyard acquires for her. R. Simeon ben Lakish holds that the courtyard is its owner's agent and since the minor cannot appoint an agent, her courtyard cannot acquire for her.

If a person stands still in the public domain and nobody else is within 8 cubits from her, anything found or delivered to her at a distance of at most 4 cubits belongs to her (cf. Mishnaiot 8:2, Yeabmoi 3:9). The question is whether this rule extends to emancipated underage females (it certainly does not extend to underage males.)

73 י is a Babylonian Aramaic particle used as a general question mark. In Galilean Aramaic, it should be רמא.

74 In Halakhah 8:2, R. Johanan states that an adult woman standing in the public domain is divorced if the husband throws her the bill (in front of two witnesses) and it lands close enough for her to take it up without moving her feet. According to R. Eleazar, who states that R. Johanan agrees that an underage girl has no 4 cubits, it is questionable whether throwing the bill within the reach of the underage wife's hands is delivery in the meaning of the verse. The question is not answered.

75 Following R. Johanan, is a woman divorced if the husband throws the bill into her agent's courtyard in the presence of two witnesses? This question is not answered either.
If she is definitively married, she but not her father\(^77\). An underage girl, her father but not she\(^78\); if she is definitively married, both she and her father\(^79\). If she has understanding, she but not her father. Who is an underage girl who needs to be divorced [by herself]? Rebbi Johanan said, any female who is given her bill of divorce together with something else and she produces it after some time.

\(^{76}\) This paragraph is explained by R. Nissim Gerondi, Commentary to Alfasi Chapter 6, #510.

\(^{77}\) The Mishnah which gives the father the right to receive the bill of divorce of his adolescent, preliminarily married daughter, excludes the definitively married daughter over which the father has no power and who can be divorced only by direct delivery of the bill to her.

\(^{78}\) To divorce a preliminarily married underage girl, the bill must be delivered to the father.

\(^{79}\) The definitively married underage girl who lacks understanding (as defined in this paragraph by R. Johanan) cannot be divorced since her standing is the same as her father's. Since her father cannot receive her bill of divorce because by definitive marriage she became emancipated from him, so she cannot receive her bill of divorce, as explained in the Mishnah.

Mishnah 3: If an underage girl said, accept the bill of divorce for me, it is no valid bill until the bill of divorce reaches her hand. Therefore, if
the husband wants to retract he can retract since an underage person cannot appoint an agent. But if her father said to [an agent]: Go and receive my daughter's bill of divorce, if [the husband] wants to retract he cannot retract.80

Mishnah 4: If somebody says, deliver this bill of divorce to my wife at place X81 and he delivered it at another place, it is invalid. But if he said, she is at place X, and he delivered it at another place, it is valid.

80 This was explained in the dition of the appointment. In the next preceding Halakhah.
81 This is formulated as a con-sentence, the place is mentioned only as an indication.

Halakhah 3: "If an underage girl said, accept the bill of divorce for me,82" etc. The Mishnah does not follow Rebbi Eleazar83. But following Rebbi Eleazar she is (not)84 divorced unless [the husband] tells [the agent]: Do not divorce her except at place X84. "If he said, she is at place X and he delivered it at another place," Rebbi Eleazar agrees that he only indicates a place; the rabbis agree that he only indicates a place.

82 The reference should be to 83 Who in Mishnah 5 holds that Mishnah 4, not 3.
84 instructions about delivery are not
binding on the agent. The Babli disagrees (65a) and holds that R. Eleazar (the Tanna) considers the husband's instructions as binding, but not the wife's.

84 The context and the parallel about preliminary marriage by agent (Qiddusin 2:4) show that this word has to be deleted.

84 Only the formulation as a prohibition prevents the agent from delivering at any place convenient to him.

Mishnah 5: If a woman says, accept my bill of divorce at place X, and he accepted it at another place, it is invalid, but Rebbi Eleazar declares it valid. Bring my bill of divorce from place X and he brought it from another place, it is valid.

Mishnah 6: "Bring my bill of divorce", she may eat heave until the bill is delivered to her. "Receive my bill of divorce," she is immediately forbidden to eat heave. "Receive my bill of divorce at place X," she may eat heave until the bill arrives at that place; Rebbi Eleazar forbids immediately.

The Talmud also notes that if a woman says, accept my bill of divorce at place Y, and he accepted it at another place, it is invalid, but Rebbi Eleazar declares it valid. Bring my bill of divorce from place Y and he brought it from another place, it is valid.
Halakhah 586: "If a woman says, accept my bill of divorce," etc. What is the reason of Rebbi Eleazar? I say that he found it behind the door. There, we have stated: "If someone tells a person who is not trustworthy, buy for me from somebody who is trustworthy, or from somebody who tithes, he is not trustworthy. It was stated: "Rebbi Yose said, even if he specified, from X, he is not trustworthy unless he said, you buy and I will pay." What is the reason of Rebbi Yose? I say that he found someone close by and bought from him. It turns out that Rebbi Eleazar is like Rebbi Yose and Rebbi Yose is like Rebbi Eleazar (ben Rebbi Yose.)87

[Rebbi Yose says more than Rebbi Eleazar;]88 does not Rebbi Eleazar agree that if she says to him, do not accept it except at such and such a place, she continues eating until the bill of divorce reaches that place? But here, even if he says, only from X, he is not trustworthy, except if he said, you buy and I will pay. What is the reason of Rebbi Yose? I say that he found someone close by and bought from him.
As the Halakhah explains, since R. Eleazar permits the agent to pick up the bill anywhere, he might have received it as soon as he left the house. This is essentially Halakhah 4:7 in Demay (Notes 81-85). Except for the omission of a sentence, the differences in readings are explained by the Babylonian spelling in Gittin.

The reference should be to Mishnah 6.

The Tanna R. Eleazar is R. Eleazar ben Šamua'. The addition here is a corruption of the following sentence from Demay.

From Demay, cf. the variant readings.

Mishnah 7: If somebody says: "Write a bill of divorce and deliver to my wife, divorce her, write a letter and deliver to her", they should write and deliver. "Discharge her, provide for her, treat her according to the law, do what is necessary;" he did not say anything. Earlier, they said that if somebody was led away in a neck-iron when he said, write a bill of divorce for my wife, they should write and deliver. They reconsidered and said, also one who leaves on a ship or in a caravan. Rebbi Simeon from Shezur said, also the dangerously sick.

In Mishnah 9:3, the bill of divorce is called "letter of abandonment".

These expressions are unspecific; they do not have to be interpreted as instructions for a divorce.
Latin *collare*. While, in general, had the authority to wave the separate instruction to write a bill of divorce does not include an instruction to deliver, it was decided that the court implied.

*Halakhah 7:* "If somebody says: "Write a bill of divorce and deliver to my wife," etc. If somebody says in Aramaic "divorce her," it is as if he said in Hebrew "divorce her.""

93 The statement is also quoted in language understood by husband, scribe, and witnesses. The statement implies that in the Aramaized Hebrew of the educated person in Palestine, a mixture of Hebrew and Aramaic terms was completely acceptable.

"Discharge her, provide for her, treat her according to the law, do what is necessary;" he did not say anything." I say, he meant sustenance.

94 The usual Babylonian form of Galilean *זומָשָׁה* in *qal*, "discharge (my obligations towards her), provide for her", and *p'el* "get rid of her, discharge her (from the marriage)".

95 The Babli, 65b, wants to make a difference between the meaning of *מְשָׁא*.
Rebbi Mana said, not only a neck-iron of mortal danger but also a neck-iron of money. For every neck-iron is a mortal danger. Rebbi Eleazar asked: Does his gift follow the rules of the gift of a sick person? Rebbi Nahman in the name of Rebbi Jacob the Armenian: That which is a problem for Rebbi Simeon is obvious for Rebbi Yose bar Hanina, as we have stated there: "One may have use for the hair of a woman who was executed but an animal which was executed is forbidden for all use." Rebbi Yose bar Hanina said, if she said, my bonnet should be given to my daughter.

96 The chain put on a person condemned to death.
97 If the person arrested can expect to have to pay a fine. The Babli disagrees in the interpretation of Rashi (on the Mishnah, 65b) but not in that of Sefer ha'ittur (I, 28b, Note 154).
98 Some formal rules of gifts are waived for a person on his deathbed. If a sick person directs that gifts should be given and he dies, the gifts are valid even though no act of acquisition was performed for the benefit of the recipients. But if he recovers, his instructions are void in the absence of a formal act of acquisition; cf. Peak 3:9; Babli Baba batra 146b ff.
99 It seems that one should read "R. Eleazar"; this is Rashba's reading in his Novellae (who reads "R. Jacob the Red" instead of "R. Jacob the Armenian").
100 Mishnah 'Arakhin 1:4.
101 Even though a human corpse is forbidden for all usufruct [Avodah zarah 5:12 (45b 1.4), Babli 29b], this does not include the hair which is a dead part of the living body.
102 An animal which is stoned because it has killed a human becomes forbidden, together with its hide and hair, not by stoning but by the sentence passed upon it by the court [Ex. 21:28;
As the following: Ganiba was lead out to be executed. He said, One should give money to Rebbi Abuna from the wine of Kefar Panaya. They did not give him; they were considering what Rav said, "an heir is like the buyer of encumbered property." Just as a loan before witnesses cannot be collected from encumbered property, so it cannot be collected from heirs. If they did not give it as payment of a debt, they should have given as a gift! They were considering what Rebbi Eleazar said, for
Rebbi Eleazar asked: Does his gift follow the rules of the gift of a sick person? Rebbi Ze'ira brought Rebbi Isaac from Atosha who stated for him: A gift is like a bill of divorce. Rebbi Abba said to him, perhaps like bills of divorce which one cannot deliver if not delivered during his lifetime, so a gift is not called a gift if not delivered during his lifetime? He said to him, here comes the rabbi with sophistication to let Rebbi Abuna lose money! You cannot, for we have stated there: "Give a mina to X; then he died. One shall give after death." Following Rebbi Simeon. For Rebbi Johanan disagrees, they should give him, as Rebbi Abba said in the name of Rebbi Johanan: A loan before witnesses can be collected from the heirs on condition that they inherited real estate. Rebbi Yose said, that is, if somebody was with him until the moment of his death. But if he goes in and out, I am saying that already he gave him. The word of Rebbi Hanina implies that it was not given since Rebbi Hanina reported this fact: Levi Parisa was going from place to place when Ganiba's relatives came to eat with him. He said, the money should be given to Rebbi Abuna; they started quarelling with him.

104 It seems, by the Persian government as a political trouble maker. (Babli 7a).
105 In the Babli, 65b, 400 zuz. It seems that R. Abuna was Ganiba's only student (Hulin 44a,50b). He also was Rav Huna's student.
106 In the interpretation of the Babli, 66a, neither the wine should be given nor its value, but the wine should serve as guarantee for the payment. This seems to be the background of the opinion which sees in the payment a repayment of a debt.
107 In the Babli, 66a, the heirs were forced to pay by Rav Huna.
108 Cf. Chapter 3, Note 146. The opinion ascribed here (and in 3:7, Baba qama 10:1 (7b l. 39), Baba mesi'a 1:6 (8a l.26)) to Rav is quoted as common to Rav and Samuel (i. e., established Babylonian practice) in Baba batra.
175b.

109 In the Babli, he counsels R. Abina to appeal to Rav Huna. Which is valid without formality if ordered by a person sentenced to death.

111 Mishnah 1:6.

112 Quoted as opinion shared by R. Johanan and R. Simeon ben Laqish (i.e., common Galilean practice) in Baba batra 175b.

113 Who can testify that from the moment of the gift to the donor's death nothing was given to the recipient of the gift.

114 Ganiba's gift.

115 In Sabbath 3:4 (6a l. 63), he is called Levi Sarisa. He may be Levi ben Sisi, known as a commuter between Galilee and Babylonia.

It was stated: Also the sick person. Rebbi Jacob bar Idi in the name of Rebbi Jonathan: Practice follows Rebbi Simeon from Shezur about the dangerously ill. What is the difference between a dangerously ill and a sick person? A sick person is a normal case; any who gets sick suddenly is dangerously ill. In a normal case, the relatives visit him immediately; unrelated persons visit him after three days. If he falls ill suddenly, everybody visits him immediately. An example: Rebbi Huna, Rebbi Phineas, and Rebbi Hizqiah went to visit Rebbi Yose after three days. He said to them: Do you want to sustain the baraita in my case?
Mishnah 8: If somebody was thrown into a cistern and said, anybody hearing my voice should write a bill of divorce for my wife, they should write and deliver. If a healthy person said, write a bill of divorce for my wife, he wants to make fun of her. It happened to a healthy person who had said, write a bill of divorce for my wife, that he went on the roof, fell down, and died. Rabban Simeon ben Gamliel said, the Sages said that if he jumped, it is a bill of divorce; if the wind pushed him, it is no bill of divorce.

116 Reading from 'Arukh, s. v. pD» in the name of R. Jonathan.
118 The Babli (Ketubot 55a) agrees.
wife when he was still alive. suicide retroactively becomes an emergency bill and is valid.

Halakhah 8: "If somebody was thrown into a cistern," etc. 125 Rebbi Hanina said, Rebbi Jonathan taught us, only if they saw a man’s shadow. There we have stated: "One testifies by the light of a candle or by the light of the moon and one permits to remarry on the basis of a disembodied voice", and Rebbi Jonathan said, only if they saw a man’s shadow. Rebbi Aha bar Hanina, in the name of Rebbi Hanina: That means, in the fields, but in town even without a man’s shadow. But did we not state: "If somebody had been thrown into a cistern," and Rebbi Jonathan said, only if they saw a man’s shadow? Rebbi Abin said, damaging spirits were 126 as frequent in cisterns as they are frequent on the fields.

125 This text essentially is from Yebamot 16:6, Notes 117-124.
126 This disclaimer of the current existence of spirits is not in the Yebamot text (which is an insert of the corrector, not a text by the original
scribe), nor in the text quoted by Rashba (Novellae to 66a) The Babli definitely believes in evil spirits. The sentence is quoted by Tosaphot (s. v. מִצְרִי מִן נשדד) as "they are found in the fields." But that text is not usable as witness since it is thoroughly babylonized, using כּוּ for מִן, שֶׁבֶר for בֵּית.

If it was doubtful whether he jumped or the wind pushed him? Let us hear from the following: Rabban Simeon ben Gamliel says, if he fell down immediately, it is a bill of divorce; if he fell after some time it is no bill of divorce. But is "immediately" not a case of doubt whether he jumped or the wind pushed him? This implies that in case of doubt whether he jumped or the wind pushed him, it is a bill of divorce.\footnote{The different versions of the Tosephta seem to disagree with the Yerushalmi (the topic is not treated in the Babli). Tosephta 4:7 (Lieberman) "If a healthy person said, write a bill of divorce for my wife, climbed on a roof, and fell down, one writes and delivers as long as he still is alive. If he fell down after some time, it is no bill of divorce since I may say that the wind pushed him." Tosephta 6:9 (Zuckerman): "If a healthy person said, write a bill of divorce for my wife, climbed on a roof, and fell down, one writes and delivers as long as he still is alive. If he fell down after some time, it is no bill of divorce since I may say that the wind pushed him." A discussion of the different versions is in J. N. Epstein, מַלְמוּס לוֹטָה, p. 600-601.}
If somebody slaughtered with the intention of sprinkling [the victim’s] blood in idolatry or to burn its fat for idolatry, Rebbi Johanan said, the intention invalidates. Rebbi Simeon ben Laqish said, the intention does not invalidate. Rebbi Jacob bar Idi objected before Rebbi Simeon ben Laqish: Did we not state: "Rebbi Yose said, that is a matter of a conclusion de minore ad majus. Since in a case where thought makes sanctified food unusable, etc., and thought invalidates for piggul and leftover. He said to him, truly thought invalidates for piggul and leftover; but if somebody slaughtered with the intention of sprinkling [the victim’s] blood in idolatry or to burn its fat for idolatry, the intention does not invalidate. If he slaughtered and then the blood was sprinkled in an idolatrous rite and the fat was burned in an idolatrous rite, there was such a case in Caesarea and they pronounced neither prohibition nor permission. Rebbi Hanina in the name of Rav Hisda: This means that they were not apprehensive. If you say that they were apprehensive,
they should have taught a prohibition. Rebbi Yose in the name of Rav Hisda: This means that they were apprehensive. If you say that they were not apprehensive, they should not have dealt with the case.

128 Any idolatrous sacrifice is forbidden for any use; Deut. 13:18.
129 If the slaughter were for idolatry, everybody would agree that the meat is forbidden for consumption. But here the slaughter is not intended for idolatry, only that later part of the blood and fat would be used for idolatrous purposes, for instance, if the animal is a Gentile’s property; cf. Note 131.
130 Only an action can trigger the prohibition. If the Gentile takes part of the animal for himself for idolatrous purposes after he had sold most of the meat to Jews, there is no reason why the meat should be forbidden to Jews.
131 Mishnah Hulin 2:7: "If somebody slaughters for a Gentile, his slaughtering is valid, but Rebbi Eliezer declares it invalid. Rebbi Eliezer said: Even if he slaughtered it only for the Gentile to eat the appendage of its liver, it is invalid since the Gentile’s thoughts are always for idolatry. Rebbi Yose said, that is a matter of a conclusion de minore ad majus. Since in a case where thought makes sanctified food unusable, everything is determined by the person who officiates; in the case of profane food which cannot become invalidated by thought, it is only logical that everything depend on the slaughterer."

It is forbidden to eat from a sacrifice after its appointed time (pigul) or outside the appropriate sacred precinct. If the slaughterer intends the sacrifice to be eaten at the wrong time or place, the entire sacrifice becomes invalid. But if the owners had the same idea, their intentions are irrelevant; they could invalidate the sacrifice only by actually using it at the wrong time and at the wrong place. R. Yose argues that profane slaughter cannot have rules more strict than sacrificial slaughter. If the owner’s intentions are irrelevant for sacrificial slaughter, they must be irrelevant also for profane slaughter.

132 A sacrifice not eaten during its appointed time becomes forbidden as leftover even if it was not intended from the start to be eaten out of its time.
133 He holds that only for Jewish sacrifices does the wrong thought at slaughter invalidate the act; for all others the wrong thought invalidates the act but is not transferable to others. If the slaughter was for idolatry, the entire meat is forbidden. If the slaughter was for using part of the blood or fat for idolatry, that blood or fat becomes forbidden by being used; it has no influence on the other parts. (Babli Hulin 39a/b).

134 In the Babli (Hulin 39b): It was slaughtered and after that [the slaughterer] expressed an intention [of idolatry].

135 In the Babli, the reference is to the opinion of Rabban Simeon ben Gamliel in the Mishnah, who holds that a later action indicates a prior thought. If suicide can validate a prior bill of divorce then idolatrous practice can invalidate a prior slaughter. Since this also explains the insertion of the paragraph here, it has to be accepted as explanation.

136 A rabbi could have dismissed the case without bringing it to the attention of the full court. But what they really said was that the scrupulous should not eat from the meat; those who did eat did not sin.
Mishnah 9: If one said to two persons, give a bill of divorce to my wife\textsuperscript{137}, or to three persons, write a bill of divorce and deliver to my wife, they should write and deliver\textsuperscript{138}. If he said to three persons, deliver a bill of divorce to my wife, they shall ask others to write since he appointed them as a court, the words of Rebbi Meir. This instructions for practice did Hananiah\textsuperscript{139} from Ono send from jail: I know from tradition that if someone said to three persons, deliver a bill of divorce to my wife, they shall ask others to write since he appointed them as a court. Rebbi Yose said, we told the messenger that we also know from tradition that even if he said to the Supreme Court in Jerusalem, deliver a bill of divorce to my wife, they shall learn\textsuperscript{140}, write, and deliver. If he said to ten persons, write a bill of divorce for my wife, one writes and two sign. All of you shall write, one writes and all sign. Therefore, if one of them died, the bill of divorce would be void.

\textsuperscript{137} Since the husband did not authorize a scribe, the appointed persons themselves have to write the bill of divorce.

\textsuperscript{138} Since he specifically asked them to write, they cannot constitute themselves as a court and direct the scribe of the court to write the bill but must write it themselves.

\textsuperscript{139} In Sanhedrin 1:2 (18d last line) he is called Hanina; in Babli sources Rebbi Hanina.

\textsuperscript{140} If they do not know how to write a document.
Halakhah 9: "If one said to two persons, give a bill of divorce to my wife," etc. The Mishnah follows Rebbi Meir\textsuperscript{141}, from the next sentence: "If he said to three persons;" and Rav Ḥisda said, the reason of Rebbi Meir is that we find everywhere that others write and the court signs, also here others write and the court affixes their signatures.

\textsuperscript{141} The problem discussed is hinted at in Halakhah 7:2 but made explicit only in the Babli (66b, also 29a, 71b, 72b). R. Yose (ben Halaphta, the Tanna of overriding authority) holds that "words cannot be delivered to an agent." Therefore (Mishnah 7:2), if a sick person says to the (at least three) persons attending him, write a bill of divorce to my wife; if they ask a scribe to produce the bill and then they all sign, the bill is invalid since the order to write the bill cannot be delivered through an agent. This contrasts with the Mishnah here, which states that if three persons were appointed, they can be considered a court and have the authority to order the document to be drawn up \textit{as a court}, not as agents. There really is no doubt that the Mishnah is R. Meir's, since it is stated explicitly. The question is only what is R. Meir's reason in opposing R. Yose. It seems that R. Yose will agree that a court can cause the bill to be written if the husband in so many words appoints three persons \textit{as a court}; he does not accept R. Meir's position that the appointment of at least three joint agents automatically constitutes them as a court; he does not admit that a person can appoint others (in any number, but not a formal court) to act as agents to have a document written for him (Babli 66b).
Rebbi Hillel ben Valens asked before Rebbi: What reason did they have to say that practice follows Rebbi Yose\textsuperscript{142}? He said to him, because I never met him. If somebody questioned statements of Rebbi Yose, Rebbi said, we miserable ones asked against Rebbi Yose, for as there is a difference between the most holy and the most profane, so is there a difference between Rebbi Yose's generation and ours. Rebbi Ismael ben Rebbi Yose said, the difference between my father's generation and ours is like that between gold and dust.

\textsuperscript{142} There is no doubt that in the Ono might have the authority of R. Aqiba behind it (cf. \textit{Terumot} 3:1, Note 23).

\textsuperscript{143} "If somebody said to ten persons, 'bring this bill of divorce', one transports in the name of all of them. 'All of you shall bring', they all transport and one delivers in the name of all of them; therefore, if one of them died, the bill of divorce becomes invalid." \textsuperscript{144}Rebbi Johanan in the name of Rebbi Eleazar from Rome: The one who awards\textsuperscript{145} it like one who says "all of you".

\textsuperscript{143} Tosephta 4:13; Babli 67b. \textsuperscript{146}. \textsuperscript{144} Babli 67b; quoted in the name of the Yerushalmi but in Babli language in \textit{Sefer Ha'Iltur} I, 29d (Note 186). \textsuperscript{145} It is difficult to understand what it means to "award" the right to deliver a bill of divorce. The Babli version...
(also ascribed to the Yerushalmi, Note 144), reads: "The one who counts is like one who says 'all of you'," which according to Rashi means that the husband says: you, 1, 2, 3, 4 (pointing at persons and counting the number of persons he appointed) shall deliver. One could try to explain the version of the text if the husband is a very well known personality and it is an honor to be his representative. Then, if he appoints his representatives by name without indication of any preferences between them, they all have equal rank and all are appointed jointly but not separately.
Mishnah 1: If somebody had an attack of seizures¹ and said, write a bill of divorce for my wife, he did not say anything. If he had said, write a bill of divorce for my wife, and afterwards had an attack of seizures and said, do not write, his later words are nothing. If somebody became paralyzed², one asks him, shall we write a bill of divorce for your wife, and he nods his head, one checks him out three times. If he answers no for no, yes for yes³, they shall write and deliver.

¹ The word ḥareidi be is taken as Greek κορδακικός "staggering, making drunken movements," derived from κόρδαξ, Latin cordax, "extravagant dance in Greek comedy." The nature of the seizures is not described in either Talmud, but it is implied that during an attack the person is not of sane mind.
² He is of clear mind but has lost his power of speech.
³ If he repeatedly shakes his head sideways when asked whether not to write the bill but nods if asked whether to write the bill, his intentions and instructions are confirmed.
"If somebody had an attack of seizures", etc. The symptoms of an insane person: One who goes out in the night, stays overnight in a graveyard, tears his clothing, and destroys what one gives to him. Rebbi Huna said, only if all of that is in him since otherwise I say that one who goes out in the night is a man-dog; he who stays overnight in a graveyard burns incense to spirits, he who tears up his clothing is a choleric person, and he who destroys what one gives to him is a Cynic. Rebbi Johanan said, even only one of these symptoms is proof. Rebbi Abun said, what Rebbi Johanan said, even only one of these by itself is reasonable for him who destroys what one gives to him; even the greatest idiot does not destroy all one gives to him. The one attacked by seizures does not exhibit any of these signs. What is one attacked by seizures? Rebbi Yose said, a decrepit one. There came a case before Rebbi Yose of a weaver who, when one gave him red on black he was exerting himself, black on red he was exerting himself. This is the cordiacus described by the Sages.
4 This text is from Terumot 1:1, Notes 38-50. In the variants, Η denotes the Leiden ms. of Terumot and 1 the Rome ms.


6 From the text in Terumot, missing here.

7"If sometimes he is insane and sometimes healthy. When he is insane he is insane in all regards, when healthy he is normal in all regards." A case came before Samuel who said, when he is of sound mind he should deliver the bill of divorce. Why? Samuel follows Rebbi Simeon ben Laqish; as Rebbi Simeon ben Laqish said⁸, when he regains his sanity. It follows that Samuel acted according to Rebbi Simeon ben Laqish who said, only if he is of sound mind may he deliver the bill of divorce; (Is. 38:16) "make me healthy and let me live!"
Rebbi Jacob bar Aha said, Rebbi Johanan and Rebbi Simeon ben Laqish disagree. Rebbi Johanan said, even while he is suffering an attack of seizures, one writes the bill of divorce and delivers it to his wife. Rebbi
Simeon ben Laqish said, when he regains his sanity. The argument of Rebbi Simeon ben Laqish seems to be inverted, since they disagreed: If he became deaf-mute, or insane, or became an apostate, or the Court ruled that fat may be eaten, Rebbi Johanan said, his sacrifice of purification is pushed aside, Rebbi Simeon ben Laqish said, his sacrifice of purification is not pushed aside. Rebbi Yose ben Rebbi Abun said, Rebbi (Johanan) switches traditions, to avoid that a word of Rebbi Johanan contradict his own word. For Rebbi Samuel bar Abba said in the name of Rebbi Johanan: One sprinkles the blood of a purification sacrifice or a reparation sacrifice for a person terminally ill. The rabbis of Caesarea said, Rebbi Hyya and Rebbi Yasa, one follows the one, the other follows the other. The Mishnah disagrees with Rebbi Simeon ben Laqish: "If he had said, write a bill of divorce for my wife, and afterwards had an attack of seizures and said, do not write, his later words are disregarded." He explains it: After he regains his sanity, his later words are disregarded. If he gave her a bill of divorce saying that it should be valid only the next day and then suffered an attack of seizures, this is the disagreement between Rebbi Johanan and Rebbi Simeon ben Laqish. If he threw her bill of divorce to her saying that it should be valid only the next day and then suffered an attack of seizures, this is the disagreement between Rebbi Johanan and Rebbi Simeon ben Laqish. Rebbi Eleazar said that Rebbi Abin asked: If he separated heave from his grain heap and said, it shall be heave only tomorrow but the next day he suffered an attack of seizures, is this the disagreement between Rebbi Johanan and Rebbi Simeon ben Laqish? Rebbi Ze'ira said, a baraita disagrees with Rebbi Simeon ben Laqish and he cannot explain it: If somebody had been crucified or mortally wounded when he signalled to write a bill of divorce to his wife, one writes and delivers on the assumption that his soul
hangs on in him. Is it not impossible that his mind should not have been disturbed for an hour? This disagrees with Rebbi Simeon ben Lakish and he cannot explain it.

10 The parallel text is in Horaiot 1:2 (45d l. 64). The variants from the Leiden ms. are noted 亐, those from the printed Yerushalmi text in the Babli are noted 亐.

11 In the Babli, 70b, the attributions are switched, following the later argument in this paragraph (Note 17).

12 This quote is incomplete; the text has to be completed from Horaiot (Note 10) and a related text in the Babli, Zebahim 12b. The completed text must read: "If somebody had eaten forbidden fat and already had prepared his separation sacrifice when he became..." A purification sacrifice is personal; if its owner died it cannot be transferred to another owner or another use, nor can it be redeemed. The question is whether insanity makes a person lose his individuality; if the answer is positive then during the period of insanity the sacrificial animal was ownerless and cannot then or afterwards be of any use; it has to be put away until it dies a natural death.

13 The illiterate deaf-mute has lost his legal personality; cf. Ketubot Chpater 1, Note 134, Yebamot 14:1.

14 Lev. 1:2: "If a person from among you present a sacrifice..." is interpreted to mean that the rules of obligatory sacrifices apply to converts but exclude apostates [Babli Hulin 5a, 13b; Erubin 69b; Sifra Wayyiqra Paršata 2(3)].

15 The High Court in the Temple ruled that the circumstances for which the person brings his purification offering do not imply that a sin was committed. Since a purification offering cannot be brought as a voluntary gift, the offering becomes unusable. It is stated here that if the court later reverses itself, R. Joḥanan holds that the sacrifice is not re-instated.

16 If circumstances change, the sacrifice may be re-instated.

17 It is obvious that the reading from Horaiot, R. Aḥa, is correct, since R. Johanan, who is quoted in the text here, has no influence over what future generations report in his name. R. Aḥa's tradition is the source of the quote in the Babli (Note 11).

18 Since both R. Samuel bar Abba and R. Simeon bar Abba were students of R. Joḥanan, it is impossible to decide
between the readings here and in Horaiot.
19 These sacrifices may not be offered for the deceased. The priest who was informed that the offering was for a terminally ill person can proceed under the assumption that the person is alive at the moment which validates the offering, when the blood of the sacrifice is sprinkled on the wall of the altar.

20 In Horaiot: R. Immi, the permanent companion of R. Yasa. It follows that the R. Hiyya mentioned here is R. Hiyya bar Abba, student and successor to R. Johanan.

21 It is not stated who followed R. Johanan and who R. Simeon ben Laqish; from the following it seems that the Yerushalmi does not accept R. Aḥa's relabelling of the opinions.

22 For R. Johanan, the wife is divorced since the bill was delivered; for R. Simeon ben Laqish the attack of insanity invalidates the delivery. If the husband regains his sanity, he has to take back the bill from his wife and deliver it a second time.

23 The insane person cannot separate heave from grain; his actions are irrelevant in law (Mishnah Terumot 1:1).

24 He is slowly but surely dying.

25 A similar formulation is in the Tosephta (5:1): "If somebody had been crucified or mortally wounded when he signalled to write a bill of divorce to his wife, one writes and delivers as long as he is alive."

26 The Tosephta clearly prescribes to deliver the bill while the husband is alive but unconscious.

27 It was stated: "If a deaf-mute person gave heave, it is not heave. Rabban Simeon ben Gamliel said, to what does this refer? If he was born deaf-mute. But if he was normal and became deaf and dumb, he writes and others confirm his signature."
Rebbi Jacob bar Aha, Rebbi Hiyya, in the name of Rebbi Johanan: One disagrees with this Tanna. They say, does not a Mishnah disagree: "If he became deaf-mute or insane, he may never divorce." Why can he not write and have others execute his written instructions? They upheld it, if he was illiterate. Rebbi Abba bar Mamal objected, does not a baraita disagree: "If he wrote himself, or told the scribe to write and the witnesses to sign, even though the scribe wrote, the witnesses signed, they gave him [the bill] and he in turn gave it to her, it is no divorce." Rebbi Assi said, complete the sentence and there is no disagreement: "it is no divorce unless they hear his voice." But even if he gave a sign with his
Rebbi Mana said, it is valid: hearing the voice has the same status as seeing him nod his head!

Rebbi Ze’ira asked before Rebbi Mana: Just as you say that three times he must give a sign with his head, (must one equally hear his voice three times)? He said to him, hearing his voice once, giving a sign with his head three times.

Since R. Ze’ira lived too late to have known R. Mana I and was the teacher of R. Mana II’s teacher, the correct reading is that from Terumot: R. Ezra.

Rebbi Yudan said, there, if he said I did such and such, here, if he says do such and such. Rebbi Benjamin ben Levi inquired: He should have
understanding for the future if he has understanding for the past; (if he has no understanding for the past,) he would not have understanding for the future! Rebbi Abba Mari said, here we deal with a mute; there is no agency for a mute. Rebbi Yose ben Rebbi Abun said, we deal with a sane person. Why is there no divorce? Because I say, he was occupied with his documents. We also stated thus: "When was this said? When he was paralyzed while being healthy. But if he was paralyzed by a prior sickness, once is enough."

But only if it is intermittent. Shall we write a bill of divorce for your wife? And he says, yes. For your mother, and he says, no. For your wife? And he says, yes. For your daughter, and he says, no. For your wife? And he says, yes. For your sister, and he says, no. Is it the same for testimony? Rebbi Abbahu came in the name of Rebbi Joḥanan: It is the same for testimony, since a person may testify while sitting. The same holds for vows. Rav Sheshet stated: Just as one checks three times for bills of divorce, so one checks for inheritance, commercial transactions, and gifts.

29 This refers to the last part of the Mishnah, about the bill of divorce to be written for a paralyzed man. As explained here, one asks questions in which the one which counts is alternating with other questions for
which the answer must be "no" (or shaking of the head).

30 A paraphrase, not a parallel text, is quoted in Tosaphot 70b, s. v. דוד.

31 Deut. 19:17 requires only that the parties to a suit stand before the judges, not the witnesses. Therefore there is no biblical impediment to ascertaining testimony from a paralyzed person.

32 A similar text in the Babli, 71a, and Tosephta, 5:1. In both of these texts, testimony is explicitly included.

Mishnah 2: If they said to him, shall we write a bill of divorce for your wife? If he said to them, write, and they told the scribe who wrote, and the witnesses who signed; even though they wrote, signed, and delivered it to him and he delivered it to her, this is an invalid bill of divorce unless he said to the scribe, write, and to the witnesses, sign.

33 An indeterminate plural always means 2.

34 As Rashi points out, he must be either a healthy person or a sick scholar, for whom the special simplified rules for the dangerously ill do not apply.

35 The husband did not appoint the people talking to him as a court since they are only two. Nor did he appoint them as witnesses to his order to the scribe, as explained in the Halakhah.
Halakhah 2: "If they said to him, shall we write a bill of divorce for your wife," etc. If he said to two people, say to X that he shall write and to Y and Z that they shall sign. Rebbi Ze'ira in the name of Rebbi Jeremiah, this happened in the days of Rebbi, and he said, such a thing should not be done in Israel. Samuel said, it certainly should be done. Rav Jeremiah asked Samuel: If he said to two people, say to X that he write and you sign. He said to him, that is a bill of divorce but it needs study. The opinion of Samuel seems inverted. There, he said, it certainly should be done, and here, he says so? There is a difference, because they changed their testimony.

36 As explained in the preceding Note, this legalizes the writing of the bill.
37 He is identical with the Rav Jeremiah mentioned later in this paragraph.
38 The Babli, 67a, which attributes the statement to Rav, explains that the procedure is disapproved of since a wife might hire witnesses to falsely instruct the scribe to write and witnesses to sign.
39 A similar question, in the name of Rav's Academy, is mentioned in the Babli, 66b.
40 The woman is divorced but she cannot remarry based on that bill.
41 The argument is cryptic. It assumes that the question was: "If he said to two people, tell X that he write and you sign; they told the scribe to sign and others to sign." (In the Babli, the question is inverted, with the witnesses being instructed to have others sign but they signed themselves.) The question then arises, is it sufficient that the bill of divorce be written correctly (which it is) but not signed according to instructions? (The arguments of the Babli about this case are irrelevant for the Yerushalmi.)
We understand, to the witnesses, sign! But to the scribe, write? Does this not disagree with Rebbi Johanan, since Rebbi Johanan said, if he wrote the essential text with the formula, it is valid. He explains it following Rebbi Jehudah, since Rebbi Jehudah invalidates formulas.

42 This now is a discussion of the Mishnah. The persons asking whether a bill of divorce should be written cannot engage witnesses without special authorization. But why should the scribe not be able to write on a simple order since he is able to write the entire bill of divorce in advance, just leaving blanks for the names and addresses of the parties?

43 The problem of bills written in advance was treated in Chapter 3, Note 17 ff.

44 The Mishnah here follows R. Jehudah who prohibits the scribe from using prepared texts.

Mishnah 3: "This is your bill of divorce if I should die, this is your bill of divorce if I should die from this illness, this is your bill of divorce after my death," he did not say anything. "From today if I should die, from now if I should die," that is a bill of divorce. "From today after my death" is no bill of divorce; if he dies she must receive *halîsah* but is barred from levirate marriage.

45 Nobody can be divorced after his death. The next sentence makes it clear that a bill of divorce would be valid if given on condition to become
activated one hour before the husband's death. But from that moment he can no longer live with his wife without invalidating the divorce.

46 The husband's intent cannot be determined from this language. Does he want to say that the divorce shall be valid from the moment the bill was handed to his wife if he should die (either from the illness he is currently suffering from, or on a trip overseas he is just starting, or any other foreseeable dangerous situation which causes him to write the bill), or does he really mean that the divorce should become effective only at the time of his death? In the first case, the wife becomes a divorcee after his death, in the second case she becomes a widow.

In some Bablyonian sources, the wording is "it is and is not a bill of divorce."

47 If he dies childless and has a brother, the wife cannot enter levirate marriage since she might be a divorcee; she cannot marry outside the family without hališah since she might be a widow; cf. Introduction to Tractate Yebamot.

Halakhah 3: "This is your bill of divorce if I should die, this is your bill of divorce from this illness, this is your bill of divorce after my death," he did not say anything." 48But our teachers said, it is a bill of divorce 49. Who are "our teachers"? Rebbi Jehudah the Prince and his court 50. In three places is Rebbi Jehudah the Prince called "our teachers", about bills of divorce, oil 51, and a sole 52. They should have called him "permissive court" since any court which permits three [previously forbidden] things is called "permissive court." Rebbi Yudan ben Rebbi Ismael 53 said, his court disagreed with him about the bills of divorce.
This paragraph is also in Niddah 3, explained there in Notes 93-97. "Rebbi Jehudah the Prince" may be Judah II, Rebbi's grandson; cf. Note 51.

The Babli, Gittin 72b, reports the same but in 76b refers the decision to Mishnah 7:9: "If he says, this is your bill of divorce if I do not return within 12 months; if he dies in the meantime, the bill of divorce is void." In this case also, he did not specify from today. The Babli explains that in both cases they follow R. Yose who holds that "the date of a document is proof of its validity:" a bill of divorce executed before the husband's death is valid (cf. below, Note 67). The Yerushalmi's interpretation is given in the second and third paragraphs following.

50 Sabba 1:1 (3d 1.20), Gittin 7:3 (48d 1.17), Avodah zarah 2:8 (41d 1.48); obliquely mentioned in the Babli Gittin 72b, 76b; Ketubot 2b, Avodah zarah 37a.

51 Mishnah Avodah zarah 2:9. The Mishnah has a list of foods that cannot be taken from Gentiles without kosher supervision since one cannot be sure that no forbidden ingredients were used, but which are not forbidden for usufruct. A first group includes milk, bread, and olive oil, with a note that "our teachers permitted olive oil" [to be used without supervision.] In the Babli, this permission is attributed to Rebbi, not his grandson R. Jehudah the Prince. (The chronology of the House of Hillel in the Third Cent, and the attribution of decrees between Rabbis Jehudah I, II, and III is in dispute.)

52 If a woman has a miscarriage in the shape of a sole (essentially an empty placenta) she is subject to all disabilities of the woman who gave birth to a male and a female. Rebbi Jehudah's court restricted this to the case that a human shape was recognizable.

53 In Niddah simply: R. Yudan.
This cannot refer to the case in the Mishnah here, but must refer to Mishnah 10, about a man going overseas who gave his wife a bill of divorce to be valid if he should not return within 12 months. It is clear that the wife can remarry after 12 months. The question is whether she can remarry within 12 months if news was received of her husband's death (meaning that he would not be able to return) but the news was not brought by two witnesses testifying in court.

"From today if I should die, from now if I should die," that is a bill of divorce. 'From today after my death' is no bill of divorce." Rebbi Yudan said, the rabbis and our teachers [discussed.] Our teachers objected to the rabbis: Why do you say, it is a bill of divorce? Because he said, "if"! But in the last statement, he said "if" and you say, it is no bill of divorce! But it must be because he said, "from today". We also hold that "from today" is the main point. Rebbi objected to the rabbis. Why do you say, it is not a bill of divorce? Because he said, "from today"! But in the earlier statement, he said "from today" and you say, it is a bill of divorce! But it must be because he said, "if". I also am holding that "if" is the main...
point 61. There, they switch attributions. Both Rebbi Yasa in the name of Rebbi Johanan and Rav say that the words of Rebbi [interpreted] there are the words of the rabbis [interpreted] here: Since he said "from today" it is as if he had said "on condition." Rebbi Ze'ira asked before Rebbi Yasa, "on condition that I die" or "on condition that it be after my death"? He said to him, "on condition that I die." Rebbi Abba in the name of Rav: The words of Rebbi [interpreted] here are the words of the rabbis [interpreted] there: Since he said "from today" it is as if he had said "after death."  

55 Since in the sequel Rebbi (who is "our teachers") objects to the rabbis, it follows that here one has to read: The rabbis (of the Mishnah) objected to our teachers (who declare the bills of divorce of the first series as valid.)  

56 Our teachers follow R. Yose (Note 67) who declares that "the date of a document is proof", meaning that the date of a document valid under certain conditions is proof of intent that it should be valid from that date on once the condition was satisfied. Therefore, the difference between the first and second series of bills of divorce is irrelevant; all are conditional in the same way.  

57 He really did not say "if" but "from today after my death" but this means the same as "from today on condition that I shall have died." In any case, it is a dated document with an implied condition.  

58 An undated document, while valid if executed unconditionally and delivered before witnesses at the time it was written, can never be validated after that time.  

59 "From today after my death".  

60 The first two examples of the second series.  

61 That every dated document containing a condition is to be read as valid from the date of execution once the condition is satisfied (unless it is stated otherwise in the document.)  

62 In the Babli, 72b, Rebbi is quoted to the effect that "from today after my death" is a valid condition.  

63 Retroactively valid now if the husband dies from his current illness.  

64 That the divorce be valid only after the husband's death.
There\textsuperscript{65}, we have stated: "If somebody writes his property over to his sons, he has to write: From today and after death\textsuperscript{66}. Rebbi Yose says, this is unnecessary." What is Rebbi Yose’s reason? The date of the document is its proof\textsuperscript{67}. The colleagues in the name of Rebbi Johanan: This is no condition\textsuperscript{68}. Rebbi Ze’ira in the name of Rebbi Johanan: It applies neither to bills of divorce nor to gifts\textsuperscript{69}. Rebbi Ila\textsuperscript{70} said, for a gift; since he said "from today", the gift is irrevocable. Why did he write "after death"? To reserve the yield to himself\textsuperscript{71}. But in bills of divorce, since he wrote "from today" in the bill, it would be a separation\textsuperscript{72}. Why did he write "after death"? To reserve her body\textsuperscript{73} to himself. Rebbi Bibon\textsuperscript{74} bar Cahana said before Rebbi Ila, not to reserve her earnings for himself\textsuperscript{75}? He answered, we do not find a woman married to one man and her earnings belonging to another. Rebbi Ze’ira praised him for this and called him "son of the Torah."

\textsuperscript{65} Mishnah Baba Batra 8:7.

\textsuperscript{66} By a positive biblical rule, an inheritance has to be divided evenly among the male heirs (Num. 27:6-11) except that the firstborn male in rabbinic interpretation receives a double portion (Deut. 21:17). If the father wants to distribute his property
unevenly, or leave real estate to his daughters, he has to execute a will which has to become valid during his lifetime since nobody can act in law after his death.

67 Since everybody knows that a will has to be activated during the testator's lifetime, the date of the will automatically becomes the date of its validation except if this is disclaimed in the document itself. The same statement is in the Babli, Baba Batra 136a.

68 Perhaps compare Greek ὑστερος "later, subsequent" as in combination τῇ ὑστερῃ προσβολῇ "later, subsequent, conditions added to a document." (E. G.) Less likely is a relation between the hapax איסר and Arabic شرسة "stipulation, clause" which might be Aramaic רש, Accadic šetrum, šatārum "document".

69 This is a reformulation of the colleague's statement: R. Yose's statement about wills is applicable neither to divorces nor to gifts.

70 He disagrees with R. Ze'ira.

71 During his lifetime.

72 If it is a divorce, the wife will be able to marry another man.

73 The use of prothetic א for אל is Babylonian. He wants to prevent his wife from remarrying during his lifetime. Therefore, the mention of "after death" contradicts the statement "from today" and there is no divorce. Rashba (Novellae ad 72b) reads: "the bill of divorce is unclear" (He also reads לְשֵׁיָה יָרְפּא, a better Yerushalmi style).

74 Rashba reads: R. Bun. [Compare the Latin adjective vivus "alive" as equivalent of דִּשְׁמִי cf. also the Roman name Bibulus. (E.G.)]

75 Then the divorce would be absolute and the wife entitled to remarry during her first husband's lifetime.

The same situation obtains for bills of manumission. "This is your bill of manumission valid after 30 days from now." In Rebbi's opinion, it is a
bill\textsuperscript{75}; in the rabbi's opinion, it is no bill\textsuperscript{76}. The same situation obtains for abandoning. "My field shall be abandoned after 30 days from now." In Rebbi's opinion, it is abandoned\textsuperscript{77}; in the rabbi's opinion, it is not abandoned. Is it the same for dedications\textsuperscript{78}? Everybody agrees that "my speaking to Heaven is equivalent to my delivering to a person."\textsuperscript{79} Is it the same for preliminary marriage? It was found stated: Rebbi says, she is completely preliminarily married\textsuperscript{80}.

\textsuperscript{75} The slave is freed immediately but for the next 30 days has to deliver his earnings to his former patron.

\textsuperscript{76} The document is self-contradictory and therefore invalid.

\textsuperscript{77} And freed from some of the obligations imposed by biblical law on agricultural properties in the Land; cf. Sevi'it 9:6, Note 85.

\textsuperscript{78} Donations to the Temple or, in later times, for charitable purposes.

\textsuperscript{79} Formulated in the third person this is Mishnah Qiddusin 1:6. Promises of charitable giving always are absolute and irrevocable.

\textsuperscript{80} This refers to Mishnah Qiddusin 3:1: "(You are preliminarily married to me) after 30 days from today', if another man married her preliminarily within the thirty days she is married and not married." In the Babli, Qiddusin 59b, Rav holds that she is permanently disabled from marrying anyone unless she receives a bill of divorce from both men; Samuel holds that she cannot definitively marry until the 30 day period has passed, when the claim of the second man disappears automatically. In contrast, Rebbi here asserts that the preliminary marriage of the second man never was valid in law.
Mishnah 4: "This is your bill of divorce from today if I should die from this illness;" if he got up, walked on the market, fell ill again and died, one estimates whether he died from the original sickness, in which case it is a bill of divorce; otherwise it is no bill of divorce. She may not be alone with him except in the presence of witnesses, which may be even a male or a female slave except her personal slave girl since she has no shame in the presence of her personal slave girl. What is her status in those days? Rebbi Jehudah says, she is a married woman in all respects. Rebbi Yose says, she is divorced and not divorced.

81 If he got out of bed but never left the house, then fell ill again and died, it is a valid bill of divorce even without an expert opinion on the cause of death.

82 To avoid intimacy. If she has sex with him then either it is married sex and the bill of divorce is automatically invalidated, or it is illicit sex and sinful. In Mishnah 8:4, the House of Hillel invalidate any bill of divorce if husband and wife were alone together at any time between the signing of the document and its date of validation. The House of Shammai do not invalidate the bill. The Mishnah follows the House of Hillel.

83 She is divorced in criminal law but not divorced in civil law.

Halakhah 4: "This is your bill of divorce from today," etc. If he overate on groats it is as if he died from that illness, hazelnuts alone and he did not get out of bed it is as if he did not die from that illness.

84 Arabic خنف from Greek κάρυον ποντικόν "Pontic (Black Sea) nut".

85 Overindulging in cereal is not in itself life threatening, but eating hazelnuts without anything else is (since it causes both vomiting and diarrhea at the same time).
"If he died from that sickness\(^87\)," and a stone heap fell on him, or a snake bit him\(^88\), it cannot be a bill of divorce unless he died of that sickness. "If I should not recover from that sickness\(^87\)," and a stone heap fell on him, or a snake bit him\(^88\) it is a bill of divorce since he did not recover from that sickness\(^89\).

86  *Tosafot* 73a, s.v. *אנו*. may read אנה. This may or may not be the original reading; cf. H. Guggenheimer, *The Scholar’s Haggadah* (Northvale 1995), p. 322.

87  This is the condition on which the bill was delivered.

88  While the patient was still bedridden, he died from another cause.

89  The Babli agrees, 73a.

It was stated: "Also the one in mortal danger." Rebbi Jacob bar Aha said, it happened in such a case that he died during intercourse\(^90\).

90  A terminally ill person is forbidden intercourse not for legal but...
"Whether he died from the original sickness." Are male or female slaves trustworthy? The witnesses know that at the time she was alone with him a male or female slave was present. If she was alone with him with the knowledge of two witnesses, she needs a second bill of divorce from him. One witness, she does not need a second bill of divorce from him. One in the morning and one in the afternoon, that was a case and Rebbi Eleazar bar Thaddeus asked the Sages who said, this is not [testimony of] being alone. If she was alone together with him long enough for intercourse, one suspects her about intercourse but not about preliminary marriage. Rebbi Yose ben Rebbi Jehudah says, one also suspects her about preliminary marriage. Rebbi Jeremiah explains the baraita: If she was alone together with him long enough for intercourse, one suspects her about immoral intercourse but not about preliminary marriage. If the time was not long enough for intercourse, one does not suspect anything. Rebbi Yose explains the baraita: If she was alone together with him long enough for intercourse, one suspects her about immoral intercourse but not about preliminary marriage by intercourse. Rebbi Yose ben Rebbi Jehudah says, one also suspects her about preliminary marriage by intercourse. If the time was not long enough for intercourse, one does not suspect preliminary marriage by
money. Rebbi Yose ben Rebbi Jehudah says, one also suspects her about preliminary marriage by money. Rebbi Abin said, It turns out that the House of Shammai parallels the rabbis and the House of Hillel Rebbi Yose ben Rebbi Jehudah.

91 The validity of the bill of divorce may be the subject of a lawsuit. Can such a suit be decided on the testimony of slaves? Slaves cannot be witnesses in court because (1) their testimony is subject to the influence of their master and, more importantly, (2) in money matters they are not subject to the laws of perjury (since they do not have personal property) and "the testimony of a person not subject to the laws of perjury is worthless."

92 The slaves do not have to appear in court.

93 A parallel text is in Tosephta 5:4 and Babli 73b; the text is partially quoted in Sotah 1:1, Note 52.

94 Since two witnesses establish a fact by biblical rules and the House of Hillel invalidate a bill of divorce if the parties were alone together between signing and time of validation, the knowledge of two independent witnesses in itself invalidates the bill.

95 A single witness has no standing in court in matters of validity of marriages or divorces.

96 The name is לדה "Thaddeus" in Sotah, the two parallel (and additional) Babylonian sources, against the reading "Tradion" here.

97 Two single witnesses testifying about two different facts can never be considered as two witnesses for a pattern; cf. Sotah 1:1, Note 52.

98 Preliminary marriage (not intended to be definitive) can be effected by intercourse (Mishnah Qiddušin 1:1); this is biblical standard. A marriage ceremony which is not witnessed is automatically invalid but it is possible to consider the witnesses to their being alone together as witnesses of intercourse. In Mishnah 8:11 the House of Hillel require only minimal standards from witnesses once the parties had been definitively married and living together.

99 This is an extraordinary relaxation of the standards of testimony in the circumstances of Mishnah 8:11. The Babli, 73b, rejects any legal consequences of physical intimacy not confirmed by two eye-witnesses.

100 Mishnaiot 8:4,11.
For what? Rebbi Eleazar said, to inherit from her, as we have stated there: "He has a claim on what she finds and on her earnings, to dissolve her vows." Rebbi Ze'ira said, this is what is implied by "she is a married woman in all respects."

What does R. Jehudah mean when he states that the woman who receives a bill of divorce which becomes valid at an indeterminate point in the future is a married woman in all respects?

If the wife dies before her severely ill husband. In the Babli (73b/74a) and the Tosephta (5:4), this is a tannaitic statement.

The opinion of Rebbi Jehudah seems to be inverted. There, he says that death is frequent but here, he says that death is not frequent. There in public, here in private, as it was stated: Rebbi Jehudah says there was no chest for nests in Jerusalem because of the mixing, maybe one of them would die and money for purification offerings destined to die would be mixed in with them.
to mean "his wife": an unmarried High Priest is unable to officiate. R. Jehudah requires that the married High Priest preliminarily marry another woman lest his wife die in the week before the Day of Atonement and prevent him from serving. He cannot definitively marry another woman since he alone among all Jews is required to be monogamous (Lev. 21:13). The other rabbis consider R. Jehudah's precaution to be excessive.

106 He could not say that the woman who received a bill of divorce "from now if I should die" is married in all respects if at any moment he would expect the husband to die and the wife to be divorced.

107 יניס is Babylonian spelling for Yerushalmi יניס. The reference is to Seqalim 6:5 (belonging to Mishnah 6:7). The Mishnah enumerates 13 chests which were maintained at the Temple gate for the public to deposit its contributions. One of the chests was labelled for "nests", the pairs of birds required as a purification sacrifice (Lev. 12:8) before a woman after childbirth could partake of family sacrifices. The women would deposit the money in the chest and every day the priests would offer the corresponding number of pairs of birds to purify the women. R. Jehudah holds that there was no such automatic arrangement in the Temple but that every woman after childbirth had to provide the pair of birds and personally hand them to a Cohen. His problem was that one of the birds was a holocaust but the other a purification offering and purification offerings might be presented only for living persons. If a woman died between the time she deposited the money in the chest and the next morning when the money was counted and the number of birds determined, then not only her purification offering would be invalid (it could not be offered, nor could it be released; it had to be kept in isolation until it died) but it would invalidate all other offerings of the same day (cf. Babli Yoma 55b/56b). R. Jehudah goes to extraordinary lengths for fear of sudden deaths; his position in the Mishnah here becomes more difficult to understand.
What is the status of her intercourse? Some Tannaim state, her intercourse is certain, but some Tannaim state, her intercourse is in doubt. According to him who says that her intercourse is certain, he brings a "hung" sacrifice. According to him who says that her intercourse is in doubt, if [the husband] dies, he is free; if [the husband] does not die, he brings a purification sacrifice.

108 What is the legal status of a woman who had intercourse with another man after she had received a bill of divorce valid "from today when I shall die."
109 It certainly is sinful.
110 If the husband dies, it is clear retroactively that the intercourse was permitted.
111 If the man involved was unaware at the moment of the act that the woman might be married. The "hung" sacrifice is the expiation sacrifice prescribed in Lev. 5:17-19 for an unintentional sin whose nature eludes the perpetrator.
112 A regular purification sacrifice (Lev. 4:27-35) for unintentional adultery. No sacrifice can ever atone for intentional sin (Num. 15:30).

Mishnah 5: "This is your bill of divorce on condition that you give me 200 zuz;" she is divorced and has to pay. "On condition that you give me within thirty days," if she paid within thirty days she is divorced, otherwise she is not divorced. Rabban Simeon ben Gamliel said, it happened in Sidon that someone said to his wife "this is your bill of
divorce on condition that you return to me my stole\textsuperscript{114} and it turned out that his stole was lost; then the Sages said, she shall pay him its value\textsuperscript{115}.

113 She is divorced immediately but she cannot act on the divorce (either claim the ketubah or remarry) before she paid up.

114 Greek στολίς, στολή "garment" also "equipment, arms, etc." Can the rabbinic Hebrew •'bs "garment" (for biblical "vessel, equipment, arms") be induced by analogy with the Greek (E. G.)? In Latin stola "garment, ceremonial robe".

115 Since this statement is labelled as Rabban Simeon ben Gamliel's, it follows that others either invalidate the divorce if the stole cannot be found or that she has to replace it in kind.

Halakhah 5: "This is your bill of divorce on condition that you give me 200 zuz," etc. It was stated\textsuperscript{116}: If she did not manage to pay before he died, Rabban Simeon ben Gamliel says, she pays his father or his brother and is free from halisah and levirate marriage\textsuperscript{117}. The same holds for preliminary marriage: "You are preliminarily married to me on condition that I shall give you 200 zuz;" if he did not manage to pay before he died, Rabban Simeon ben Gamliel says, his father or his brother pay and she is subject to halisah or levirate marriage.

116 In the Babylonian sources, Babli 74a (Qiddušin 60b), Tosephta 5:5, this is formulated as a dispute: "If he died before she paid, she is subject to levirate marriage; after she paid, she is not subject to levirate marriage; Rabban Simeon ben Gamliel said..."

117 If the husband died childless, cf. Introduction to Tractate Ye'ḥamot. As the Babli explains, 74a, "anybody who
says 'on condition that' means to say 'valid immediately on condition that’” (Tosephta 5:6). The delay in fulfilling the condition does not change the fact that the divorce preceded the husband's death.

While the statement on divorce is also quoted in Qiddusin 3:2 (63d line 16) as tannaitic, the parallel about marriage is presented as amoraic inference. It is obvious that at the moment of preliminary marriage the groom has to give some valuables to the bride.

Rebbi Yudan said, we deal with the case that it was lost by compulsion\textsuperscript{119}. They treated her like an unpaid trustee who may stipulate to be free from an oath. Rebbi Yose said, do we state here that the unpaid trustee is free from an oath\textsuperscript{120}? But we deal with the case that it was lost by mishandling. They treated the stole according to its value. But the rabbis say that in any case it has to be treated as a case of condition of a bill of divorce\textsuperscript{121}.

\textsuperscript{119} The reason Rabban Simeon ben Gamliel does not insist that the condition on which the divorce was given be fulfilled to the letter is that the wife is an unpaid trustee who is not required to pay for damages beyond his control. In contrast to the unpaid trustee who has to swear that it was beyond his control if he does not want to pay, the wife does not have to swear (Ketubot 9:4, Note 121).

\textsuperscript{120} If R. Yudan’s explanation were correct, some reference should have been made to the rules of trustees. Since no reference was made, it makes no difference why the stole was lost. Rabban Simeon ben Gamliel from the start treats the request for the stole as a request for money.

\textsuperscript{121} The rabbis who oppose Rabban Simeon ben Gamliel require fulfillment of the condition to the letter. If the stole cannot be produced for any cause whatever, the divorce is invalid. In the
Babylonian sources (38a, 75a; Baba qama 69a, Baba mesi'a 38b, Baba batra 174a, Ketubot 77a, Sanhedrin 31b, Bekhorot 24a), practice is decided following the rabbis. This is reported as Babylonian practice in Baba batra 10:14 (17d 1.9).

Mishnah 6: "This is your bill of divorce on condition that you serve my father," "on condition that you breast-feed my son," how long does she have to breast-feed him? Two years\(^{122}\); Rebbi Jehudah says, eighteen months. If the son or the father died, it is a valid divorce\(^{123}\). Rabban Simeon ben Gamliel said, that is a divorce. Rabban Simeon ben Gamliel stated a principle: Given any hindrance which is not from her side, it is a divorce.

Mishnah 7: "On condition that you serve my father for two years," or "on condition that you breast-feed my son for two years;" if the son died or the father said, I cannot stand you serving me (without being offended)\(^{124}\), it is no divorce\(^{125}\). Rabban Simeon ben Gamliel said, that is a divorce. Rabban Simeon ben Gamliel stated a principle: Given any hindrance which is not from her side, it is a divorce.

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122 This is R. Meir's opinion; cf. Sotah 4:4, Notes 55 ff. She does not have to nurse the baby for two years after the divorce but only until he reaches the age of two years (Tosephta 5:6). Since the expenses of child-rearing are the father's responsibility, the mother does not have to nurse her
child if she is divorced before the child is weaned. 

123 This may mean that, if the father or the child died immediately after the bill of divorce was handed over, the divorce nevertheless stands. It is a matter of dispute in the Halakhah.

124 She did nothing to offend the father.

125 Since the condition was not satisfied. The Mishnah in the Babli and most Mishnah mss. adds: "or if the father died in the meantime."

Halakah 6: ""This is your bill of divorce on condition that you serve my father," etc. Rebbi Abba\(^\text{126}\) said: During his lifetime, on condition that she serve all his needs, on condition that she breast-feed all his needs\(^\text{127}\).

\(^{128}\) Even if she did not serve all his needs, even if she did not breast-feed all his needs, but even if she served him for one hour, or breast-fed him for one hour\(^\text{129}\). After death\(^\text{123,130}\), even if she never served him or never breast-fed him. The Mishnah disagrees with Rebbi Simeon ben Laqish: "How long does she have to breast-feed him? Two years, Rebbi Jehudah says, eighteen months." Rebbi Abin said, this was taught about the cost of a wet-nurse\(^\text{131}\).

\(^{126}\) The scribe first wrote "R. Hiyya bar Abba" and then deleted "R. Hiyya". The editio princeps has "R. Hiyya bar Abba". But since the opposite opinion is referred to as R. Simeon ben Laqish's, one of R. Hiyya bar Abba's teachers, the final text of the ms. is the correct one, against the editio princeps.

\(^{127}\) His interpretation of Mishnah 6 is that the absence of any time limit in the condition implies that the divorcee has to be the husband's father's
geriatric nurse for the rest of the latter's life or to breast-feed her child for a full 24 months.

128 It seems from the following that a note "Rebbi Simeon ben Laqish said," was omitted here. In the Babylonian sources, Babli 75b, Tosephta 5:6, it is a tannaitic text.

129 He opts for a minimalist interpretation of the condition. Since no time limit was given, any service or any breast-feeding satisfies the condition and validates the divorce.

130 It could also mean, "after the husband's death." Cf. S. Lieberman's commentary to Tosephta 5:6.

131 R. Abin reads the condition not as a request that the ex-wife breast-feed her child for 24 months and therefore be forbidden to remarry during all this time (cf. Sotah 4:4, Notes 55 ff.) but that the wife pay for a wet-nurse to care for the child in the husband's house, with the wife being free to remarry 90 days after the divorce.

אומר רבי אברהם בַּשָּׁם רבי יהודה. סדר סיסוף כל הווה. א благодаря קרן
בר פטל מקדש כל נאות פלנין בינ פטל על מנה לנה כל מיקום פטל ומכסם
ליחו פטל. דיא אמא גוס פטל ולא כלמהкупיה לא חמי ילעך כלמה. איירע לא
אוסף. רבי יוחנן אמר. אילו אמא קמא כלא עבד. רבי לקים אמר. אוסף
כמאה זבב. על דנימה קירי לקים כליה עזוד. אייא אמא גוס
פל ואמא קמא כלא יריעה ילאך כלמה. רבי יוחנן מי דמי פקיד לבטיה
יד כתומים עבדו קיישה כליה.אמיר. שפיא יעמד בית ויין אץיבר דקוויתהל.
(49a line 21)

Rebbi Abbahu in the name of Rebbi Johanan: The following is the contract text:

132 "I, X son of Y, contract a preliminary marriage with you, Z, daughter of U, on condition that I shall give you property A and
definitely marry you by day B. If that day should pass without me having taken you in\textsuperscript{134}, I shall have no claim on you\textsuperscript{135}.” If anything intervened beyond his control? Rebbi Johanan said, matters beyond his control are as if he were inactive\textsuperscript{136}. Rebbi Simeon ben Laqish said, matters outside his control are as if he had acted\textsuperscript{137}. In the opinion of Rebbi Simeon ben Laqish, what would be necessary? “If that day should pass without you having taken me in, I shall have no claim on you.\textsuperscript{138}”

When Rebbi Johanan was dying, he told his daughters to act following Rebbi Simeon ben Laqish. He said, maybe in the future there might be a court which follows him; then his descendants might be in danger of bastardy\textsuperscript{139}.

\textsuperscript{132} The text is also in \textit{Qiddusin} 3:2 (63d l. 20), readings noted \textsuperscript{P}. The contract text is also in \textit{Erubin} 3 (21b l. 20), noted \textsuperscript{y}.

\textsuperscript{133} Greek τὸ σύμφωνον "(written) agreement". In general, a preliminary marriage was concluded by an act of the male, with passive acceptance by the female. Since a preliminary marriage can also be effected by contract (Mishnah \textit{Qiddusin} 1:1), in certain circles in Galilee this was the preferred course of action (it is not mentioned in the Babli.) The main attraction of the contractual marriage for the woman was that it provided insurance against foot-dragging by the groom (cf. Mishnah \textit{Ketubot} 13:5).

\textsuperscript{134} The translation follows the parallel texts in \textit{Qiddusin} and \textit{Erubin}.

\textsuperscript{135} The preliminary marriage is conditional. If the condition is not satisfied, the marriage is non-existent and the woman may marry another man without needing a bill of divorce from the first. She may even marry a Cohen, which would be impossible if the first preliminary marriage had been valid.

\textsuperscript{136} The condition is absolute. If the definitive marriage did not take place before the contracted date, the preliminary marriage is annulled.

\textsuperscript{137} If the only reason that the definitive marriage did not take place were circumstances beyond the groom’s control, the preliminary marriage is \textit{not} annulled.

\textsuperscript{138} The condition has to be
formulated not for the male, who actively has to take the woman in and therefore can claim unavoidable circumstances, but for the passive female. Since the contract is σύμφωνον, a mutual agreement, she gives her passive acceptance of the preliminary marriage only on condition that she be definitively married by a fixed date. If she refuses her agreement, no preliminary marriage is possible and no bill of divorce due.

139 If a woman contracts a preliminary marriage by the terms of R. Johanan's formulation of the contract and is not married by the time specified because of unavoidable circumstances, and then contracts another marriage without a bill of divorce in the domain of jurisdiction of a court following R. Simeon ben Laqish, her children from the second marriage will be illegitimate if the first groom claims her as his wife.

A person gave money for a ship when the canal dried up\(^\text{140}\). The case came before Rav Nahman bar Jacob: There is the ship, bring the canal\(^\text{141}\)! Abba bar Huna in the name of Rebbi Abba was praying that the canal should dry up and he could recover his money. He said, Rebbi Johanan and Rebbi Abba are of the same opinion as Rabban Simeon ben Gamliel\(^\text{142}\). If she cut off, she hindered. If her hand\(^\text{143}\) (?) was cut off, it is not as if she hindered.

140 This is in Babylonia, where most transport is by water. A person rented a ship for some future transport and then could not use it since in the meantime the canal had dried up. This shows that the disappearance of the old system of canals between Euphrates and Tigris cannot all be dated to the Arab conquest but that the neglect of the canal system already started early in Sassanid times.

141 Rav Nahman holds with R. Simeon ben Laqish that circumstances beyond the contracting party's control
do not invalidate the contract.

142 Who holds in the Mishnah that any circumstance beyond the woman’s control does not interfere with her having complied with the terms of the divorce. (Rashba, *Novellae ad 75b*, prefers to switch the attributions. He reads "it turns out that one has to say", making the sentence an editorial remark, not R. Abba’s statement.)

In order to make sense of this statement, it is necessary with Rashba (*Novellae ad 75b*) and the commentators to read יַעַל instead of יִכְלָל.

"If the woman who was divorced under the condition of breast-feeding her child cut off her breast herself, she violated her contract. If her breast was cut off by others, the hindrance is not her fault and the divorce stands."

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Mishnah 8: "This is your bill of divorce if I should not return within thirty days from today;" if he intended to go from Judea to Galilee, came to Antipatris, and returned, it is invalidated following his condition. "This is your bill of divorce if I should not return within thirty days from today;" if he intended to go from Galilee to Judea, came to Kefar Othnay, and returned, it is invalidated following his condition. "This is your bill of divorce if I should not return within thirty days from today;" if he intended to go overseas, came to Acco, and returned, it is
invalidated following his condition. "This is your bill of divorce if I should be absent from you for thirty days;" even if he repeatedly came and left, it is a bill of divorce if he never was alone with her.  

Mishnah 9: "This is your bill of divorce if I should not return within twelve months," if he died within the twelve months it is no bill of divorce. "This is your bill of divorce from today if I should not return within twelve months," if he died within the twelve months it is a bill of divorce.

144 The great trade route of the via maris, connecting Egypt with Damascus, leaves Judea at Antipatris, near today's Roš Ha'ayin, to enter Samaria. The Mishnah states that a person wanting to leave a country is considered to have left it already when he has reached the border, even if he did not actually cross the border. The person is considered to have left the country; if he then changed his mind and returned, he returned within 30 days and invalidated the bill of divorce.

145 Kafr 'Uthnay near the excavations of Megiddo was the border town at which the via maris, coming from the South, entered Galilee.

146 By the principle explained in Note 144, if the person reaches a harbor where he could find a ship taking him overseas, he is considered to have gone overseas. The Mishnah also can be read as requiring the husband actually to have left the Land of Israel since Acco is partially inside and partially outside the Land (Chapter 1, Notes 64, 77).

147 Since in the opinion of the Yerushalmi "absent from you" means "not having marital relations with you." In the Babli, 76b, this is the interpretation of Rav Huna, against R. Johanan who invalidates the divorce if the wife saw the husband within a 30 day period.

148 After 12 months the woman is a widow, and a widow cannot be divorced.

149 It is a valid bill of divorce the
moment it has been ascertained that within 12 months, the husband will not be able to return.

Halakhah 8: "This is your bill of divorce," etc. For what\(^{150}\)? Rebbi Elazar said, for his house\(^{151}\); Rebbi Johanan said, for places\(^{152}\). The Mishnah supports him who said, for his house: "If he came to Acco\(^{153}\), and returned, it is invalidated following his condition." Rebbi Haggai said before Rebbi Yose, explain it following him who said that Acco is part of the Land of Israel for bills of divorce\(^{154}\). But even if you say that Acco is part of the Land of Israel for bills of divorce, does that mean also for conditions imposed on a bill of divorce\(^{155}\)?

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150 What does "return" mean in the Mishnah?
151 "Return" means that he returns to his wife for marital relations.
152 He already returned if he entered the community of his residence.
153 If we hold that Acco has the status of a foreign country, the part of the Mishnah dealing with Acco is superfluous. The important statement of the Mishnah then is that he has to return to his wife to invalidate the bill of divorce, following R. Eleazar.
154 Mishnah 1:2, Note 77.
155 Conditions have to be interpreted following common use, not in legal jargon. For everybody, Acco is a border town of the Land.
He is forbidden to be alone with her immediately, for maybe he shall not visit her for thirty days and then her bill of divorce would be older than her child\textsuperscript{156}.

156 The condition was an indeterminate period of thirty days, not "from today". If the husband impregnated his wife after delivering the bill of divorce and later absented himself for 30 days, the record will show that the woman was divorced more than 9 months before the birth of her child. While this has no influence on the duties of the father towards his child, it will damage the child's reputation.

\textit{Mishnah 10}: "If I should not return within twelve months from today write a bill of divorce and deliver to my wife;" if they wrote a bill of divorce within twelve months and delivered it within\textsuperscript{157} twelve months, it is no bill of divorce. "Write a bill of divorce and deliver to my wife if I should not return within twelve months from today;" if they wrote a bill of divorce within twelve months and delivered it after twelve months, it is no bill of divorce; Rebbi Yose says, this is an example of a bill of divorce\textsuperscript{158}. If they wrote after twelve months and delivered after twelve months but he had died, if the bill of divorce preceded the death it is a bill...
of divorce but if the death preceded the bill of divorce it is no bill of divorce. If it is not known, it is a case where they say, she is divorced and not divorced.\footnote{159}  

157 This text is supported by a number of Mishnah mss. but all known Babli mss. read "after 12 months". In any case the bill is invalid since the instructions of the husband were not followed to the letter.  

158 R. Yose holds that the instructions of the husband were followed exactly since he mentioned "writing" before he mentioned a date. The opposing rabbis hold that the instruction may be interpreted to mean that no bill of divorce should exist before the end of 12 months.  

159 The widow or divorcee can sue the heirs only for sums due to both widow and divorcee.

Halakhah 10: "If I should not return within twelve months from today," etc. What is the reason of Rebbi Yose? Because he mentioned writing earlier.\footnote{158} But did he not also mention delivering earlier, and you say that it is no bill of divorce?\footnote{160}  

160 The question is not answered delivery before 12 months have elapsed.
The Elder Rebbi Hiyya asked before Rebbi: "This is your bill of divorce after the holiday." He said to him, all of 30 days after the holiday are called "after the holiday." Rebbi Bivon bar Hiyya asked before Rebbi Ze'ira: "This is your bill of divorce on Passover eve'? Even a person who says that all of 30 days after the holiday are called "after the holiday" will agree that 30 days before Passover are not like "after Passover." Rebbi Ze'ira asked before Rebbi Yasa: If somebody said, a qonam that I shall not taste wine at the end of the Sabbath? He said to him, after the end of the Sabbath he is forbidden, Sabbath eve he is permitted, the days in between are problematic. And so it is here, after the end of the Sabbath it is a bill of divorce, Sabbath eve it is no bill of divorce, but the days in between are problematic.

161 If the language "after the holiday" (or possibly, after the holiday of Tabernacles") was used in connection with a bill of divorce; either that the bill should be valid if the husband did not return "after the holiday" or that the bill should be written and delivered "after the holiday", what is the interpretation of this term?

162 The Babli, 77a, accepts this only as Rebbi's private opinion which is not followed in practice.

163 A reference to "Eve of Passover" means the 14th of Nisan and nothing else.

164 A formula of "a vow of deprivation", cf. Introduction to Tractate Nedarim, p. 422.

165 The night following the Sabbath is certainly called "after the Sabbath". The following Friday is certainly not called "after the Sabbath". The days in between are questionable. In the Babli, 77a, Sunday, Monday, and Tuesday are called "after the Sabbath", Wednesday, Thursday, and Friday are called "before the Sabbath".

166 This refers to a condition imposed on a bill of divorce, cf. Note 161.
Halakhah 1: "If somebody throws a bill of divorce to his wife," etc. "He shall write," "he shall deliver into her hand." Not only into her hand;
from where also into her garden or into her courtyard? The verse says "he shall deliver, he shall deliver." Is this following Rebbi Ismael? It is following Rebbi Aqiba. It was stated in the name of Rebbi Ismael, "he took all his land from his hand, up to the Arnon." Did he take it out of his hand? What means "from his hand"? From his possession.

4 A shortened version of this argument is in the Babli, 77b. The argument follows R. Aqiba, who derives rules from every word which could be considered not absolutely necessary. Since "he shall deliver" is mentioned both in Deut. 24:1 and 24:3, he concludes that any legal delivery is acceptable.

5 R. Ismael holds that "the Torah speaks in everybody's language." Therefore, if "hand" is to be interpreted as "possession", a verse has to be found in which this sense is documented. This is Num. 21:26 which notes that Sihon the Amorite "took all the land from the Moabite king's hand". Since land cannot be grasped in one's hand, "hand" must mean "possession". (A hint of this argument is in Sifry Deut. 269. The Babli, Baba Meši'a 56b, following only R. Aqiba, accepts the interpretation of "hand" as "possession" only in extraordinary cases.)
But are her garden and her courtyard not subject to her husband’s having the usufruct? Rebbi Joshua in the name of Rebbi Yannai: Only if he writes to her, "I have nothing to do with your properties." Rebbi Isaac bar Haqulah in the name of Rebbi Hoshaiah: Even if he did not write to her, "I have nothing to do with your properties." It turns out that Rebbi Yannai follows the rabbis and Rebbi Hoshaiah follows Rebbi Meir. Rebbi Yannai follows the rabbis, for the rabbis say, even though the slave’s hand is his master’s hand, he can acquire his document of manumission from [his master’s] hand. But her garden and her courtyard are subject to her husband’s having the usufruct unless he writes to her, "I have nothing to do with your properties." It is difficult for the rabbis: since the slave’s hand is his master’s hand, how can he acquire his document of manumission from [his master’s] hand? Rebbi Hoshaiah follows Rebbi Meir, for Rebbi Meir said since the wife’s hand is not her husband’s hand, she can acquire her bill of divorce from her husband. Her garden and her courtyard will not be subject to her husband, even if he has the usufruct, even if he did not write to her, "I have nothing to do with your properties." If he inherited properties together with her, even if he wrote it is as if he did not write; [for example] if he had married his brother’s daughter, even if he wrote it is as if he did not write. If another person gave her a gift and told her, on
condition that your husband have no rights to it, but it is for you to trade on your own account, then even if he did not write it is as if he wrote\textsuperscript{15}.

6 In the absence of a contract to the contrary, the wife's dowry, brought into the marriage, becomes the husband's property as mortmain subject to his obligation to restitute the full value at the termination of the marriage. Property coming to the wife during the marriage is paraphernalia property about which the husband assumes the duty of administration and from which he has the usufruct. In any case, it is impossible to say that (in the absence of a contract of separation of properties) the wife's properties were in her actual possession during her marriage. Cf. Ye\textit{bamot} 7:1, Note 1.

7 No R. Joshua is known among Amora\textae. One has to read with Tosaphot (s.v. \textit{na}, 77b): R. Johanan.

8 Cf. Mishnah \textit{Ketubot} 9:1 (Notes 1-4) about the different formulations of separation of properties.

9 In the words of the Babli, 77a: In a divorce, her bill of divorce and her entering into full possession of her properties are simultaneous. Even if the husband had the administration of the properties when he dispatched the bill of divorce, the moment the latter landed on his wife's property he has lost the administration, and all property rights revert to his ex-wife.

10 In the Babli (\textit{Qiddu\textsuperscript{s}in} 23b), the attributions are switched: R. Me\textit{r} holds that neither slave nor wife have powers of acquisition separate from husband or master, and the rabbis disagree.

11 While anything the slave acquires automatically becomes his master's property, the master by delivering the bill of manumission empowers the slave to own property, in particular, himself.

12 This is a rhetorical question; the answer was already given, cf. Note 11.

13 The husband possibly is the administrator but not the owner.

14 The right to joint property can be renounced only by transfer of property rights, not by a disclaimer.

15 If the husband never had any rights of administration, he does not have to disclaim them. It is a recognized way of giving property to one's daughter to shield it from the son-in-law; Mishnah \textit{Nedarim} 11:8 (Notes 69,70).
Rebbi Jeremiah asked: If he threw it to her in a courtyard which belongs to neither of them, what is the rule? Rebbi Aha in the name of Rebbi Hanina: That is a problem for the rabbis. Rebbi Abin said, it is a disagreement between Rav and the Elder Rebbi Hiyya, for Rebbi Samuel, Rebbi Ze’ira, Rav Hiyya bar Ashi said in the name of Rav: Drawing close does not acquire in a courtyard which belongs to neither of them. But Rebbi Hiyya stated in disagreement: "Under which circumstances did they say that movables are acquired by drawing close? In the public domain or in a courtyard which belongs to neither of them. But in the buyer’s domain he acquired the moment he accepted it. In the seller’s domain he does not acquire unless either he lifts it up or moves it out of its prior owner’s domain. In a domain where it was deposited he does not acquire unless he is explicitly empowered or he leases its place."

16 If the bill of divorce is deposited in a private domain which belongs neither to the husband nor to the wife, can the wife legally acquire the document by lifting it up or drawing it close to her so that it could be lifted up. In the public domain this is possible as explained in Mishnah 2.
17 This is also referred to in Qiddusin 1:4 (60b l. 32). The text of
the following Tosephta (attributed to the Elder R. Hiyya) is slightly garbled here; it is translated following the text of *Qiddusin* (and its parallels in Babli *Baba batra* 85a, Tosephta *Baba batra* 5:2).

18 Mishnah *Qiddusin* 1:4 states that "movables can only be acquired by being moved" (unless they are acquired together with real estate.) It is a peculiarity of rabbinic law (for which no biblical tradition is claimed) that transfer of money does not transfer ownership of the commodity bought. Delivery is effected and responsibility for the merchandise is transferred from the seller to the buyer uniquely by an act of acquisition by the buyer, which in theory should be actual moving of the merchandise.

19 Since "a person's courtyard acquires for him" (cf. Note 1.)

20 The merchandise was deposited with a third person. Then the owner of the property may grant the buyer the right (with or without payment) to use his property for the acquisition. Without an explicit grant, the merchandise can be acquired only by actual removal from the premises.

21 For Rav, a divorce document can be delivered on another person's property only by direct delivery. For R. Hiyya, the delivery can be indirect as long as no party has an interest in the property. The Babli, *Baba batra* 85a, recognizes only R. Hiyya's position.

Ulla bar Ismael said, he never thought to have a right to her wool basket. Think of it, if her wool basket was of gold? Certainly he never thought to have a right to her wool basket. Rebbi Johanan said, only if it is being used. Rebbi Yose said, only if she is using it at that moment.
Rebbi Simeon ben Laqish said, if it is tied to her; Rebbi Yose said, if she lifts it for her purpose. Rebbi Hoshiaiah stated in support of Rebbi Johanan: Even if he threw it into her *malos* she is divorced.

22 He explains why the wife is divorced if the husband throws the bill of divorce into her wool basket in his house. According to the Tosephta quoted in the preceding paragraph, the wife should not be able to acquire anything on the husband's premises without bodily removing it from the premises. It is now stated that this excludes the wife's personal things.

23 If she is using the wool basket at the moment, it is part of her outfit. If the husband puts the bill of divorce into one of her bags which is not being used, it is no delivery.

24 R. Yose only makes R. Johanan's statement clear.

25 Similar statements of the parties involved are in the Babli, 78a.

26 This *hapax* is unexplained; the hypothetical meaning "baking trough" from *שָׁלֶשׁ* is adopted by the classical commentaries. [Perhaps explain as Greek μαλλός, ό "flock of wool, tress", as contents of her κάλαθος (Note 3) (E. G.). In Galilean speech, no difference existed between ש and ש.]

**Mishnah 2:** If he said to her, "take this bond," or she found it behind his back, she read it and it turned out to be her bill of divorce, it is no bill of divorce until he says to her "this is your bill of divorce". If he put it
into her hand while she was asleep, after she awoke she read it and it turned out to be her bill of divorce, it is no bill of divorce until he says to her "this is your bill of divorce". If she was standing in the public domain when he threw it to her and it landed close to her it is a bill of divorce, close to him it is no bill of divorce, half and half she is divorced and not divorced.

_halakah_ 2: "If he said to her, 'take this bond,'" etc. Rebbi Johanan says, this follows Rebbi Eleazar ben Simeon, since Rebbi Eleazar ben Simeon says it never is a bill of divorce unless he says at the moment of delivery: "this is your bill of divorce. 27"

27 The Babli (78a, Tosephta 6:1), quotes a disagreement between Rebbi, who accepts the husband's declaration even after delivery of the bill, and R. Eleazar ben Simeon, who requires a repeat delivery if the declaration was not made at the moment of delivery. In _Sifry Deut._ 269, the opinion of R. Eleazar ben Simeon is quoted anonymously and referred to the verse _Deut._ 24:1 about the bill of divorce "... hands it over to her and sends her out of his house;" meaning that handing the bill to his wife and making it clear that she is divorced must be simultaneous.
How close is "near"? Rav said, four cubits. Rebbi Ilai the heir said, four cubits. Rebbi Eleazar in the name of Rebbi Johanan in the name of Rebbi Yannai: Stretching out hands, and we have stated: "stretching out hands." Rebbi Abba, Rebbi Jeremiah, in the name of Rav: Stretching out hands. The argument of Rav is inverted; there, he says four cubits and here he says so? There in theory, here in practice. "Rebbi Eleazar stated: Even if it was closer to her than to him but a dog came and took it away, she is not divorced." Samuel agrees with Rebbi Eleazar and disagrees. The clearest way is that he puts it into her hand. If there was room for stretching out hands between him and her, Simeon bar Abba in the name of Rebbi Johanan [states]: If it was closer to her than to him she is divorced, closer to him than to her she is not divorced, half and half she is divorced and not divorced. Abba bar Rav Jeremiah said: In all cases in which we have stated "divorced and not divorced", support is on him.

28 This starts the discussion of the last part of the Mishnah.
29 A person standing in the public domain acquires anything movable that is within a circle of four cubits (about 2.2 m) of him if (1) it is his intent to acquire and (2) no other person is present in that circle; cf. Yebamot 3:9, Note 120.
30 The bill of divorce is legally delivered only if the wife can pick it up by stretching out her hands without moving her feet. (It seems that this includes the possibility that she has to
kneel down to reach the document.)

31 He is Rav's colleague who in the Babli is called Rav Jeremiah.

32 The principle explained in Note 29 is generally accepted in money matters. For example, if one finds something in the street, he can claim it for himself and sue anybody who would snatch it away from him if the two conditions of acquisition are met. The Babli, 79a/b, goes to great lengths to uphold the principle; its arguments are irrelevant for the understanding of the Yerushalmi.

33 In practice, a divorce is definitive only if the document was picked up by the wife. The Babli emphatically agrees in the names of Samuel and Rav Ashi, 79b.

34 Tosephta 6:1. The sources are divided on whether to read Eliezer or Eleazar. In the Tosephta, R. Eleazar disagrees with the restriction of the distance to four cubits; this is not mentioned in the Yerushalmi. The corresponding text in the Babli, 79b, is noncommittal in the matter.

35 Even if he was standing within 4 cubits of her when he threw the bill to her, which would prevent her from acquiring ownerless property.

36 Since she cannot remarry unless she receives a new, clean bill of divorce, for all consequences in civil law she remains married.

Mishnah 3: The same applies for preliminary marriages and for liquidation of debts. If he said to him, throw to me what you owe me and he threw it close to the lender, the borrower is acquitted, close to the borrower, the borrower remains obligated, in the middle both of
them must share it\textsuperscript{41}. If she was standing on top of her roof and he threw it to her\textsuperscript{42}, as soon as it reached the roof’s airspace\textsuperscript{43} she is divorced. If he was on top and she below\textsuperscript{44}, once it left the domain of the roof she is divorced even if it was blotted out or burned.

37 Cf. Mishnah Yeabamot 3:9, Note 120.
38 The creditor (who is explicitly mentioned in most Mishnah and Babli mss.)
39 In the public domain.
40 The borrower threw it in the public domain close to the lender. The borrower is free even if the creditor is unable to pick up the money.
41 If the money is lost, the borrower and the creditor each have to cover half the loss.
42 The flat roof has the same standing as a courtyard; delivery to the roof is legal delivery (Mishnah 1).
43 Even if the wife never could pick it up since, as explained in the next sentence, it might have landed in a puddle and become illegible or landed in a fire and be destroyed.
44 In her own domain.

\textit{Halakha 3:} "The same applies for preliminary marriages", etc.

\textsuperscript{46}Rebbi Simeon ben Laqish in the name of Abba Cohen Bar Dalaia: A person acquires a find within four cubits of himself. What is the reason? (IChr. 22:14) "Look, in my poverty I prepared for the House of the Eternal 100'000 \textit{kikkar} of gold, 1'000'000 \textit{kikkar} of silver, bronze and iron unweighed because it was so much; I prepared wood and stones, and you should add to them."
Rebbi Jonah said that Rebbi Hoshaiah asked: What are we talking about? If this was within four cubits from him, he was rich. If it was outside of four cubits, may anybody dedicate anything that is not his? We confirmed it if he dedicated it piece by piece.

Rebbi Abun said, what means "in my poverty?" That there is no wealth before Him Who commanded and the world came into existence!

Another explanation: "in my deprivation," because he fasted and donated the price of his meal to Heaven.
Rebbi Jacob bar Idi objected before Rebbi Simeon ben Laqish. Did we not state: (Mishnah Baba Mezi'a 1:4) "If somebody saw a find and fell on it, when another person came and grabbed it, he who grabbed it had the rights to it?" He answered him: Explain it if the first one did not say that his four cubits should acquire it for him. But did we not state: "If he fell on it or spread his talith on it, one removes him from it?" He said to him, that is the same, if he did not say that his four cubits should acquire it for him. But did not Rebbi Hiyya state: (Tosephta Peah 2:2) "If two were pushing one another because of a sheaf and another person came and grabbed it from before them, the one who grabbed is entitled to it. He said to him, it is the same, they did not say that our four cubits should acquire it for us.
Rebbi Yasa said in the name of Rebbi Johanan: That refers to divorce documents, but it does not apply to a gift. Rebbi Johanan adds something, Rebbi Simeon ben Laqish adds something. Rebbi Johanan adds something. Since a find which cannot be acquired by the knowledge of another person can be acquired within four cubits, should this rule not apply *a fortiori* to a gift that is acquired by the knowledge of another person? Rebbi Simeon ben Laqish adds something. Since a gift which could only be acquired within four cubits by the knowledge of another person, should this not *a fortiori* apply to a find?

Rebbi Zeira objected before Rebbi Yasa: But did we not state: The same applies to marriage? He answered him, divorce documents and marriage contracts have the same rules. But did we not state: The same applies to debt? He said to him, because if he said to him: Throw it into the sea and your debt will be forgiven, it would be forgiven. But if that is
true, even if it fell down close to the debtor, the debtor should have the benefit! But we have stated, if it falls down close to the debtor, the debtor is still obligated. For he said to him, throw it so that it will enter my domain, but it did not yet enter his domain. Rebbi Abbahu said, all those objections that Rebbi Zeira raised before Rebbi Yasa, Rebbi Simeon ben Lakish raised before Rebbi Johanan. Did he accept them from him? He solved them with those same solutions.

Rebbi Abin in the name of Hizqiah: The second scribe earns money\(^{47}\).

\(^{47}\) Even though the Mishnah stated that the woman is divorced if the bill reached the airspace of her property, the practice explained in Note 33 forces the parties to have a second document written since otherwise the woman could not remarry and, consequently, the husband could not escape his obligation to support her. [The corrector added a word: "they taught that the second scribe earns money". The attempts of the classical commentators to replace this are most unconvincing.]
Rebbi Eleazar said, the Mishnah speaks of a roof with a parapet when it descended lower than the parapet\textsuperscript{48}, or one without a parapet when it descended lower than within three handbreadths of the roof, since anything within three handbreadths of the roof is as if it were part of the roof\textsuperscript{49}. Rebbi Jacob bar Aha, Rebbi Abba bar Hammuna in the name of Rav Ada bar Ahawa: This refers to the rules of the Sabbath, where anything within three handbreadths of a partition is considered part of the partition\textsuperscript{50}. Rebbi Yasa said, they are not comparable, for bills of divorce are about the top, the rules of the Sabbath about the below\textsuperscript{51}. For bills of divorce even if it never came to rest\textsuperscript{52}, for the Sabbath only if it rested\textsuperscript{53}. Rebbi Immi in the name of Rebbi Johanan: Only if it descended to within the partitions\textsuperscript{54}. Rebbi Immi asked before Rebbi Johanan: Does the Mishnah follow Rebbi, since Rebbi considers partitions as solidly filled up\textsuperscript{55}? He said to him, here in the matter of bills of divorce it is everybody’s opinion\textsuperscript{56}. Could one not object that Rebbi said, if it is roofed? And you say, it is not roofed?\textsuperscript{57} What is the difference between bills of divorce and the Sabbath? Rebbi Abba said, about the Sabbath it is written: "You shall not do any work;" it may make itself automatically\textsuperscript{58}. But here "he shall deliver into her hand," into her domain.

\textsuperscript{48} The Mishnah in which the bill of divorce is considered as delivered if it arrived at the wife’s roof must consider a roof shielded from the wind by a parapet (which by biblical standard must be at least 10 handbreadths high; Deut. 22:8).

\textsuperscript{49} Any opening which is less than 3 handbreadths wide can be disregarded. (In the terminology of the Babli, this is called "glued (to the wall or the ground)", Sabbath 97a,
Erubin 16b.] This explanation is also quoted in Erubin 10 (26b 1. 39).

50 It is forbidden on the Sabbath to move anything from a private (enclosed) domain to the public domain. The corresponding rules have nothing to do with property rights.

51 The bill of divorce is delivered as soon as it enters the roof space defined by the parapet from the top; the rules of "gluing" a hanging wall to the ground refer to the three handbreadths closest to the ground.

52 As the Mishnah explains, even if the bill was burned in a fire on the top, the delivery is valid.

53 In the rules of the Sabbath, moving an object has three stages: Lifting the object from a state of rest, transporting it from one domain to another, and depositing it (Mishnah Sabbath 1:1). If any of the three stages is missing, the biblical law was not violated. Therefore, if a document was moved from one domain to another (as from the husband's courtyard to the wife's roof) and burned while still flying, it was delivered as a bill of divorce but not moved by the laws of the Sabbath. (Cf. Kilaim 1:9, Note 188).

54 This refers to the last sentence in the Mishnah. If the husband throws the bill from his roof to her courtyard, it is possible to say that the bill was delivered the moment it cleared the roof only if the walls of the wife's courtyard are higher than the husband's roof. Otherwise it would be delivered only if the bill fell below the level of the courtyard walls. (The same argument is quoted in Samuel's name in the Babli, 79a.)

55 Rebbi considers it a violation of the Sabbath if the object was brought within the walls of the domain for which it was intended; he does not require it actually to come to rest (Sabbat 1:1 2c l. 63, 11:1 12c l. 59; Babli 4a, 5a, Gitin 79a).

56 The Babli agrees, 79a, that the delivery of bills of divorce is governed by the rules of property rights, not those of the Sabbath.

57 This refers to Mishnah and Halakhah Sabbath 11:1: "If somebody throws an object from a private domain to the public domain or from the public domain to a private domain, he is guilty. From a private to a private domain across the public domain, R. Akiba declares him guilty but the Sages declare him not prosecutable." It is then explained that throwing from the public to a private domain is prosecutable only if the object came to rest. On that it is noted that Rebbi
does not require it to come to rest (only to be received within the walls), but R. Abba bar Huna in the name of Rav said that "Rebbi did only find him guilty if the private domain was roofed." It is noted there that R. Johanan objected to the latter statement, which explains that no answer is given to the question raised.

As long as it was not intended that the object should come to rest by the force of the thrower (but it was moved along by some mechanical contraption not directly controlled by the thrower), no violation of the Sabbath occured. But for delivery of a bill of divorce, it is the fact of delivery rather than its mode which counts.

Mishnah 4: The House of Shammai say, a man may send away his wife with an old bill of divorce, but the House of Hillel forbid it. And what is an old bill of divorce? If he was again alone with her after he wrote it for her.

In Mishnah 9:11, the House of Shammai forbid divorce except for adultery (whether or not it is provable in court). Therefore, the House of Shammai can assume that the parties hate one another and will not sleep together. But the House of Hillel, who permit divorce for any (or no) reason, must be afraid that the wife could become pregnant after the bill was written and this would put her child in an untenable position. In any case, everybody agrees that the bill of divorce is valid in biblical law.
Halakhah 4: "The House of Shammai say," etc. Rav Jehudah in the name of Samuel: And any one of them if she was married should not leave, in order not to cause talk about her children.60

60 Since the bill of divorce is valid in biblical law, there is no reason to punish any woman who remarries based on such a bill. The court has no reason to force her to leave the new husband. The Babli, 79b, agrees and even notes that if the first husband is unavailable to give a corrected bill, the court will instruct the woman to remarry on the basis of the old bill.

We stated: "After he wrote it for her." Some Tanna'im state "after he delivered it to her." He who says "after he delivered it to her" supports the House of Shammai; he who says "after he wrote it for her" supports the House of Hillel.

61 This refers to the House of Shammai in Mishnah 11: "If a person divorced his wife and stayed with her in a hostelry, she does not need a second bill of divorce from him," since after a divorce for adultery we do not assume that the husband would sleep with his ex-wife.

62 They always expect a man and a woman to take any occasion to sleep together if they were once married.
Mishnah 5: If he wrote in the name of an inappropriate government, in the name of the government of Media or the government of Greece, from the construction of the Temple or the destruction of the Temple; if he was in the West and wrote "in the East" or in the East and wrote "in the West", she needs a bill of divorce from both of them, she has neither ketubah nor usufruct nor used clothing from either of them, and if she took anything she must return it. Any child from either of the men is a bastard; neither of them may defile himself for her. Neither man has any claim on what she finds or earns, or on invalidation of her vows. If she was the daughter of an Israel, she is disabled from priesthood, the daughter of a Levite from tithe, the daughter of a Cohen from heave. The heirs of neither man inherit her ketubah. If they died, the brothers of both of them perform halisah but not levirate. If he changed his or her name or the name of his or her city she shall be divorced from both of them and all the indicated consequences apply to her.

63 If the document was dated by the regnal years of a king who did not rule over the place at which the bill was written.
64 The government of Media had ceased with Cyrus, many centuries earlier. An astronomer like Ptolemy could base his computations (during the reign of Antoninus Pius) on the era of the Assyrian king Nabonassar, but a
legal document had to refer to the years of the Princeps in Rome or the Parthian, later the Persian king in Babylonia.
65 Probably this refers to any one of the successors of Alexander.
66 This way of dating probably was proscribed by the Roman government.
67 If the place of writing the document was described incorrectly.
68 The situation of a woman remarrying based on an invalid bill of divorce is identical with that of a woman wrongly informed of the death of her husband who remarried based on that information; cf. Mishnah Ye'elamot 10:1, Notes 3-6.
69 As noted in the Halakhah, only this section of the Mishnah represents practice; it has given rise to an enormous literature dealing with the correct spelling of Jewish names of persons and places; cf. the Introductions to E. and H. Guggenheimer, Jewish Family Names and Their Origins, An Etymological Dictionary, Ktav Publishing 1992; Etymologisches Lexikon der jüdischen Familiennamen, K. G. Saur 1996.

Halakhah 5: "If he wrote in the name of an inappropriate government, in the name of the government of Media," etc. Rebbi Johanan in the name of Rebbi Yannai: They declared the child a bastard because of the danger.70 Rav Huna in the name of Rav: This entire Chapter is Rebbi Meir’s except for "if he changed his or her name or the name of his or her city." Rebbi Mana asked before Rebbi Yasa: Also "if somebody divorced his wife." He said to him, not your Chapter but our Chapter.73
There is no biblical reason why a bill of divorce should be invalid as long as it is possible to identify its date. The only reason that people are made afraid of the consequences of incorrect dating is to avoid repressive measures by the Roman government. The Babli agrees, 80a.

None of the rules which require a double divorce are practice except that which forbids changing the names of the parties or their places of residence. The Babli agrees implicitly by labelling the rules as R. Meir's.

The following Chapter 9.

Only the rules in Chapter 8 which require a double divorce.

A "she-ram" is an infertile woman lacking secondary sex characteristics. Her marriage is considered non-existent by biblical standards. It is the basic tenet of the House of Hillel that if a man dies...
without issue and any of his wives is forbidden to any of his brothers, all of his wives are forbidden to all the brothers and are free to marry outside the family without further ceremony (cf. Mishnah Yebamot 1:1). If the relative turns out to be a she-ram, who cannot be married, the release of the other wives turns out to have been erroneous and their new marriages incestuous for those who hold that the outside marriage of a candidate for levirate marriage is incestuous (which is an opinion of R. Aqiba rejected by his successors.)

Halakah 7: "If somebody married his sister-in-law," etc.  
If she should not have married but entered levirate, this is the case of a sister-in-law who married without halisah. Rebbi Jeremiah said, this man performs halisah, the other one keeps her. Rebbi Jehudah ben Pazi in the name of Rebbi Johanan: She must leave. Rebbi Yose asked Rebbi Phineas, how does the rabbi hold? He said, with Rebbi Jeremiah. He said to him, change your mind, for otherwise I shall publicly call you a rebellious Elder. Rebbi Zevidah said, a baraita supports Rebbi Johanan: "She must leave both of them and the thirteen items apply to her,
following Rebbi Meir who said it in the name of Rebbi Aqibah. But the Sages say, there is no bastard from a sister-in-law." Therefore she must leave.

75 This text is *Yebamot* 10:5, Notes 116-121.

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76 In the Babylonian sources more in detail: "If the scribe wrote a bill of divorce for the husband and a receipt for the wife and then ..." The husband has the money ready to pay the ketubah immediately and the wife will hand him the receipt if she obtains the money with the bill of divorce.

77 Who had remarried in the meantime, thinking that she was divorced when in fact she was not divorced since she handed the bill of
divorce to her husband instead of receiving it from him. One has to assume that both husband and wife were illiterate.

78 Mishnah and Babli sources are divided on whether to read Eliezer or Eleazar; the Halakhah later reads "Eleazar".

79 After the wife had remarried one suspects the first husband to have obtained the bill of divorce illegally to cause trouble.

Halakhah 8: "If the scribe wrote," etc. Where do we hold? If he made a mistake, even Rebbi Eleazar agrees. If he made no error, even the rabbis agree. But we must hold that it was unexplained. Rebbi Eleazar suspects that possibly he made no mistake; the rabbis suspect that possibly he did make a mistake.

80 The scribe agrees that he made a mistake, R. Eleazar agrees that no divorce took place.

81 If the scribe denies making a mistake, the rabbis also have to assume that the bill of divorce in the hand of the first husband is fraudulent.

82 The scribe does not remember or is not available to be asked.

"Rebbi Eleazar says: If it was found out immediately, this is no bill of divorce. If it was found out later, it is a bill of divorce since the first
cannot destroy the rights of the second." What is immediately? Rebbi Ze'ira says, before she was preliminarily married, or when she was preliminarily married. Rebbi Isaac ben Haqula said, before she was definitively married, or when she was definitively married. The Mishnah supports Rebbi Ze'ira: "Since the first cannot destroy the rights of the second."

82 The Babli, 80b, considers only this possibility in addition to the obvious interpretation that "immediately" means while they are still in the process of settling the monetary claims arising from the divorce.

83 The second husband acquires his rights to the bride by the preliminary marriage.

Mishnah 10: If he wrote a bill to divorce his wife and then changed his mind, the House of Shammai say, he disabled her from the priesthood. But the House of Hillel say, even if he handed her [the bill of divorce] and attached a condition, if the condition was not satisfied he did not disable her from the priesthood.

84 A priest is forbidden to marry a divorcee (Lev. 21:7). The House of Shammai forbid a woman to her priestly husband if the bill of divorce was written, even if it never was delivered.

85 As long as the divorce was not effective, the priestly husband can take his wife back.
Halakhah 10: "If he wrote a bill to divorce his wife and then changed his mind," etc. Rebbi Johanan in the name of Rebbi Yannai: There is no problem because of the purity of the priestly line and the court will not denigrate her. There came a case before the Elder Rebbi Hiyya and he acted following the House of Hillel. Rav asked him, why did you bring yourself into this great doubt? He answered, Rebbi Ismael ben Rebbi Yose was with me. He quoted about them: "Two are better than one."

86 If a woman became a widow who had been given a bill of divorce but who was not divorced because the condition attached to the divorce was not fulfilled, the court will not intervene if she marries a Cohen.

87 The greatest authority of his time.

88 Eccl. 4:9.

"A woman who engages in sex play with her son, the House of Shammai disqualify, the House of Hillel qualify." Two women who mutually engage in sex play, the House of Shammai disqualify, the House of Hillel qualify.

89 This meaning of the root šal (Biblical "to build a road") is conjectural, similar to the corresponding root šal (usually "to jump") in the Babylonian parallels [Sabbat 65a, Yebamot 76a, Sanhedrin 69b; Tosephtha.
Sotah 5:7 (ms. Erfurt "to adorn"). The text is more explicit in Tosephta Sotah 5:7 (Vienna ms.): "If a woman engages in sex play with her son who touches her genitals, the House of Shammai disqualify from the priesthood, the House of Hillel qualify." The son must be less than 9 years of age for his sex play to be dismissed as meaningless (cf. Yebamot 10:13-14).

[Also compare the Latin verb salio, -ui, "to jump; leap, cover", also said of copulation of animals (E.G.).]

In the Babli, Yebamot 76a, the opinion that lesbian activity disqualifies a woman from marrying a priest is dismissed as not conforming to practice; lesbian activity is classified as "simply indecent". Maimonides (Issure Bi’ah 21:8-9) duly notes that lesbian activity cannot qualify as sexual but then based on a aggadic statement in Sifra (Ahare Parašah 9(8)), which defines "the acts of Egypt" (Lev. 18:3) as same-sex marriages and polyandry, authorizes rabbinic punishment for lesbian activities, which is nowhere to be found in Talmudic sources. This is copied in Šulhan ‘Arukh Even Ha’ezer 20:2. These rules probably owe more to Islamic and Christian influences (Romans 1:26) than to strictly Rabbinic rules.

Mishnah 11: If somebody divorced his wife but she stayed with him in a hostelry, the House of Shammai say that she does not need a second bill of divorce from him, but the House of Hillel say that she needs a second bill of divorce from him. When? If she was divorced after
definitive marriage. But they agree that if she was divorced after preliminary marriage, she does not need a second bill of divorce from him since he was not intimate with her\textsuperscript{93}. If somebody married her based on a bald bill of divorce\textsuperscript{94}, she shall be divorced from both of them and all the indicated consequences apply to her.

\textsuperscript{91} Greek παντοκράτων.
\textsuperscript{92} The reasons are explained in Note 59.
\textsuperscript{93} They will not sleep with one another as a matter of course.
\textsuperscript{94} A "bald" document is an irregular "knotted" document. In a usual, "simple" document, the witnesses sign on the document after the text. In a "knotted" document, the scribe will write a few lines, then these are folded, sewn together, fixed with a knot, and a witness signs on the verso. The document is valid if the number of ties equals the number of witnesses on the verso. A "bald" document has less witnesses than ties and is invalid. A woman who remarries on the basis of an invalid bill of divorce commits adultery. The rules of "knotted" documents are discussed in Halakhah 12.
man may send away his wife with an old bill of divorce," they say that she does not need a second bill of divorce from him. Rebbi Yose ben Rebbi Abun said, the House of Shammai are consistent and the House of Hillel are consistent. Since the House of Shammai say that "a man shall not divorce his wife unless he found in her a matter of immorality\textsuperscript{95}," thy say that she is dirty in his eyes and he is not suspected of having relations with her, therefore she does not need a second bill of divorce from him. Since the House of Hillel say, "even if she spoiled his food\textsuperscript{95}," they say that she is not dirty in his eyes, he is suspected of having relations with her, and she needs a second bill of divorce from him\textsuperscript{59,96}.

\textsuperscript{95} Mishnah 9:11. \textsuperscript{96} Babylonian sources (Babli 81b, Tosephta 6:9) hold that the House of Hillel require a second bill of divorce only if it was known that the divorced couple shared a bedroom in the hotel. This is not the position of the Yerushalmi.

\textsuperscript{97}If somebody divorces his wife she should not live in the same courtyard or the same place\textsuperscript{98}. If the courtyard was the wife’s property, the husband has to move out, if the husband’s, the wife has to move out. If it was common property, who has to move because of whom? The woman because of the man, unless they can manage to have separate exits\textsuperscript{99}. When has this been said? If they were definitively married, not if
they were not definitively married\textsuperscript{100}. But the wife of a Cohen if she was not definitively married\textsuperscript{101}, as well as the status of a preliminarily married woman in Jehudah\textsuperscript{102}, is that of one definitively married. Nobody has to move if a person gives halisah to his sister-in-law even if he had "bespoken\textsuperscript{103}" her since "bespeaking" does not fully acquire.

97 A similar text is in Semahot 2:14, a different formulation is in the Babli (Ketubot 27b/28a).
98 Or zarua' (Yibbum wahalisah #618) reads "dead-end-street" in place of סמך. This is the language of the Babli.
99 In the interpretation of Or zarua', if they can build a wall dividing the property, each section having its own entrance door from the courtyard.
100 Preliminarily married couples are not supposed to have slept together; they are not suspected to do so after divorce.
101 Since she is biblically prohibited to her preliminary ex-husband.
102 She was unchaperoned together with her preliminary husband and presumed to have slept with him; Mishnah Ketubot 1:5.
103 The imitation of preliminary marriage before levirate marriage; cf. Mishnah Yeabmot 2:1, Note 6. This is a rabbinic formality; if the couple had relations, they would be biblically married and the marriage could only be terminated by a bill of divorce. The act of halisah guarantees that they never were intimate and the precautions enacted for divorced couples do not apply to them.

Mishnah 12: Anybody can supplement a bald document\textsuperscript{104} following the words of Ben Nanas\textsuperscript{105}. Rebbi Aqiba says, one supplements the
signatures only by relatives who would be able to testify under other circumstances. What is a bald document? One whose knots are more than its signatures.

104 I.e., supply the additional signatures needed to make the document valid.

105 If the first signatures are those of valid witnesses, the remaining slots can be filled by the signatures of people who are inadmissible as witnesses either because they are relatives of one of the parties or because they have been declared untrustworthy by a court decree (Mishnah Sanhedrin 3:3-4).

106 He agrees that relatives can sign but he holds that people barred because of disreputable or criminal behavior cannot.

Halakhah 12: "Anybody can supplement a bald document," etc.

107 From where that a document can be knotted? Rebbi Immi said, it is written: "I took the document," etc. "And [the sealed]," that is the knotted [document]. "And the open," that is the simple, part of the knotted. "And the orders and the rules"; orders and rules differ
between these, for one is with two witnesses, the other with three; one in it, the other on its back. Rebbi Abba in the name of Rav Jehudah, on a simple document, the witnesses sign parallel, on a knotted one the witnesses sign lengthwise. Rebbi Idi said, the witnesses sign between any two knots, but it must be on top. But should one not be afraid that maybe he falsifies? Rav Nahman wanted to argue that witnesses never sign below unless they first read before them: "I X son of Y accept everything written above." But should one not be afraid that he erased and changed to falsify? Rav Huna is of the opinion that two times "I accept" makes it invalid. But should one not be afraid that he erased and changed to falsify? Does Rav Huna not consider that he might write another text, erase and change to falsify? Rav Huna is of the opinion that an erasure makes invalid even if the correction is certified.

107 A closely related text, but from another editorial tradition, is in Baba batra 10:1.
108 The basic use for "knotted" documents was for real estate transactions, probably to hide the financial data from public knowledge. Such a document was certainly impossible in Egypt, where all real estate transactions had to be filed with the State registrar. Its validity in rabbinic tradition is given a biblical basis. It seems from the discussion in Babli Baba batra 10 that the use of "knotted" documents was a Palestinian peculiarity (such documents have been found in the Judean desert.)
109 Jer. 32:11: "I took the document of acquisition, the sealed one, the orders and rules, and the public one." The verse clearly states that a sealed document is the main object, accompanied by a public document.
110 The text of the document, whose formulation is identical whether sealed or public.
111 A public document needs two witnesses, a sealed (knotted) one at least three.
112 A public document is signed by the witnesses on the recto of the sheet, starting exactly one line after the end...
of the text. A sealed document is signed on the verso, between the folds. [According to Rashi (Commentary to *Baba batra* 10:1), the document was written with wide spaces between the lines, was signed by witnesses between the lines, and then was folded and sewn so that the document text was hidden but the signatures appeared on the outside. It seems impossible to accept this explanation for the Yerushalmi text. (Cf. H. Albeck's commentary to *Baba batra* 10:1).]

113 They simply sign on the lines after the body of the document, parallel to the lines used by the scribe.

114 In this opinion, the witnesses sign in the back at a right angle to the scribe's text, starting in the back of the last line of the document. Only the text covered by witnesses' signatures in the back is certified.

115 He disagrees with the preceding description and requires that the witnesses sign in the back parallel to the text written by the scribe, as described in Note 94.

116 How can the witnesses be sure that the writer of the document will not falsify the document after they affixed their signatures? For a public document there is no problem since anything following the signatures has to be disregarded. For a sealed document with signatures at a right angle there is no problem since any text not covered by the signatures at the back has to be disregarded. But if the signatures are affixed while the document is being written, where are the guarantees?

117 In *Baba batra*: Rav Ḥuna. This seems to be the correct attribution, confirmed in the sequel.

118 A sealed document containing two different clauses of acceptation is considered fraudulent and not enforceable in court.

119 An erasure in a sealed document is unacceptable even if confirmed as such by signatures. In the Babli, *Baba batra* 161b, R. Johanan accepts an erasure in a sealed document if it carries a note: "This is a correction".

(49d line 23) א Merr רבי יוחנן. לית תחא. אם רבי אמי. כפה קופין.

משנברא חוה עליל กופין רבי יוחנן קופין ריש קלחיש אימים. פיק ישלב.

קרבי עקובם.
Rebbi Johanan said: There is no "she shall be divorced". Rebbi Immi said, several boxes of cases came before Rebbi Johanan and Rebbi Simeon ben Laqish and they said, go and complete following Rebbi Aqiba\(^{120}\).

They disagree with the last belated signing by relatives who statement in Mishnah 11 and permit the otherwise are in good standing.

Rebbi Johanan said, the Mishnah applies if one witness is missing, but only if there are three or more\(^{121}\). Two or three\(^{122}\) at the beginning is invalid, one below the three is valid. Rebbi Mana asked: That is, if they are continuous. If they are with interruptions\(^{123}\)? As one says, they are considered like testimony at a distance, they only serve to certify the testimony. And so it is here\(^{124}\). If there were nine, can he untie two and have two sign? Or are two witnesses on a knotted document nothing\(^{125}\)? If there were five, it is obvious that he unties one and has it signed\(^{126}\). It turns out that his untying permits it following Rebbi Hananiah ben
Gamliel, for Rebbi Hananiah ben Gamliel says, the essential part is what validates\textsuperscript{127}, even if he ties and signs after that. That is, if he ties all knots and after that the first three [witnesses] did sign. But if he tied the first three\textsuperscript{128} and had them signed, even if he makes many ties and lets many\textsuperscript{129} sign it is valid. Practice is that a knotted document is first knotted and then signed. If he made the first knots and had them signed right away, it is obvious that the first two did not sign the knotted document\textsuperscript{130}.

\textsuperscript{121} This disagreement between ben Nanas and R. Aqiba about the required qualifications of the witnesses refers to the case that only one additional signature is required in addition to the three statutory ones.

\textsuperscript{122} Any number of irregular witnesses at the beginning is invalid for everybody.

\textsuperscript{123} If the three statutory witnesses did not sign together but each one signed for a separate knot, with space in between.

\textsuperscript{124} Cf. Chapter 1, Note 117.

\textsuperscript{125} The text is difficult to understand since a document with 9 knots needs an additional 6 signatures. One must assume that some additional signatures already are on the document and the question is directed against R. Johanan: Why should it not be possible to let two unqualified witnesses sign since the validation of a knotted document needs three witnesses in any case (Mishnah \textit{Baba bathra} 10:3).

\textsuperscript{126} In fact, there must be two knots untied and confirmed on the verso by two different signatures; only one of them was accepted by R. Johanan.

\textsuperscript{127} Cf. Chapter 3, Note 68. If the text which contains the identities of the parties and their obligations is certified by signatures on the verso for knotted contracts or at the end for open contracts, the contracts are valid. If prepared forms are not certified for sealed contracts it does not impinge on the validity of the contract for R. Hananiah ben Gamliel.

\textsuperscript{128} Which contain the essential data and are certified by three witnesses as required for sealed contracts according to all sources.

\textsuperscript{129} Unqualified relatives.
Since a "knotted" sealed witnesses, the first two do not combine document is validated only by three for validation.

Where do we hold? If he knotted and signed it inside, everybody agrees that it can be made simple. If he knotted and signed it outside, everybody agrees that it cannot be made simple. But we must deal with the case that he knotted it from the inside and then signed it on the outside; in that case Rebbi Hananiah ben Gamliel said that it can be made simple but the rabbis say, it cannot be made simple. 

{Rebbi objected to the statement of Hananiah ben Gamliel: "The body of the
document." If he knotted and signed it outside, everybody agrees that it cannot be made simple. But we must deal with the case that he knotted it from the inside and then signed it on the outside; in that case Rebbi Hananiah ben Gamliel said that it can be made simple, but the rabbis say, it cannot be made simple.) Rebbi objected to the statement of Rebbi Hananiah ben Gamliel: The body\textsuperscript{136} of the document shows whether it is simple or not simple. What is the body of the document? Rebbi Abba said, as Rav Huna said, witnesses never sign below unless they first read before them: "I X son of Y accept everything written above.\textsuperscript{137}" But did we not state: "That is the formula of a document"?\textsuperscript{138} Rebbi Mana said, that is the formula of a knotted document. Rebbi Abin said, even if you say it is the same for knotted and simple, for a knotted document it is a necessity, for a simple one it is not a necessity\textsuperscript{139}. Rebbi Aha said, if one adds to practice\textsuperscript{140}. A simple document [is witnessed] by two persons. If common usage is to have three, one makes it with three. A knotted document is signed on its back. If common usage is to sign it inside and out, one signs it inside and out.

\textsuperscript{131} This paragraph is out of context here; it refers to Mishnah Baba batra 10:1 where R. Hananiah ben Gamliel states that a knotted document can be converted into a simple one if its witnesses sign on the document side.

\textsuperscript{132} If the document was signed before it was sewn, it is a regular open document. The rules of sealed documents do not apply.

\textsuperscript{133} If the signatures are on the back of the document, the text itself is left without witnesses; as an open document is would be worthless.

\textsuperscript{134} As the text stands, it is unintelligible. Mishnah Baba batra 10:1 implies that "knotted from the inside" means "had it signed on the inside and then sewed it and had it signed again on the outside", where R. Hanania ben Gamliel holds that it can be used either way; but the opposing
faction holds that once three validating signatures were on the back, the document can only be unsealed in court to be enforced.

135 The text in braces is a first, incomplete version of the following, which the scribe forgot to delete.

136 In the Babli, *Baba Ḳatra* 164a/b, Rebbi is stating that the methods of computation of regnal years in open and sealed documents are different. Since sealed documents were not used in Babylonia, this argument seems irrelevant.

137 Since on a sealed document the witnesses start signing once there is space for three signatures, it follows that at the top of the document one has the identification of the person to whom the document refers together with any obligation incurred by that person. In an open document, the main point has to be repeated at the end of the text to make clear what the witnesses certify. In a sealed document, the place of the signatures on the verso of the main part is the certification.

138 Rav Huna’s text is required for all documents, whether open or sealed.

139 It is possible to write both sealed and open documents following the same formula. However, a sealed document whose three certifying signatures are not in the back of the text containing the name of the debtor and the exact nature of his obligation is invalid; an open document is valid if only it contains all the necessary information and two signatures. If a sealed document also contains two signatures inside, there is no reason not to follow R. Hananiah ben Gamliel.

140 A sealed document minimally valid cannot be turned into an open document. However, at places where the common practice requires more than the minimum, there may be reason to permit turning the sealed into an open document.
The condition of validity is stated here and was stated there\textsuperscript{141}. It was necessary to state it there. If it had been stated here but not there, we would have said that here it is invalid because of the restrictions connected with adultery but there, since no restrictions connected with adultery are involved, it would be valid. Or if it had been stated there but not here, we would have said that there it is invalid since one comes to collect money based on that document but here, where one does not collect money, it would be valid. Therefore, it was necessary both to state it here and to state it there.

\textsuperscript{141} Both in \textit{Gittin} 8:12 and in \textit{Baba batra} 10:1 one finds rules about sealed documents. These rules do not overlap. The rules about the bald document are not found in \textit{Baba batra}, the requirement of three witnesses is not in \textit{Gittin}. One would have expected an argument why the rules of one tractate, dealing with divorce documents, also apply to the other, dealing with deeds of real estate and mortgages. For some reason, this seemed obvious to the editors of the Yerushalmi.
Mishnah 1: If somebody in divorcing his wife says to her: Herewith you are permitted to any man except Mr. X, Rebbi Eliezer permits but the Sages prohibit. What should he do? He should take the document back from her and deliver it again while saying, herewith you are permitted to any man. If he had written the condition in the document it would be invalid even if he had later erased it.

1 He permits the wife to remarry; the Sages prohibit since they reject the possibility of a divorce which permits control of the divorced wife by the former husband.

2 Which restricts the divorcee in the choice of her future husband.
Halakhah 1: "If somebody in divorcing his wife," etc. Rebbi Ilai⁴ said, the reason of Rebbi Eliezer: "She left his house, went, and became another man's⁵", even if he did permit her only to one other man. This argument proves more than the Mishnah⁶! The Mishnah said if she was permitted to all but forbidden to one other man; the argument is that he forbade her to all but permitted her only to one other man. What is the reason of Rebbi Eliezer? Death permits and divorce permits. Since death permits only partially⁷, so the bill of divorce permits only partially⁸. What is the reason of the rabbis? "She left his house, went, and became another man's"; it brackets marriage and divorce. Since her divorce is without participation of a third party, so her marriage must be without participation of a third party⁹.

3 This word is a scribal error.
4 In the Babli (82b) this is ascribed to R. Yannai. There, the objection is that "she became another man's" could be interpreted as "she became any other man's".
5 Deut. 24:2.
6 By the mathematical principle qui nimium probat nihil probat, R. Ilai's argument proves nothing.
7 The pool of possible marriage partners available to a widow is smaller than the pool which was available to the same woman before her marriage since she is forbidden any close relatives of her deceased husband.
8 Since the divorce does not remove the incest prohibitions, it seems possible that the husband can add prohibitions of his own.
9 If the former husband could impose marriage restrictions on his former wife, her remarriage would be subject to the former husband's edict. This would create a kind of polyandry.
After Rebbi Eliezer’s death, four Elders assembled to object to Rebbi Eliezer’s words: Rebbi Eleazar ben Azariah, Rebbi Yose the Galilean, Rebbi Tarphon, and Rebbi Aqiba. Rebbi Joshua told them, one does not contradict the lion after his death. Rebbi Tarphon objected: If he said to her, you are permitted to any man except Mr. X; she went and married [the latter’s brother who died childless]; how can she contract the levirate marriage? Does it not turn out that he stipulated against what is written in the Torah, and anybody’s condition contradicting what is written in the Torah is invalid. Then nobody should be permitted to marry his brother’s daughter, lest he come to stipulate against what is written in the Torah. Rebbi Yose ben Rebbi Abun said, one understands the reason. There, the Torah forbade her to him. But here, he forbids to him! Rebbi Hananiah objected in the name of Rebbi Phineas: Should one not state "sixteen women" following Rebbi Eliezer?
said, the reason was already explained: there, the Torah forbade her to
him. But here, he forbids to him! Rebbi Jeremiah asked: If he said to
her, you are permitted to any man except Mr. X; she went and married
the latter's brother who died childless, how can the latter permit what the
first forbade? His words imply that death and divorce permit what the
first [husband] prohibited. Rebbi Jeremiah said, he said only death and
divorce; therefore, not marriage.

10 Different versions of the following discussions are in the Babli,
83a/b, Tosephta 7:1-5, Sifry Deut. 269.
11 He rejects all the following arguments (as does the Babli, except an
argument attributed to R. Eleazar ben Azariah not mentioned in the
Yerushalmi.)
12 Missing in the text; to be added from the parallel attributed to R.
Jeremiah.
13 If the prohibited man was the only brother of the deceased husband,
the widow should have to marry him but she is prohibited by the former
husband's stipulation. In the Babylonian sources (Note 10) the
conclusion is stated explicitly that "this is no cutting loose" (referring to the
bill of divorce which in Deut. 24:1 is called "scroll of cutting loose" the wife
from the husband's power. This really refers to the rabbis' argument, Note 9.)
14 The first husband would in effect stipulate that his ex-wife cannot
fulfill the commandment of the levirate marriage.
15 If the uncle married to the niece died childless, the widow clearly is
forbidden to marry her own father in levirate. But the possibility of a
marriage of the niece to the uncle is one of the doctrines of Pharisaic
Judaism, in contrast to the Sadducees (cf. Introduction to Tractate Yebamot.)
16 In fact, the greater part of Tractate Yebamot is devoted to cases
where levirate marriage is impossible.
17 The first husband forbids levirate marriage to the brother of the
second husband.
18 Mishnah Yebamot 1:1 enumerates 15 categories of women who are forbidden levirate and, in the
opinion of the House of Hillel, automatically free their co-wives from
levirate. According to R. Eliezer, should one not add the woman who married the brother of a man forbidden to her by divorce stipulation?

19 It seems that this has to read "R. Simeon ben Eleazar" (Tosephta 7:5.)

20 This is a non sequitur. It seems that one has to read with the Tosephta: "She went and married an unrelated person who then divorced her unconditionally", i.e., the second husband by his divorce annulled the condition of the first divorce.

21 The condition "except Mr. X" according to R. Eliezer refers only to the next marriage of the divorcee. If the divorcee married according to the stipulation and then the second marriage is dissolved either by divorce or by the husband's death, the widow or divorcee is free to marry anybody she wishes. The Babli agrees with this interpretation, 83a, which shows that R. Tarphon's objection cannot be sustained.

22 R. Eliezer, who declares the divorce valid, will insist that the first remarriage satisfy the first husband's condition.

Rebbi Yose the Galilean said: Do we find in the Torah that what is forbidden to one is permitted to the other and what is permitted to one is forbidden for the other? Forbidden to one she is forbidden to everybody;
permitted to one is permitted to everybody. Rebbi Aqiba objected: If the one to whom she was prohibited was a Cohen and the divorcer died, would she not be considered a widow for him but a divorcee for all his clan of Cohanim? Where was the Torah more restrictive, for a divorcee or for a widow? The Torah was more restrictive for a divorcee than for a widow. But since a divorcee, where one is more restrictive in all aspects, does not become forbidden with respect to what was permitted by her divorce, would it be logical that the widow should be forbidden from what was permitted her from her aspect of married woman? Even him did the divorce touch. Since both a widow and a divorcee were forbidden even if her aspect of married woman was permitted, with restrictive divorce certainly she should be forbidden even in the aspect that was permitted by her divorce.

23 His argument is the same in the Babylonian sources (Note 10). It is difficult to accept the statement at face value.

24 The situation would be paradoxical in that the divorcee would be forbidden to all Cohanim (Lev. 21:7) except the Cohen to whom she was forbidden since for him she is a widow who is forbidden only to the High Priest. (One might ask why a man would forbid his divorcee to a Cohen since she is forbidden to him anyhow.)

25 The lengthy amplification refers to the prior case that the person whom the divorcee could not marry was a Cohen, forbidden to her in any case.

26 As a married woman she was forbidden to everybody except her husband; as a divorcee she is permitted to most men.

27 This is an involved argument repeating the paradoxical situation described in Note 24.

28 The arguments of Notes 24, 27 are to be rejected. A divorcee who cannot be married is still a divorcee; the argument of R. Aqiba is invalid.

29 To the High Priest.

30 Forbidden to the rank-and-file Cohen. The sentence is an amplification of the argument of Note 28.
Another argument: "Assume that he said to her, 'you are permitted to every man except Mr. X;' she went and married another and had children by him. Then her [second] husband died; she went and married Mr. X. Will not her children by her second husband become bastards?" His argument implies that divorce does not permit what the first husband had forbidden. Rebbi Shammai said, do we find that a woman was not originally forbidden to a man because of adultery and then retroactively became forbidden as adulterous? Rebbi Mana said to him, to what can you compare this? To one who told his wife, "this is your bill of divorce on condition that you sleep with Mr. X." At the start, he is forbidden to have sexual relations with her. If he transgressed and slept with her, the divorce was retroactively validated.

31 In the Babli, 83a, this argument also is attributed to R. Aqiba.
32 In the Babli: "died or divorced her." This is implied by the sequel here also.
33 The third marriage violates the conditions of the first divorce. If the first divorce is invalidated, the second marriage retroactively becomes adulterous and the children bastards. The argument does not disprove R. Eliezer's position; it shows that from a practical point of view, that position should not be tolerated.
34 Contrary to what was asserted in the name of R. Eliezer (Note 21), a
later divorce or widowhood does not eliminate the conditions of the first divorce.

35 He doubts that anybody can agree that the second husband, who contracted his marriage within the parameters of the first divorce, can become an adulterer without his knowledge by an action of the wife after his death or after a divorce.

36 Even according to the Babli which holds that any expression "on condition that" means "from today, on condition that", Mr. X is barred from marrying the divorcee as long as he had not slept with her since she is not yet divorced and, therefore, unable to contract any marriage. Therefore, when he goes to bed with the divorcee, it is an adulterous act. But at the moment of penetration, the condition of the divorce is satisfied and the aspect of adultery has disappeared. This is just the opposite of the situation which caused discomfort to R. Shammai. (Rashba, Novellae ad 84a.)

Rebbi Johanan said37, the practice follows Rebbi Simeon ben Eleazar, since Rebbi Simeon ben Eleazar said38 it never is a bill of divorce unless he declares at the moment of delivery: "This is your bill of divorce." Rebbi Jacob bar Aha in the name of Rebbi Yannai: There is not even a hint of invalidity on her39. Cahana said, this implies that they did not worry40. If they did worry, might he not have said "you are permitted to any man" when it was still in her hand41? Rebbi Aha said, his implies that they did worry42. If they did not worry, could he not divorce by any power he has to divorce43?
37 Here starts the discussion of the statement by the Mishnah, that the husband cannot simply annul the condition he had imposed but has to take the bill back and bodily deliver it while declaring his ex-wife free to marry any man she chooses.

38 Chapter 8, Note 27; Babli 78a.

39 An imperfect bill of divorce will nevertheless make the woman a divorcee according to the rules of the priesthood. Only a bill which clearly is null and void does not have this consequence (and if the woman became a widow before a corrected version could be delivered to her, she would be able to marry a Cohen.) In Yerushalmi language, the invalid bill implies no "hint of invalidity" for the woman. In Babli terminology (86b), there is "no hint of a bill of divorce" on the document (ריה הגשת יד ב).

40 The Tanna of the Mishnah accepts the statement of R. Yannai that the document delivered with the exclusion of a possible marriage partner is null and void. (In the Babli, 84b, R. Johanan in the name of Cahana adopts the position here described as R. Aha's.)

41 If the delivery were valid to disqualify the woman from marrying a Cohen, it also should be valid for a full divorce upon a public disclaimer by the husband of the condition imposed.

42 The Tanna of the Mishnah must reject the statement of R. Yannai. The Babli agrees, 84b.

43 He also rejects the determination of R. Johanan that the Mishnah follows R. Simeon ben Eleazar. The fact that the Mishnah requires the husband to retake possession of the bill after the wife already had it in her hand means that the wife already had acquired the bill, became forbidden to a Cohen, and, therefore, a simple statement by the husband would be invalid. (Rashi's explanation, 84b).

ףסחא. כל-שהיאלו בתניי על מות.

Rebbi Ze'ira said: Shila bar Binah stated: Anything which is invalid containing a condition if delivered on condition is also invalid44.
This refers to the last statement in the Mishnah, that the condition written in the bill of divorce invalidates the bill. It is stated as a general principle that any condition, which written in the bill will invalidate it, also invalidates if not written but imposed orally at the time of the delivery. (The Babli, 84b, takes the opposite track: A written condition invalidates if and only if it invalidates if imposed orally. The Babli invalidates any condition formulated using the term "except" but validates every "on condition that". This is foreign to the Yerushalmi.)

Mishnah 2: "You are permitted to any man except to my father and your father, to my brother and your brother, to a slave, a Gentile," or anybody she is unable to contract a preliminary marriage with, it is valid. "You are permitted to any man except as a widow to the High Priest, a divorcee or one having received halisah to a common priest, a bastard or a Gibeonite girl to an Israel, the daughter of an Israel to a a bastard or a Gibeonite," or anybody she could contract a preliminary marriage with even if it is sinful, it is invalid.

An unmarried woman can contract preliminary marriage with any Jewish man except those connections forbidden as incestuous relations which are deadly sins. Marriage is also impossible with Gentiles and slaves. A divorce stipulation which forbids no marriage possible under the law is
All these are subsumed under "holiness prohibitions", enumerated in Mishnah Yebamot 2:4.

Including common law "commandment prohibitions," Mishnah

Halakhah 2: "You are permitted to any man," etc. There really is no questionable divorce here. What are questionable qiddusin? As we have stated there: If he threw the betrothal gift to her and there is a doubt whether it fell closer to him or to her, those are questionable qiddusin. And here, if he threw the divorce document to her and there is a doubt whether it fell closer to him or to her, that is a questionable divorce.

The entire Halakhah is copied from Yebamot 3:9, Notes 122-136 (9). It is inserted here at the wrong place since its topic is Mishnah 4, as explained in detail in Yebamot. The text here was copied negligently.

Since for the rabbis who oppose R. Eliezer, any bill of divorce is invalid if it restricts the pool of legal marriage partners of the divorcee.
Rebbi Johanan in the name of Rebbi Halaphta from Haifa: Any who were married on the basis of such a document should not leave in order not to give a bad reputation to her children. His daughter who was married outside on the basis of such a document should not leave in order to damage her co-wife to her father. Her co-wife who was married outside on the basis of such a document has to leave. His daughter who married his brother [on the basis of such a document] has to leave. Her co-wife who was married to his brother on the basis of such a document, or even to her father, should not leave.

50 Necessary text added from Ye'bamot, missing here.
It was stated: [A claim based on] any of these three types of documents can be collected only from unincumbered property, not from mortgaged property. Rebbi Abba said, that means, if the document in the hand of the lender has not been confirmed. [But if the document in the hand of the lender has been confirmed, he may collect. Rebbi Yose asked: If the document in the hand of the lender has not been confirmed,] he should not be able to collect even from unincumbered property! But one must deal with a document confirmed in the hand of the lender. And why can he not collect? Rebbi Bisna said, because of action in partnership. Rebbi Abina said, because it is invalid. And here, because it is invalid. Rebbi Abin asked, so far, if the old man took the loan [and the old man mortgaged. But if the old man took the loan and the son mortgaged,] can you say because of a conspiracy? No, because it is invalid. Rebbi Abun asked, was it not stated: The same holds for bills of divorce? Can you say there, because of action in partnership? No, because it is invalid. And here, because it is invalid.

Mishnah 3: The essence of the bill of divorce: You are herewith permitted to any man. Rebbi Jehudah says: This shall be for you from me a divorce scroll and a letter of abandonment, to enable you to marry any man you desire. The essence of the bill of manumission: You are a free person, you are on your own.
Halakhah 3: "The essence of the bill of divorce: You are herewith permitted to any man," etc. Rebbi Aha said: "Cutting off", the Torah did not choose the term "cutting off" except to refer to a person with whom a marriage is possible. This really refers to Mishnah 2 and explains why the prohibition of impossible relations does not invalidate the bill of divorce. The bill is called a scroll of cutting off" in Deut. 24:1,3. If marriage was not possible, it cannot be dissolved.

Rebbi Mana said: He has to be careful not to say "זוחל". Rebbi Mana asked: "You are on your own"? Rebbi Yose ben Rebbi Abun said, one must say: "You are a free person, you are on your own." The Mishnah said so: "You are a free person, you are on your own."

While the usual spelling of "this" is זוחל, in the divorce document the spelling must be defective so it cannot be read as זוחל "by law" implying that the husband would not consider a divorce unless forced by some law. This would invalidate the divorce. The Babli, 85b, has a long list of similar spelling rules.

Is that an acceptable formula for a divorce? The obvious negative answer is not given.

In a bill of manumission, both expressions are required. The Mishnah (with a very slight change in wording) supports this by stating both expressions in parallel, not connected by "or".
Mishnah 4: Three kinds of bills of divorce are invalid, but if she married, the child is legitimate: If he wrote in his own handwriting but it was not signed by witnesses; it was signed by witnesses but is not dated; it is dated but only one witness signed it. These are three invalid kinds of bills of divorce, but if she married, the child is legitimate.

56 They are invalid only because they violate customary rules, not because of biblical precepts. The woman is forbidden to remarry on the strength of such a bill, but if she did marry, the second marriage and its offspring are legitimate.  

57 The witnesses which validate the divorce are those present at the delivery. For the document itself, one can apply the principle valid for I.O.U’s: "The signature of the debtor is worth 100 witnesses."

58 According to all opinions, the dating of a bill of divorce is a rabbinic requirement (cf. Chapter 2, Note 32, Chapter 4, Note 64).

59 Even if the document was in the husband’s handwriting, one witness alone is not sufficient to let the divorcee remarry without trouble.
Jeremiah in the name of Rav: All in handwriting except if its witnesses are with it. Rav Hamnuna said, they testified to their own sin since they agreed to lie by signing on an undated bill of divorce.

The bill can only be used in an emergency if it was in the husband’s handwriting in all three cases.

He questions why the middle case of a signed but undated bill needs to be the husband’s autograph to be valid. He is reported in the same sense in the Babli, 86b.

Supporting R. Eleazar. A similar statement is in the Babli, 86a/b. Samuel’s opinion, that the husband’s autograph is needed only in the first case, has no parallel in the Yerushalmi.

He supports R. Johanan. The witnesses who signed the undated document impeach themselves; their testimony can be accepted only in an emergency.

Rebbi Abba bar Hamnuna, Rav Ada bar Aha in the name of Rav: This is Rebbi Meir’s. Why did you have to say this? Rebbi Mana said, since Rav Huna said in the name of Rav: “This entire Chapter is Rebbi Meir’s except for ‘if he changed his or her name or the name of his or her city.’” You should not come to say that the first is Rebbi Meir’s, the second the rabbis. Therefore it is necessary to say that this is Rebbi Meir’s. Rebbi Yose said, since Rav and Samuel both say that practice follows Rebbi Eleazar, that you should not be led to say the same here. Therefore it is necessary to say that this is Rebbi Meir’s.
These names are not known from any other source. It seems that one should read: Rebbi Aha, Rav Hamnuna, Rav Ada bar Ahawa.

The Babil agrees, 86a.

Chapter 8:5, Note 71.

One should not think that only Chapter 8, Mishnah 5 ff. follows R. Meir but all of Chapter 9 follows the rabbis opposing R. Meir (who are represented by R. Eleazar in Mishnah 9:5) who hold that all bills of divorce are validated by the witnesses to the delivery, not the signatures on the bill.

The explanation of R. Mana is far-fetched.

Mishnah 5: Rebbi Eleazar says, it is valid even if there are no signatures of witnesses on it if only he delivered it in the presence of witnesses; and she can use it to collect from encumbered property. For the witnesses sign on the bill of divorce only for the public good.

One of the irregular bills of divorce mentioned in the preceding Mishnah.

The testimony of the witnesses to the delivery will enable the divorcee to request the court to foreclose property if the husband is unwilling or unable to pay her ketubah. Cf. Mishnah 4:3.

The public good is that the divorcee is much less likely to become a burden on public charity if her claims on her ex-husband are documented rather than dependent on the testimony of witnesses who may or may not be available to testify.
Halakah 5: "Rebbi Eleazar says, it is valid even if there are no signatures of witnesses on it," etc. Rav and Samuel both say that practice follows Rebbi Eleazar. Rebbi Johanan in the name of Rebbi Yannai: The words of the Sages: It is invalid. There came a case before Rebbi Johanan about a Cohen's wife and he wanted to act on Rebbi Yannai's statement when it was heard that Rav and Samuel disagreed. There came before him [another case] involving an Israel, and he listened to that. Rebbi Joshua ben Levi said, in the opinion of everybody it is valid. But did not Rebbi Eleazar say, it is valid, and the rabbis say, it is invalid? What is their disagreement? Rebbi Eleazar said, it is valid and she can collect from encumbered property. The rabbis said, it is invalid and she can collect only from unencumbered property.

72 He wanted to declare the bill of divorce as nonexistent and permit the divorcee to return to her Cohen husband.

73 He accepted the unsigned bill of divorce as valid and empowered the wife to collect her ketubah.

74 If a name is attached to the statement it proves that it cannot be a unanimous opinion. The opposing, unnamed, rabbis must hold that the bill is invalid.

75 If the husband is unable to pay her ketubah and if he sold real estate during the marriage, the wife's lien on that real estate was not broken by the sale and she can foreclose from the buyer.

76 The bill of divorce is not usable in money matters; the divorcee's claim does not have the status of a prior mortgage, which can also be enforced.
against the innocent buyer, but that of an undocumented loan which on the testimony of witnesses can be enforced against the debtor (in this case, the ex-husband) but not against a buyer of real property (who could not have discovered the existence of the debt by a title search.)

Mishnah 6: If two men sent two identical bills of divorce which became mixed up, one delivers both to both women. Therefore, if one of them was lost, the second became unusable.

77 Two men, both called X ben Y, living in the same town, divorce their wives, both called Z bat U, living in the same town.

78 They were written by the same scribe and entrusted to the same agent.

Halakhah 6: "If two men sent two identical bills of divorce," etc. Rebbi Eleazar ben Rebbi Yose asked before Rebbi Yose: Just as you say that a bill of divorce after a bill of divorce is invalid in the case of two wives, similarly two bills of divorce should be invalid for two women.
He answered, that is correct. He said to him, but did we not state: "If two men sent two identical bills of divorce and they became mixed up, one delivers both to both women"? There, each of the bills was written in the name of the respective wife; the mix-up caused the problem. But here, neither one was written as divorce in her name; when it was delivered, could it be considered as divorce in her name from the start?

79 This refers to Halakhah 3:1, where a man has two wives with identical names. If he writes two bills of divorce without specifying to whom it applies, he can divorce neither of his wives, not even if he delivers both bills to both of them.

80 "There" is here, in the case of Mishnah 9:6.

81 The question raised, which refers to Mishnah 3:1.

Mishnah 7: If five wrote collectively a bill of divorce, the man A divorces B and C and the witnesses sign at the end, all are valid and [the bill] shall be delivered to each of them. If one wrote the text separately for each of them and the witnesses sign at the end, [only] the one with which the witnesses are read is valid.

82 There is only one text; at the point where the names of the persons involved are to be declared, five different couples are mentioned.

83 The Halakhah will point out that the verb "to divorce" is not repeated.

84 Since the witnesses sign at the
end of the last text, that text is certified and, therefore, invalid.

certified. The other texts are not

(50b line 60)
Halakhah 7: "Five who wrote collectively a bill of divorce," etc.

85 Rebbi Johanan said in the name of Rebbi Yannai: "And I am greeting X," one can assume that he signed regarding everything86; "I am greeting X," he signed only for the greeting. Rebbi Simeon ben Laqish said, even if he said "I am greeting X," one can assume that he signed regarding everything87. What means "collectively" for Rebbi Johanan88? X divorces Y and Z U. What means "collectively" for Rebbi Simeon ben Laqish?

We, X and Z, divorce our wives at place A89. Rebbi Ze'ira said, Rebbi Johanan agrees that if he mentions divorce for each one separately he needs a text and witnesses for each one separately90. The strength of Rebbi Johanan is from the following: "That I shall not benefit, a qorbān for this one or that one'; each single one needs a separate opening91." Rebbi Yose said, the Mishnah supports Rebbi Johanan: "If he wrote a
separate text\textsuperscript{92} for each of them and the witnesses signed at the end, [only] the one with which the witnesses are read is valid." Samuel said, the
detailed statement for Rebbi Meir is the general statement for Rebbi Jehudah and the detailed statement for Rebbi Jehudah is the general statement for Rebbi Meir\textsuperscript{93}. [Rebbi]\textsuperscript{94} Samuel said in the name of Rebbi Ze'ira, the words of the rabbis show that the detailed statement for Rebbi Meir is not the general statement for Rebbi Jehudah and the detailed statement for Rebbi Jehudah is not the general statement for Rebbi Meir, since Rebbi Johanan said in the name of Rebbi Yannai: "and I am greeting X," one can assume that he signed regarding everything; "I am greeting X," he signed only for the greeting. If you would say that the detailed statement for Rebbi Meir is the general statement for Rebbi Jehudah, even if he said "and I am greeting X," can one assume that he signed regarding everything\textsuperscript{95}? How is this\textsuperscript{96}? Rebbi Yose said, a Mishnah implies that the detailed statement for Rebbi Jehudah is not the general statement for Rebbi Meir, as we have stated there\textsuperscript{97}: "Rebbi Meir says, even 'wheat, and barley, and spelt' makes him guilty for each one separately", but nobody says "even" unless he refers to an earlier statement\textsuperscript{98}. How is this\textsuperscript{96}? Rebbi Hanina said, in Rebbi Meir's opinion, [whether\textsuperscript{99} he said "wheat, and barley, and spelt", [or "wheat, barley, spelt] is a general statement and particulars\textsuperscript{100}. [In Rebbi Jehudah's opinion,] if he said, "wheat grains, barley grains, and spelt grains", it is a general statement without particulars\textsuperscript{101}.

85 A parallel is in \textit{Shabuot} 5:5; the readings there are noted ▼.
86 If a witness to any contract, including a bill of divorce, signs and appends a greeting and formulates the greeting as a sentence standing alone,
his signature cannot be counted as testimony. But if he writes: "and I am greeting", he makes clear that his signature refers to the entire document.
The same statement (R. Abbahu in the name of R. Johanan) is in the Babi, 87a.
87 This opinion is not mentioned in the Babli.
88 Referring to the Mishnah. How must a collective bill of divorce be formulated to be valid?
89 This statement is ambiguous since no further details are given about R. Simeon ben Lqish's opinion. It is obvious from Halakhah 3:1 that a text which mentions men and women separately, "we X and Z divorce our wives Y and U" is biblically invalid since (a) one cannot divorce two women with one statement and (b) it is not clear which woman was married to which man. One has to assume that the text was something like: "we X and Z divorce our wives, X Y and Z U," with mention of place and date.
90 If the language is "X divorces Y and Z divorces U", there can be no collective bill of divorce. It still can be written on one sheet but it must spell out in full that X divorces Y and frees her to marry any man she choses, Z divorces U and frees her to marry any man she choses, and each statement has to be separately validated by two witnesses.
91 Mishnah Nedarim 9:7. The quote is incorrect. The Mishnah states that if each vow separately is declared as qorbân, it will have to be annulled separately. One has to read: "a qorbân for this one, a qorbân for that one". This Mishnah supports R. Ze'ira's interpretation of R. Johanan's position.
92 And using a separate sentence containing the verb "to divorce" for each couple represents a separate text for each divorce.
93 The same statement is in šebuot 5:5 (36c l. 4), Babli 38a. It refers to Mishnah šebuot 5:5: "Give me my wheat, and barley, and spelt, (expressed in the plural) which you are holding!" "An oath that I am holding nothing of yours", he is guilty only once (if he swore falsely). "An oath that I am not holding any wheat, or barley, or spelt (expressed in the plural) of yours", he is guilty for every statement. Rebbi Meir says, even if he said "wheat, or barley, or spelt (expressed in the collective singular)", he is guilty for every statement. In a baraita (Babli šebuot 38a, Qiddušin 25a; quoted in Yerushalmi Qiddušin 2:1, 62b l. 76) R. Me'ir states that for a general statement
in a false oath he is guilty only once, for a detailed statement he is guilty for every particular item. R. Jehudah notes that if a person is sued simultaneously by several people (Mishnah Sebuot 5:3) and he falsely swears that he owes "not to you, nor to you, nor to you", he is guilty for every single statement. Samuel notes that what is a general statement for one may be a detailed statement for another.

94 From the text in Sebuot. The Gittin text cannot be correct since the first generation Samuel cannot quote the fourth generation R. Ze'ira.

95 Since in the baraita, R. Jehudah is mentioned as differing from R. Mei'r, the question arises whether for R. Mei'r there is a difference between a denial of a debt "to you, to you, to you" and "to you, and to you, and to you". In the first case, there might be three denials, in the second case, there is only one. The implications for R. Jehudah would be the opposite.

96 As the parallel shows, this interjection should be deleted.

97 Mishnah Sebuot 5:5. The omission of הַמִּי "there" in the parallel text is appropriate.

98 Which must have been "wheat, barley, spelt" without connectives.

99 The necessary inserted text is from Sebuot.

100 Since there are three particulars, he is obligated for three separate purification offerings.

101 It is one connected statement which, if false, constitutes one sin.

Mishnah 8: If he wrote two bills of divorce side by side and two Hebrew-writing witnesses signed from one column to the next, and two Greek-writing witnesses signed from one column to the next, the one
whose witnesses are read with it is valid. If one Hebrew- and one Greek-
writing witness are under each of them, reaching from one column to the
other, all are invalid\textsuperscript{102}.

\textsuperscript{102} The scribe wrote two bills of
divorce in two parallel columns. When
the witnesses came to sign, they used
the space under both columns. Then
only the bill whose witnesses sign
directly under it is valid since for the
other bill the first witness is at least
two lines too far away to be counted.
The additional complication is that the
Hebrew text starts at the right but the
Greek text on the left. For example:

\begin{verbatim}
  bill   bill
  יַשְׁחֵךְ בֶּן אֶבֶרֶם
  מַשָּה בֶּן עֶמְרָם

  יַשְׁחֵךְ בֶּן אֶבֶרֶם
  מַשָּה בֶּן עֶמְרָם

  Εὐως ὑιὸς Σήθ
  Σῆμοι ὑιὸς Νωε

  Εὐως ὑιὸς Σήθ
  Σῆμοι ὑιὸς Νωε
\end{verbatim}

In this case, if the first two signatures
apply to the bill on the right hand side,
Halakhah 8: "If he wrote two bills of divorce side by side," etc. 103

It is invalid if the witnesses are separated from the text by the width of two lines; less than that it is valid." 104.

Simeon bar Abba in the name of Rebbi Johanan: An empty space of two lines in a text about one subject makes invalid in any case. Rebbi Samuel bar Rav Isaac said:

The Mishnah says so: "One Hebrew- and one Greek-writing witness are under each of them, reaching from one column to the other, are all invalid." Is not Hebrew combined with Greek one item? Rebbi Mana said, if he started at the end of the second line and ended at the fourth line, it is valid.

"How far from the text should the witnesses sign? That they can be read with it, the words of Rebbi. Rebbi Simeon ben Eleazar says, one full line. Rebbi Dositheos ben Yannai says, the width of the witnesses’ handwriting."

What kind of writing does one use to estimate? Rebbi Yasa ben Rebbi Sabbatai says, the width of the witnesses’ handwriting. Rebbi Abbahu in the name of Rebbi Isaac ben
Haqula: Corresponding to 'ןל רל'ג113. Rebbi Jeremiah asked before Rebbi Ze‘ira: Does the signature of Yose ben Yannai have equal weight with the signature of Shaul ben Barukh114? He said to him: For that it is needed, that the signature of Yose ben Yannai has equal weight with the signature of Shaul ben Barukh115.

103 There is a parallel in Baba batra 10:1, noted 2. Even though this is evidently from a different edition, the text (except for the last two lines) is close enough to be considered identical. The text is Tosephta 7:11 (Babli Baba batra 162b).

104 The witnesses cannot sign directly after the text since then they would not appear as witnesses. In commercial contracts, the distance cannot be two full lines since then the holder of the document could insert a line of text at the end after the signing. Since a commercial contract is invalid if the witnesses are too far from the text, the same standard is applied for bills of divorce and manumission.

105 A corresponding rule holds for lacunae in the text: Chapter 3:2, Notes 68, 69.

106 The text in Baba batra reads: "Another subject". The parallel in 3:2 shows that this is an editorial difference, not a scribal error.

107 In Baba batra: "Is Hebrew relative to Greek not another subject?" The text here is preferable since for a single bill on a sheet of paper it is perfectly acceptable to have one witness sign in Hebrew and the other in Greek or Roman letters. The bills are invalid only because the signatures would be separated by more than one line, not because they are in different alphabets (cf. Tosephta kiFshutah Gittin p. 910).

108 If the first witness does not start to sign at the start of the second line but towards its end, extending his signature to the third line and forcing the second witness to write his patronymic on the fourth line, the document is valid since it cannot be adulterated.

109 Tosephta 7:11-12; an extended version is quoted in Baba batra.

110 In Baba batra erroneously: Dositheos ben Jehudah.

111 In Baba batra correctly: R. Yasa in the name of R. Sabbatai.

112 In Baba batra: The largest of the writing of the scribe or one of the
witnesses. This seems to be from the editors of *Neziqin*; the text here implies that the two lines are judged by the larger of the signatures. The Babli, *Baba batra* 163a, explicitly states that the handwriting of the scribe is irrelevant.

113 The empty line must be large enough as to accommodate separately the height of ה and the bottom of ג. The Babli agrees, *Baba batra* 163a.

114 It seems that it was acceptable if ב was written for "son of". In that case, "Yose ben Yannai" had no lengths above and below the line, but "Shaul ben Barukh" had both.

115 In judging a document, the actual signatures count, not theoretical distances. It might be that "Yose ben Yannai" uses up more space than "Shaul ben Barukh".

A document which has an erasure or insertion in its main part\(^\text{116}\) is invalid; in the routine matter it is valid; but if it was mentioned later\(^\text{117}\) it is valid even in the main part. Rebbi Jonah and Rebbi Yose both say, one has to mention it at least in the second line before the end of the text. Rebbi Ze'ira in the name of Rav: One has to mention the essence of the document with it\(^\text{118}\). Rebbi Abba in the name of Rav: If one did not mention the essence of the document with it\(^\text{119}\). The argument of Rebbi Abba seems inverted. There, Rebbi Ba said in the name of Rav Jeremiah: Disqualified witnesses do not constitute remote testimony since they came only to support the document’s validity\(^\text{120}\). And here, he says so\(^\text{121}\)? There, in the name of Rebbi Jeremiah, here in the name of Rav.
Where the parties are identified and the sums of money specified.

Reference is made to the erasure or the addition before the last line of text.

In justifying erasure or addition, the purpose has to be stated.

This sentence is incomplete. The following discussion shows that one has to add: "it is invalid."

If the first lines after the contract text were filled with the signatures of people invited for reasons other than testimony and the real witnesses sign only later, one validates the document even though the real signatures start more than one line after the text.

If the essence of the document is not stated at the acknowledgment of a correction, the document is invalid.

If somebody contests the signature of the witnesses or the signature of the judges. Rebbi Abba in the name of Rav Jehudah: If he wants to certify it from the handwriting of the witnesses it is certified, from the handwriting of the judges it is certified; I am saying that even from one witness and one judge it is certified. If he gave permission to the scribe to write and to the witnesses to sign, Rebbi Abba in the name of
Rav Jeremiah: The witnesses have to write: "This loan is from the first of
Nisan but we wrote at a later date."\textsuperscript{125} Rebbi Ze'ira in the name of Rav
Hamnuna: The confirmation of the judges is valid even if it is at some
distance\textsuperscript{126}. Rebbi Mana said, is that correct? Could he then not certify
from one handwriting\textsuperscript{127}? Rav said: The judges have to write: We
certified this in the presence of X and Y. Why? So they can be convicted
of perjury\textsuperscript{128}. But then also on which date, at which time, at which place?
A judgment was given before Rav and this was not written\textsuperscript{129}. Rebbi
Haggai said: The judges have to know the parties. It happened that they
falsified\textsuperscript{130}.

\textsuperscript{122} A debtor whose property is
attached following a decree of a court
in another jurisdiction claims that the
document is counterfeit and the
signatures of the witnesses and the
judges are fake.

\textsuperscript{123} The creditor can prove the
document genuine either by proving
the validity of the signatures of the
witnesses or that of the judges.

\textsuperscript{124} R. Abba adds that only two
signatures have to be verified; they can
also be those of one witness and one
judge.

\textsuperscript{125} The debtor told the scribe and
witnesses to execute a document of
indebtedness. If it was not written on
the same day, the fact has to be noted
on the document even though a
postdated document is valid (only a
predated one is invalid). The Babli,
\textit{Baba batra} 170b, confirms the
statement but notes that it is not
enforced.

\textsuperscript{126} Judicial confirmation of the
genuineness of a document does not
have to be written immediately below
the signatures of the witnesses; it can
be anywhere on the document. The
Babli, \textit{Baba batra} 163b, forbids any
space between signatures and
confirmation, not even one line.

\textsuperscript{127} R. Mana's argument is that of
the Babli: If there is an empty space,
the creditor could insert text in
between and create a fake document
with genuine signatures.

\textsuperscript{128} The root \textit{דב}, used to describe
perjury, really means "to devise (a
plot)". It is used in \textit{Deut.} 19:16-21 to
characterize the perjurer. In Talmudic
typeory, a wrong testimony is not
usually perjured testimony; it is up to
the court to judge the credibility of the
witnesses. Perjury is impossible
testimony, i.e., the witnesses pretend to
have seen things they could not have
seen since they were not present at the
place at the time indicated. This leads
to the notion that the validity of a
document could be tested only if the
exact time and place of the signing
were indicated in the document.

129 It was executed by the
signatures of the judges alone.

130 A case of identity theft, where
the signatures of the witnesses and the
judges were all genuine but the
presumed debtor gave a false identity,
so that an innocent third party was hit
with a decree of payment.

Mishnah 9: It is valid if some of the text remained and was written in
the second column\(^{135}\), with the witnesses signing below. If the witnesses
signed on top of the page, or at the sides\(^{136}\), or on the other side for a
simple document\(^{137}\), it is invalid. If [two bills of divorce] start at the same
place\(^ {138}\) and the witnesses are in the middle, both are invalid. If the start
of one bill is next to the end of the other and the witnesses are at the end,
the bill whose witnesses are read with the end is valid.

135 The scribe folded the sheet so
that it formed two columns. He then
used both columns for the text. The
witnesses then signed at the end. (The
Babli, 88a, points out that this is valid
only if the parchment or paper was
folded, not if the two columns were glued together since they originally might have been parts of two different documents.)

136 The signatures are disregarded unless they are affixed at the end of the document, exactly one line from the end of the text.

137 In contrast to a sealed document.

138 Two bills written on the same sheet, one from the middle to the bottom, the other from the middle to the top. The signatures do not belong to either text.

Halakhah 9: "If some of the text remained," etc. What does "remained" mean? Rebbi Yose ben Rebbi Baibon said, e.g., "true, valid, and clear."

139 The expression "remained" implies that most of the text was in the first column. It is now asserted that the document is valid even if only the last line is written in the second column, in which the husband asserts that the contents of the bill conform to his wishes. (The Babylonian formulary has only the words "valid and true"). Cf. M.A. Friedman, *Jewish Marriage in Palestine* (Tel Aviv 1980) Vol. 1, p. 478, Note 112.

And what is invalid for a simple document is valid for a "knotted" one if it is on the back.

140 Cf. Chapter 8:12 for the rules of simple and sealed (knotted) documents.
Mishnah 10: A bill of divorce written in Hebrew with its witnesses signing in Greek, written in Greek with its witnesses signing in Hebrew, or one witness signing in Hebrew and one in Greek, or the scribe wrote with one witness, is valid. "X, witness" is valid. "The son of Y, witness" is valid. "X the son of Y", but he did not write "witness", is valid. If he wrote his or her surname, it is valid; that is how the punctilious in Jerusalem used to write. A forced bill of divorce among Jews is valid, from Gentiles it is invalid; but the Gentiles may whip him and tell him, do what the Jews tell you.

141 If there is only one document to be certified, it makes no difference if one signature is read from the right and the other from the left.

142 If the signature was recognizable as that of a certain person, the exact wording of the signature is irrelevant.

143 The family name (in addition to the proper name but without the patronymic), in a society where family names were not common.

144 In a case where the marriage is valid but sinful.

145 If the wife’s family pays Gentiles to beat up the husband or the Gentile ruler to jail the husband until he agrees to a divorce (documented in many cases from Medieval Spain), the resulting divorce is invalid.

146 If the rabbinic court asks the Gentile court to act on its behalf, the resulting divorce is valid.
Halakhah 10: Rav said: Judges may sign even if they cannot read, but no witnesses may sign unless they know how to read. He said, such should come over me if I ever acted thus. Rebbi Haggai said before Rebbi Yose: Did no Greek document come before Rav that he could confirm it by its signatures? The Mishnah disagrees with Rav: "A bill of divorce written in Hebrew with its witnesses signing in Greek, written in Greek with its witnesses signing in Hebrew, or one witness signing in Hebrew and one in Greek, is valid." He explains that they knew how to read but not how to sign; or if they knew both [languages], they could sign in either one of their choice.

147 In the ms., Halakhah 10 starts only at 50d, line 12.

148 If judges sign the document, they only certify that it was presented to them and they attest to the genuineness of the signatures. Therefore, judges who do not know Greek can certify Aramaic signatures on a Greek document. But the witnesses testify to the genuineness of the document and they may be called to testify about its meaning; they are prohibited from signing unless they can read and understand it. In the Babli, Ketubot 109a/b, the rule is attributed to R. Hyya, Rav's uncle.

149 An oath; the speaker invokes all kinds of bad things which should happen to him if he ever did what he denies doing.

150 He never acted on what he permitted in theory.
151 Since Rav exercised jurisdiction only in Babylonia, it is quite possible than no Greek document ever came before him.

152 Does this not mean that the witness signing in Greek did not know Hebrew and vice-versa?

Rebbi Eleazar said, it is everybody's opinion. Rebbi Johanan said, it is Rebbi Jehudah's. Rebbi Yose said, you should not infer that the opinion of Rebbi Johanan is that he differs, but he answered him following his argument. Lengthwise. That is what he said in the name of Rebbi Ze'ira: Since pairing is infrequent, there was no pairing. So is the Mishnah: "If the scribe wrote with one witness, is it valid. "X" is valid. "The son of Y" is valid. "X the son of Y" but he did not write "witness", is valid. If he wrote his or her surname, it is invalid. Rebbi Abbahu in the name of Rebbi Johanan, even if he wrote "he is it", it is valid. Rebbi Abbahu wrote נ. Rav Hisda wrote פ. Samuel wrote a palm branch.

153 The Mishnah which lets the witnesses sign in any way they choose, if only their signatures are characteristic for them.

154 Who in Mishnah 3 requires a lengthy text.

155 Mishnah 9 speaks of the case that the sheet containing the bill was folded lengthwise, with the two columns then in parallel. This may be
ascribed to R. Jehudah who in Mishnah 3 requires that the text be very specific in detailing the divorce.

The *editio princeps* reads instead of על רבי וرأש, viz., one supports R. Yose, who is quoted in Chapter 3, Note 66, that his teacher R. Jeremiah quoted his own teacher R. Ze'ira to the effect that one does not have to worry that two men, both called X ben Y, divorce their wives, both called A bat B, at the same place on the same day. Therefore, one does not have to worry either that a person whose characteristic signature consists only of one word be taken for another person.

156 J. N. Epstein (p. 476-477) notes that in most documents from the Genizah, at the end the scribe appended his own name. The Mishnah admits this declaration as testimony to the genuineness of the document. This is rejected by the Babli, 88a, in the name of R. Jeremiah.


157 In the revised version, no witness has to declare that he signs as a witness; his signature at the correct place automatically justifies it.

158 Everybody, including J. N. Epstein, considers this as a scribal error for "valid". But it might mean that the family name alone, without a proper name, is invalid.

159 Reading הנות for הנות. This is acceptable as a signature as long as it was written in a characteristic way that would be difficult to counterfeit, more or less in the tradition of Sephardic rabbinical signatures through the ages.

160 Probably in a very convoluted manner. In the Babli, 87b, a number of rabbis are mentioned who wrote their names in the form of a picture: R. Hanina a palm branch, Rav a beehive, Rabba bar Rav Huna a sail (the latter was imitated in the 18th. Cent. by R. Y. D. Azulay.)
"That is how the punctilious in Jerusalem used to write. A forced bill of divorce among Jews is valid, from Gentiles it is invalid". 161 Samuel said, it is invalid and disqualifies from the priesthood. Samuel said, one does not force, only disqualify. Samuel said, one does not force except for example a widow married to a High Priest, a divorcee or one freed by halisah in the case of a simple priest. But did we not state: "Secondarily forbidden"? Did he not say "for example"? But did we not state: "A person who by a vow forbids his wife to have any usufruct from him for up to 30 days shall appoint a caretaker; after 30 days he shall divorce her and pay ketubah"! We heard that he shall divorce; did we hear that one forces him?

161 This paragraph is from Yebamot 9:5 (5) Notes 40-46.
Rav Jeremiah in the name of Rav: Jews who forced in the manner of Gentiles make invalid\textsuperscript{162}, even if he says, I shall not feed nor provide. Rebbi Hiyya stated: Gentiles who forced in the manner of Jews are valid, even if he says, I shall not feed nor provide\textsuperscript{163}. Rebbi Yose said, the Mishnah says this: "Gentiles may tell him\textsuperscript{164}, whip him, and tell him, do what the Jews tell you to do." Rebbi Hiyya bar Ashi in the name of Issy\textsuperscript{165}: If somebody says: "I shall not feed nor provide", one forces him to divorce. Rebbi Jeremiah asked before Rebbi Abbahu: Does one force? He said to him, do you still have doubts? If one forces because of a foul smell\textsuperscript{166}, so much more because of sustenance! Rebbi Hizqiah, Rebbi Jacob bar Aha, Rebbi Yasa came in the name of Rebbi Johanan: If somebody says: "I shall not feed and I shall not provide", one tells him: Either feed and provide, or divorce.

\textsuperscript{162} In the interpretation of Tosaphot (88b s.v. \textit{דבורה} Baba batra 48a s.v. \textit{טז}) if the forcing was executed under the supervision of a Gentile court or a Gentile ruler.

\textsuperscript{163} If the forcing is under the supervision of a rabbinic court, the divorce is valid even if the marriage is completely legitimate because the husband has no right to mistreat his wife in any way.

\textsuperscript{164} This addition probably is a scribal error.

\textsuperscript{165} The Babli agrees in the name of Rav (Ketubot 77a). Samuel holds that the husband has to be forced to pay but Rav asserts that one cannot require the wife "to live in the same basket with a snake" and the court has to force a divorce.

\textsuperscript{166} Mishnah Ketubot 7:10.
Mishnah 11: If it became public knowledge in town that she was preliminarily married, she is preliminarily married\(^{167}\); divorced, she is divorced\(^{168}\), except if there was an excuse. What would be an excuse? Mr. X divorced his wife conditionally\(^{169}\), or he threw valuables for preliminary marriage to her and it was doubtful whether it was closer to her than to him\(^{170}\); that is an excuse. The House of Shammai say, a person should not divorce his wife unless he found her immoral, as it was said\(^{171}\): "For he found with her a matter of nakedness\(^{172}\)." But the House of Hillel say, even if she spoiled his dish, as it was said: "For he found with her a bad thing\(^{173}\)." Rebbi Aqiba said, even if he found another more beautiful than her, as it was said: "It will be if she does not appear pleasing in his eyes\(^{171,174}\), etc."

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\(^{167}\) If she had been unmarried, she cannot marry another man without receiving a divorce from the one to whom she is betrothed in the eyes of the public.

\(^{168}\) And could not marry a Cohen even if previously unmarried.

\(^{169}\) And the condition was not satisfied.

\(^{170}\) A doubt whether a doubtful marriage was concluded has to be dismissed as irrelevant.

\(^{171}\) Deut. 24:1.

\(^{172}\) If the husband had proof of her infidelity, he would by law be obligated to divorce her (cf. Sotah 1:1,
Notes 13,14). In the absence of proof, the House of Shammai counsel him to divorce her. This probably is also the interpretation to be given to Math. 19:9 and is the basis of the disapproval of marrying a divorcee expressed in Sifry Deut. 270.

173 The Houses of Shammai and Hillel explain the same verse. The House of Shammai read "דַּרְךָ דְרַךְ" as if it were (in rabbinic Hebrew) "a matter of nakedness (immorality)". The House of Hillel read the construct state as a modifier of "thing": an undesirable thing; e.g., being a bad cook.

174 Even if she is beautiful in an objective way, but not beautiful in his eyes, he may divorce her. In his opinion (adopted in practice), a divorcee may be completely blameless.

Halakhah 11: "If it became public knowledge in town that she was preliminarily married, she is preliminarily married". Rebbi Yasa in the name of Rebbi Johanan: If lights are burning and people talk175. Rebbi Ze'ira objected before Rebbi Yasa: But did we not state: "If it became public knowledge in town that she was preliminarily married, she is preliminarily married; divorced, she is divorced"? Can you say that lights are burning176? No, people talk. So here also, people talk177. Rebbi Yasa in the name of Rebbi Johanan: If the title was checked and found to be from the mouth of women or minors, the title is abolished178. Rav said, they permitted only in case of a hearsay witness179.
A person can be held married only if there was a marriage celebration and people talk about it. The same opinion is attributed to R. Johanan in the Babli, 89a.

Since the Mishnah treats divorce as parallel to marriage and usually people do not make divorce parties, no celebration can be required.

Likewise for marriage, no testimony about festivities is required.

The court cannot act (to require a divorce or to prohibit marriage to a Cohen) unless it is informed by people able to appear as formal witnesses in court.

Rav disagrees with R. Johanan. If a formal proof were required, the Mishnah would be unnecessary. Therefore, only a determination of facts is needed, and women can be asked about facts. He agrees only that if the information was by hearsay and its source cannot be located, it has to be disregarded. In the Babli, 89a, Rav holds that if the source was located but cannot be asked because the informant left, one accepts the rumor as true.

Was it not stated in the name of the House of Shammai: Not only that the woman must leave because of incest; from where that she must leave if her head's [hair] is loose, if the side seams of her dress are open, or her arms stripped bare? The verse says, "for he found in her a matter of nakedness." How can the House of Shammai confirm this? Lest you say that one divorced because of immorality is forbidden, for another
cause she would be permitted\textsuperscript{182}. Rebbi Shila from Kefar-Tamarta said: The verse is difficult for the House of Shammai: "Her first husband, who had sent her away, cannot afterwards retake her.\textsuperscript{183}" Where do we hold? If to forbid her to him, is she not already forbidden to him\textsuperscript{184}? But we must hold, to burden him with a prohibition\textsuperscript{185}.

\begin{itemize}
\item [180] \textit{Sotah} 1:1, Notes 13,14.
\item [181] In the Mishnah, the House of Shammai admit only adultery as cause of divorce. In the \textit{bara\textit{ita}}, they admit all kinds of lewd behavior.
\item [182] Could be remarried by her first husband after having had a second husband.
\item [183] Deut. 24:4.
\item [184] If she committed adultery, she is automatically forbidden to her husband, even if she does not remarry. The prohibition to remarry the first husband after a remarriage seems to be unnecessary for the House of Shammai.
\item [185] In remarrying her, the first husband would commit two sins in one act (cf. Tosaphot 90a, s.v. \textit{המ}).
\end{itemize}

It is written\textsuperscript{186}: "And the unwell in her menstruation and the sufferer from gonorrhea in his flow." The earlier Elders used to say, "she shall be in her menstruation\textsuperscript{187}"", she shall not use \textit{kohl} nor any make-up until she comes into water. Rebbi Aqiba said to them: Is that a reason? If you say so, she makes herself ugly and he starts thinking to divorce her. It turns out that the Elders follow the House of Shammai\textsuperscript{188} and Rebbi Aqiba the House of Hillel\textsuperscript{189}.
Lev. 15:33. The same argument in the Babli, Šabbat 64b, Sifra Mesora’ Pereq 9(12).

Lev. 15:19.

Since she cannot be divorced, it does not matter how she looks.

In the Mishnah, R. Aqiba does not disagree with the House of Hillel; he simply takes their argument to its logical conclusion.
Introduction to Tractate Nazir

The verb רה "to vow as nazir" denotes a specialization of the related verb נא "to vow"; in a sense, Tractate Nazir is an appendix to Tractate Nedarim. The rules of the nazir vow are detailed in Num. 6:1-21. The person who executes a vow of nazir is forbidden grapes, wine, and any food derived from the vine; he has to let his hair grow, and is forbidden any contact with corpses. In addition, one finds that Samson was designated a nazir by an angel before his birth. Since he never made the vow himself, the rules of nazir cannot directly be applied to such a person. It seems that only the prohibition of a haircut and wine applies to a "Samson nazir". In Second Temple times, the vow of nazir was extremely popular. Philo (The Special Laws 1, 247-254), following the Septuagint, calls the vow of nazir "the Great Vow." Since the nazir needs a cleansing ceremony in the Temple, the vow for all practical purposes disappeared with the destruction of the Second Temple. A nazir vow today can only mean a life-long abstention from grapes and wine and from haircuts.

The first two Chapters are parallel to the first Chapters of Nedarim and deal with valid and invalid ways to make the vow. Without specification of the duration of the vow, it is presumed to be for thirty days; the rules for longer periods or permanent status are also discussed. The second
Chapter discusses mainly indirect statements which have the force of a vow.

The third Chapter starts the discussion of the detailed rules which characterize the nazir; in particular the rules for terminating the vow by a haircut and the involuntary interruption of the vow by contamination with the impurity of the dead.

The fourth Chapter starts with conditional vows and then turns to the vows of women and the power of the husband to dissolve them, the power of a father to impose the status of nazir on his underage son, and rules covering the obligatory sacrifices at the end of the nazir period.

The fifth Chapter contains a discussion of all kinds of vows whose validity is in question.

The sixth Chapter concludes the first part of the Tractate by a discussion of the prohibitions imposed upon the nazir and the sacrifices to be offered at the conclusion of his period of nezirut.

The last three Chapters are devoted to the rules of impurity of the dead (Num. 19); major parts are discussions of Mishnaiot from Ahilut rather than from Nazir. A major theoretical preoccupation are the rules concerning burial of an abandoned corpse, which has precedence over the restrictions imposed on a nazir or a Cohen. The last Chapter also notes that Gentiles, while in general they can make vows under rabbinic rules, cannot obtain the status of nazir. It also contains a collection of otherwise disconnected rules whose common interest is that prima facie evidence is accepted as long as it is not disproved. The Tractate ends with an aggadic statement that Samuel was a nazir.
Mishnah 1: All substitute names\(^1\) for nazir vows are like nazir vows. If somebody says "I shall be" he is a nazir\(^2\), "I shall be beautiful", he is a nazir\(^2\); naziq, naziah, paziah\(^3\), he is a nazir. "I shall be like this one"\(^2\), "I shall tend my hair," "I shall groom my hair". "I shall be obligated to grow my hair", he is a nazir. "I have to bring birds", Rebbi Meir says, he is a nazir\(^4\), but the Sages say, he is not a nazir\(^5\).

1 Num. 6:2 reads: "A man or a woman who clearly intend to vow the vow of a nazir, to become a nazir for the Eternal." This makes it clear that making a vow of nazir, like any other vow, is implicitly an invocation of God's name. The speaking of any vow therefore is an invocation of God's name and this should be avoided; cf. Nedarim 1:1, Note 1. In this the vow of nazir is not different from any other vow.

2 But only if stated in the presence of a nazir, when it can be interpreted as "I shall be like him".

3 Names invented to avoid spelling out "nazir"; Mishnah Nedarim 1:2. Some of these words have meaning in Arabic: نوق "to be quick (or irritable)". نزح "to be far away".

4 The required sacrifice for a nazir who became impure, Num. 6:10.

5 It is not reasonable to assume that a person vows to be a nazir with the expectation to break the rules, even if unintentionally.
Halakhah 1: "All substitute names for nazir vows are like nazir vows," etc. "All substitute names for vows are like vows," etc. It is written: "Any person who vows," why does the verse say "a vow"? From here that substitute names for vows are like vows. "Or he swears," why does the verse say "an oath"? From here that substitute names for oaths are like oaths. One reads that at the start of the first Chapter of Nedarim, up to: Rebbi Ismael stated: "any person who vows a vow of nazir". From there that a person can obligate himself as nazir while he currently is a nazir.

6 The text is quoted from Nedarim 1:1, Notes 12-22.
Even though Rebbi Simeon said, he does not bring a sacrifice⁹, he agrees in this case that he be whipped¹⁰. Even though Rebbi Jehudah said, a questionable nazir vow is permitted¹¹, he agrees in this case that he be whipped¹⁰. Where do we hold? If he has the intention of becoming a nazir, even if he only said, I shall be a nazir if I mention bread, he is a nazir. Similarly, if he had no intention of becoming a nazir, even if he mentioned nazir, he is no nazir; for example if he was reading the Torah and mentioned nazir, naziq. But we hold about one who says, I declared my vow of nazir by any of these expressions. If one of them is a valid expression of a vow of nazir¹², it will fall on him, otherwise, will the vow of nazir not fall on him? One tells him: keep the discipline¹³.

7 Nedarim 1:1, Note 36.  
8 If somebody makes a vow using unapproved language and does not keep it, he cannot be accused of transgressing a biblical prohibition. But if he refers, if only obliquely, to the biblical laws of the nazir, such an infringement is punishable by law.  
9 In Mishnah 5:7, R. Simeon holds that for a questionable vow of nazir one cannot bring a sacrifice since the Temple does not accept questionable sacrifices.  
10 Since the vow is not questionable.  
11 In Halakhah 4:6; based on Num. 6:2.  
12 From the list mentioned in the Mishnah.  
13 Deut. 12:28; if he had the intention of becoming a nazir, even if he did not use exactly the prescribed language. The same expression is used in the Babli, Menahot 81b, regarding a person who makes an irregular vow of a sacrifice.
ridicule them or [does he mean] "I shall be like them"? Rebbi Yose ben Rebbi Abun in the name of Samuel\textsuperscript{15}: Certainly, I shall be like them.

14 There is no vow of nazir\textsuperscript{14} passing by.
without an implicit or explicit reference to the institution of nazir. The reference may be to a nazir Hanina in the next paragraph.

15 In the Babli, 2b, Samuel takes the position attributed to R. Yose ben Hanina in the next paragraph.

"Or I shall be beautiful". Where do we hold? If he said "beautiful", is that not the previous case? When he grabs his hair, is that not what we have stated: "I shall be like this one", following Rebbi Yose ben Hanina who holds that "I shall be like this one" refers to the case that he is grabbing his hair\textsuperscript{16}. But we must hold that he says, "there is nothing more beautiful than this"\textsuperscript{17}.

16 Cf. Note 23. himself wants to be as beautiful and let his hair grow.

17 In that case, we assume that he
"Naziq, naziah, paziq". Rebbi Johanan said, these are expressions chosen by earlier generations and nobody has the right to add to them. But did not Rebbi Hiyya state: *raziah, haziah*? Rebbi Shila said, also to expressions chosen by earlier secondary ones nobody has the right to add. But did not Bar Qappara state *heres*? Rebbi Ze‘ira said, that is a name relating to the High One: "If He commands the sun: would it not shine?". Rebbi Simeon ben Laqish said, these are Gentile words, like those Nabateans who say *khaspa* for *haspa*. Rebbi Yose said, it is reasonable in other places, but in a place where the *nazir* is called *naziq*, do I say that a *nazir* of people with speech defects should not be a *nazir*?

18 **From here to the end of the 1:2, Notes 115-120 (§).**

It was stated: "The House of Shammai say, both substitute names and substitutes of substitutes are forbidden. But the House of Hillel say, substitute names are forbidden, substitutes of substitutes are permitted." What are substitutes of substitutes? Rebbi Abba bar Zavda said,
Rebbi Yose said, these are not substitutes of substitutes, they are really substitute names, for is somebody who said menadarna not a nazir? But one who says menadarna is like one who said mefahazna. Following Rebbi Yose, these are substitutes of substitutes, as we have stated: "I have to bring birds', Rebbi Meïr says, he is a nazir, but the Sages say, he is not a nazir." Rebbi Johanan said, because of substitutes of substitutes: 22 "Until his hair became mighty as an eagle's and his fingernails like those of birds."

19 Tosephta Nazir 1:1 (cf. also 1:2); Babli Nedarim 10b. The expression "forbidden" refers to "vows of prohibition" rather than to vows of nazir.

20 Pi'el forms of the accepted roots וַעֲזָא, וַעֲצָא, וַפּוּה. Rebbi Yose said, these are not substitutes of substitutes, they are really substitute names, for is somebody who said menadarna not a nazir? But one who says menadarna is like one who said mefahazna. Following Rebbi Yose, these are substitutes of substitutes, as we have stated: "I have to bring birds', Rebbi Meïr says, he is a nazir, but the Sages say, he is not a nazir." Rebbi Johanan said, because of substitutes of substitutes: 22 "Until his hair became mighty as an eagle's and his fingernails like those of birds.

21 Since Galilean rabbinic Hebrew mostly replaces qal by pi'el (such as נэр נָר for מָטַר), an unusual pi'el form for מַעַר "to make a vow" (and equally, for מַעַר "to vow to be a nazir") is valid speech. The form נאזר נאזר used here makes no sense; most probably one has to read נאזר as in the preceding sentence.

22 Dan. 4:30. This establishes a proverbial connection between long hair and a mention of birds.

23 "I shall be like this one"; Rebbi Yose bar Hanina said, if he grabs [a nazir's] hair and says, "I shall be like this one."
grow their hair. "I shall tend my hair and I shall groom my hair", if he says I shall neither tend nor grow my hair for less than thirty [days], he means thirty. "It shall be my obligation neither to tend nor to grow my hair," if he says, it shall be my obligation neither to tend nor to grow my hair more than thirty [days], he means thirty. "I shall be obligated to grow my hair", means "I shall tend my hair, I shall groom my hair". Or "It shall be my obligation neither to tend nor to groom my hair, but to let it grow wildly."

23 In the Babli, Samuel admits the possibility that a nazir was standing nearby and the person making the vow pointed to him.

24 Since in popular speech a nazir is characterized by his long hair, saying that one wants to be "of those who grow their hair" is a clear vow of nazir.

25 Mishnah 1:3 states that an unspecified period of nezirut is 30 days. Therefore, mentioning 30 days in a statement regarding hair is a statement of nezirut.

26 For the standard 30 days.
substitutes: "Until his hair became mighty as an eagle's and his fingernails like those of birds." Rebbi Simeon ben Laqish said, because an impure nazir brings birds. Does he bring birds? He brings turtledoves or young pigeons. There are some Tannaim who state that all pure birds are called רעג, and there are some Tannaim who state that all birds, whether pure or impure, are called רעג. He who says that all pure birds are called רעג, "you may eat any pure bird." He who says that all birds, whether pure or impure, are called רעג, "say to any winged bird." What is the rabbi's reason? He is like somebody offering birds for the upkeep of the Temple. What is Rebbi Meir's reason? He is like somebody offering a reparation sacrifice for the upkeep of the Temple. What is the difference between them? If somebody says, "I take upon myself to bring a reparation sacrifice." In the opinion of Rebbi Meir he is a nazir since one cannot bring a reparation sacrifice for the upkeep of the Temple. In the opinion of the rabbis he is a nazir since an impure nazir brings a reparation sacrifice.

27 Num. 6:10. But no pure person would entertain the idea of becoming a nazir if he expects to become impure since that could extend his period of nezirut indefinitely.

28 Many people use רעג only for wild birds.

29 Deut. 14:11. In Scripture, רעג is feminine.

30 Ez. 39:14.

31 The expression 'I have to bring' is a regular form of a vow, which in Temple times implied a gift to the Temple. A single bird can be offered as a voluntary sacrifice (Lev. 1:14-17) but a couple can be given only as an obligatory sacrifice, i.e., a reparation or a purification sacrifice. These can never be given voluntarily, as result of a vow. Since the vow was formulated for birds, not a bird, it is concluded that the birds have to be given to the Temple for its upkeep, to be sold to persons needing them for obligatory sacrifices, with the proceeds given to the Temple treasury.

32 This is an impossibility; an obligatory sacrifice cannot be given
voluntarily and it has to be offered on the altar, not sold for the Temple’s benefit. Therefore, the vow has to be interpreted as a wish to be in a situation in which one has to bring a reparation sacrifice to the Temple. The only reparation sacrifices which depend on the person’s initiative are either the possible sacrifice of the impure nazir or those required of the person guilty of larceny (Lev. 5:14-16, 21-26). Since it is impossible to think that a person should want to commit larceny for religious purposes, the state of nazir is the only alternative.

33 Since in this formulation there is no difference between the rabbis and R. Meir, all commentaries read "he is not a nazir"; since no person would accept nezirut with the prospect of an indefinite duration unless he spells this out clearly at the start, the vow is invalid because it is unrealistic. If one keeps the original wording, the rabbis and R. Meir agree not only on the result but also on the reasoning behind it.

Mishnah 2: "I am off grape kernels," or "off grape skin," or "off hair shaving," or "off impurity"; he is a nazir and all rules of nezirut apply to him. "I am like Samson ben Manoah, like Dalilah’s husband, like the one who lifted the gates of Gaza, like the one blinded by the Philistines," he is a Samson-nazir. What is the difference between a nazir in perpetuity and a Samson-nazir? If the hair of a nazir in perpetuity becomes heavy, he shaves it off with a knife and brings three animals; if he becomes...
impure, he brings a sacrifice of impurity. If the hair of a Samson-nazir becomes heavy, he does not shave; if he becomes impure, he does not bring a sacrifice of impurity.

34 This uses the expression of the verse Num. 6:4: "During the period of his vow, he may eat nothing which can be made from wine-grapes, neither kernels nor skin." Anybody who prohibits to himself anything characteristically forbidden to a nazir makes a vow of nazir (unless explicitly disawoved in the same breath) and is subject to all its rules.

35 A Samson-nazir follows the rules not of Num. 6 but of Jud. 13:1,5,14: His vow is life-long; he is forbidden wine and any intoxicating drink, and cannot shear his hair. He does not have to avoid the impurity of the dead.

36 A person who made a vow to follow the rules of Num. 6 for the rest of his life.

37 He celebrates the end of a nazir period, as prescribed in Num. 6:13-20, except that at the end of the ceremony he cannot drink wine but immediately starts the next period. The frequency of his shaving is a matter of dispute in the Halakhah.

Halakhah 2: "I am a nazir off grape kernels," etc. So is the Mishnah: "either off grape kernels," or "off grape skin," or "off hair shaving," or "off impurity." If he mentioned nazir with any one of them, following Rebbi Jehudah only if he mentioned "and", but following Rebbi Meir even if he did not mention "and".

38 This is the reading of the Mishnah in the Babli and most Mishnah mss.

39 He is a nazir if only one of the expressions mentioned were used. One should not translate: "I am off grape kernels and off grape skin and off hair shaving and off impurity", implying
that he only is a nazir if he recited the entire catalogue. In the Babli, 3b, the latter is the opinion of R. Simeon.

40 The disagreement between them was explained in Gittin 9:7, Notes 85-101, mainly in Notes 93-95. According to R. Jehudah, if he makes a vow to become a nazir and then adds "and forbidden kernels, and forbidden skins, and forbidden haircuts, and forbidden impurity", each "and" implies a new vow for an additional period of nezirut. According to R. Meir, just reciting the catalogue adds a new obligation for each item listed, even if the items are not connected by "and".

"I am a nazir and a nazir;" he is two times a nazir, for he could have said, "I am a nazir." "I am a nazir, nazir," two. "I am a nazir, once, and repeated," he is four times a nazir. Rebbi Yose ben Rebbi Abun said, "as they", eight. "Like they," sixteen. Following Symmachos: "Tetragon, four; trigon, three; digon, two."

41 Since he will be twice a nazir if he said "I am a nazir, once" by the preceding argument, the repetition would apply to all that precedes it.

42 This refers to the preceding statement. If one starts with a 4-fold obligation, any repetition doubles the number.

43 The text is corrupt. One has to read with Tosephta 1:1 (Babli 8b): Tosephta 1:2: If he says, I am a tetragon nazir, he is a nazir four times, וריצים (sic!) two times.

The problem of identifying the numerals is complicated by Babli (8b, Baba batra 164b): Symmachos says, hen is 1, digon 2, trigon 3, tetragon 4, pentagon 5. The rabbis have stated: A circular house, or one digon, trigon, pentagon, is not subject to the laws of leprosy of houses (Lev. 14:33-53); a house built tetragon is subject to those laws. (A text similar to the last sentence is in Tosefta Nega'im 6:3; Mishnah Nega'im 12:1 mentions only a
round house and a trigon house.) In Baba batra, the word digon is further determined by the note that of the two consuls (Archontes), the one who is not eponymous is called archon digon (in the interpretation of the commentary ascribed to R. Gershom, a person "appointed archon for the second time").

Under the influence of the Babli, the dictionaries, starting with the 11th Cent. Arukh, have identified the words digon, trigon, tetragon used by Symmachos with the same words used in the Tosephta of Nega'im. Now it is clear that in the latter Tosephta, trigon corresponds to τρίγωνος "triangular", tetragon is τετράγωνος "quadrilateral, square", and pentagon to πεντάγωνος "pentagonal". In spherical geometry, there exists a notion of digon, but this cannot be traced back earlier than the 17th Cent.; it is a notion foreign to the spirit of Greek mathematics. S. Lieberman (Tosefta kiFshutah Nazir p. 504) has recognized correctly that a word δίγωνος does not exist in classical or Byzantine Greek. Therefore, the talmudic digon cannot be translated "bi-angular". The word is more likely to be δίγωνος "double, twin", which certainly makes sense in the statements about nazir and archon (archon digon "associate archon"). In parallel, the words trigon and tetragon used for the nazir's vow have well documented non-geometric meanings τρίγωνος "threefold", τετράγωνος "fourfold".

There only remains the problem of explaining the word digon used in Tosephta Nega'im. It cannot mean "bi-angle" since a house with only two corners automatically must have curved walls and is excluded as a "round house". Since "house" (at least in the Babli) as a rule means "one-room house", it could be that the Tosephta excludes multi-room dwellings from the laws of the leprous house, referring here also to δίγωνος.
"I am" is a handle\textsuperscript{44} for nezirut, "I am obligated" is a handle for qorban\textsuperscript{45}. \textsuperscript{46}Rebbi Eleazar in the name of Rebbi Hoshiaiah: one catches him because of a handle for qorbän. Rebbi Abun bar Hiyya asked, if he said, I shall not eat from you, does one catch him because of a handle of an oath? Rebbi Yose said, \textsuperscript{47}people usually say "an oath that I shall not eat from yours;" do they ever say "that I shall not eat from yours, an oath"? Rebbi Mattaniah said, people usually say "handle of an axe"; do they ever say "axe of a handle"?

\textsuperscript{44} As explained in \textit{Nedarim} 1:1, Note 67, a handle of a vow is an expression of a vow used in disregard of the formal rules of vows.

\textsuperscript{45} Not that he vowed a sacrifice but that it should be forbidden to him as if it were a sacrifice; cf. Introduction to Tractate \textit{Nedarim}.

\textsuperscript{46} From here on, a parallel to the text is in \textit{Nedarim} 1:1, Notes 75-77.

\textsuperscript{47} In \textit{Nedarim}, the text between people ... people is missing.

"I did not vow as a nazir," he is permitted\textsuperscript{48}. "I already had been a nazir," he is forbidden\textsuperscript{49}. Rebbi Abun bar Hiyya in the name of Rebbi Avina, Rebbi Immi in the name of Rebbi Yose bar Hanina: If somebody
says, I am like ‘orlah juice⁵⁰, he did not say anything⁵¹. The colleagues say, that follows Rebbi Simeon in a disagreement. As we have stated there⁵²: "If somebody said, an oath that I shall not eat, but he ate carcass or torn meat, abominations or crawling things, he is guilty. But Rebbi Simeon declares him free from prosecution⁵³." Rebbi Ze'ira said, they disagree if it is an inclusive statement⁵⁴. But if it is a detailed statement⁵⁵, everybody agrees that no oath can be applied to prohibitions. And here, we consider an inclusive statement. Rebbi Yudan said, one is about vows, the other about oaths. Vows can be applied to prohibitions but no oaths can be applied to prohibitions⁵⁶.

48 If somebody used one of the languages classified as referring to nazir but immediately puts in a disclaimer, he is free from all rules of nazir.

49 This is not a disclaimer since a person who had been a nazir might want to be a nazir for a second time.

50 Juice from the fruits of a tree less than three full years old. All parts of the fruit, including the juice, are forbidden for any usufruct; cf. Introduction to Tractate 'Orlah.

51 Even though נֵזָירָת was declared "a handle for nezirut," if somebody declares that 'orlah juice is forbidden to him he is not a nazir since 'orlah juice is forbidden to any Jew.

52 Mishnah Sebuot 3:5.

53 For transgressing his oath, but naturally he can be prosecuted for eating prohibited food.

54 If somebody makes an oath which prohibits to him both things originally permitted and those prohibited by biblical law, the rabbis hold that an oath partially valid is valid and any infringement can be prosecuted. But R. Simeon holds that the oath exists only as far as things originally permitted are concerned; for the rest it is non-existent since "he already was sworn to it at Mount Sinai".

55 If the oath only contains a list of items prohibited anyway. In Sebuot (3:3; Babli 22b, 23b) this is a matter of dispute and is asserted only by R. Johanan (supported in the Babli by Rav and Samuel) but denied by R. Simeon ben Laqish.

56 Cf. Nedarim 2:2, Note 30.
“Just as substitute names for nazir vows are like nazir vows, so substitute names for Samson [vows] are like Samson [vows].”

What are substitute names for Samson [vows]? Rebbi Avina said, Šimšok, Šimšor, Šimšos.

Tosephta 1:5.
From here, "if his hair became heavy": Rebbi. For Rebbi Jeremiah said in the name of Rebbi Immi: The words of Rebbi: A nazir in perpetuity shaves once in twelve months. The words of the Sages: A nazir in perpetuity sometimes shaves every thirty days, sometimes once in twelve months. Rebbi Hila in the name of Rebbi Assi: It says so: I am a nazir like the hair on my head, like the dust of the earth, or like the sand of the sea. He is a nazir in perpetuity and shaves every thirty days. Rebbi says, this one does not shave every thirty days," but once in twelve months. "Who is one who shaves every thirty days? If he says, I am obligated for nezirut like the hair on my head, like the dust of the earth, or like the sand of the sea. Rebbi Ze'ira said, they differ if it was not made explicit. Where do we hold? If he says, "the fullness of my hair", everybody agrees that he shaves once every thirty days. If he says, "the number of the hairs on my head," everybody agrees that he shaves after twelve months. But we must hold that he says "like hair". Rebbi says, "the fullness of my hair". But the rabbis say, he means "the number of the hairs on my head." And here, why? Why did the man not make the vow? He only encourages himself to avoid prohibitions. In addition, from the following: Rebbi Jehudah added: If he said, like that which is collected in the fig harvest, or like sheaves in a Sabbatical year, or like stars in the sky, he is a nazir in perpetuity and shaves every thirty days." Could you say that Rebbi Jehudah follows the rabbis? He holds with Rebbi, as Rebbi Jehudah added: Absalom was a nazir in perpetuity and shaved every twelve months." What is the reason? Because of nezirut. But that would mean for the rabbis that he shaved every thirty days; that is what we have stated: I am a nazir the house full, or a chest full. One checks him out. It was stated on that: He shaves every thirty days. But here he said, he shaved every twelve months.
Possibly one should read מָן הָעָל וּמֵאָה "from the following." One starts the discussion of the nazir in perpetuity.

The Mishnah, which states that a nazir in perpetuity can bring the required sacrifices in order to shave his hair only if it really is heavy, follows Rebbi.

As stated in Mishnah 3, this is the minimum period for a vow of nazir and is automatically assumed to be the period intended if nothing else is specified.

This is an intrusion of a Babylonian text added by the corrector. His name in the Yerushalmi usually is: R. Yasa.

Perhaps one should read: המנין או המרדה נן "The Mishnah said so."

Mishnah 1:4.

Rebbi agrees that an unspecified period of nezirut is 30 days. He requires the vow to state that the person making the vow intends a multitude of vows (each one implying a major expense for three sacrifices). But a reference to the hair on his head is for him a reference to a big tuft of hair, just as a reference to the dust of the earth is to a mound of earth. The Sages hold that the language used implies a reference to a multitude of separate things (hairs, dust particles, sand grains).

It seems that the text is corrupt and the statements should be interchanged. If he says "the fulness of my head", he refers to the growth on his head as one entity, implying an indefinite duration of his vow but no obligation for any particular Temple ceremony. He may shave his hair after 12 months, provided he offers the three prescribed sacrifices. But if he refers to the "number of hairs on his head", he refers to a very great number of separate neziriot, and he can fulfill his obligation only by always offering his sacrifices at the earliest possible moment, after 30 days. He must shave every 30 days.

This confirms the correction made in the preceding Note.

While it is clear that for the rabbis he may shave after 30 days, it is not clear whether he is obligated for more than one period. Maybe he is not a nazir in perpetuity.

Babli 8b, Tosephta 1:3. In these sources: המלקט קן ומשבירי שלמה "the heaps of figs and the pathways of the Sabbatical" (when everybody is permitted to enter any field at any time.)

In the Babli, 4b, the statement is attributed to Rebbi. In Tosephta Sotah 3:16: R. Jehudah the Prince (= Rebbi). In Mekhilta deR. Ismael, Sirah 2: R.
Jehudah; *Mekhilta deR. Simeon ben Iohai*, p. 75: R. Jehudah the Prince. The Yerushalmi rejects the attribution to Rebbi. Since R. Jehudah admits that a *nazir* in perpetuity shaves only once a year, he must agree with Rebbi.

70 Mishnah 2:5.

71 One has to ask him what he meant before deciding his status.

72 Since it was stated that for the rabbis of Mishnah 5, he shaves every 30 days even if he vowed *nezirut* in perpetuity, it follows that R. Ze'ira could not be correct when he stated that the rabbis agree that "the fullness of my hair" implies even for the rabbis that he only shaves every 12 months since there is no visible difference between "the fullness of my hair" and "a chest full".

If he had counted six months when he became impure, does he count another six months or does he start anew counting twelve months? If he completed his term as *nazir* but did not manage to shave until two or three days had passed when he became impure. Rebbi Mani asked: Since he did not sanctify his hair, but what permits him to shave? "I am a *nazir* after two days, already a *nazir* in perpetuity." Since he may shave, he is a *nazir*. "I am a *nazir* after [20] days, already a *nazir* in perpetuity." Since he may shave, is he a *nazir*, or since if he became impure he has no time to cancel, is he no *nazir*?

73 A regular *nazir* has to start his *nezirut* anew after he underwent the purification ritual (*Num. 6:12*). But a *nazir* in perpetuity has nothing to count; the rules of the regular *nazir* are no help in answering the question.

74 It is obvious that he has to undergo the purification rite and then
start his *nezirut* again, Mishnah 3:4.

75 It seems that this sentence contains a scribal error and the text should be corrected as in the *editio princeps*: מַלְכַּר שָלָה קִדְוָשׁ שֵׁעָר נָבָעָמָא מַמְחַר לְלֶלָה. "Since he did not sanctify his hair by blood (i.e., by the prescribed triple sacrifice) what permits him to shave?"

76 He made two vows, the second to become activated after the first was terminated. There is no reason why not both of them should be valid.

77 Reading שִׁלְשָׁם instead of שָׁלָשׁ (as in the parallel in the Babli, 14a) with the standard commentaries. Not only is "20" required by the context but also the reading "2" would require בּ as against the collective וּשְׂכָּר as in the Babli, 14a.

78 In this case, one has to assume that he set a date for the start of his *nezirut* in perpetuity. The question is whether the introductory *nezirut* represents a valid vow. If the dates are chosen so that the *nezirut* in perpetuity starts immediately after the end of the regular nazir period, he would be able to fulfill all conditions of that period, which include shaving his head and burning the hair under the well-being offering. But if he should become impure during that time and has to start again, he would not be able at the end of the period to shave his head, and, therefore, could not fulfill the requirements for the triple sacrifice at that time. This might invalidate the first vow. No answer is given; the problem is to be resolved in the future if sacrifices are renewed in a rebuilt Temple. Similarly, the problem remains open in the Babli, 14a.

79 He keeps the regular *nezirut*, *nezirut* did not exist. Including its shaving, as if the Samson-

80 Num. 6:21.
81 But from the prophets; it is valid precept, as a common usage, not as a biblical

82 "If he becomes impure, he does not bring a sacrifice of impurity." He only said, "he does not bring a sacrifice of impurity." But is he whipped? The Mishnah follows Rebbi Jehudah, as it was stated in the name of Rebbi Jehudah: A Samson-nazir makes himself impure for the dead, since Samson himself was making himself impure for the dead. Rebbi Simeon says, if somebody said, "as Samson", he did not say anything, since the quality of nazir was not brought on by his mouth. What is the reason? "By the word of his nazir-vow." Any whose quality of nazir was brought on by his mouth; this excludes Samson-nezirut which was not brought on by his mouth but by the Word. What is the reason? "For the lad will be God's nazir from the womb."

82 Here starts the discussion of the rules of the Samson-nazir.
83 For intentionally violating the commandment of purity of a nazir.
84 Babli 4b, Tosephta 1:5. The Babli explains that the sentence about the Samson-nazir is formulated in parallel to the sentence about the nazir in perpetuity who is forbidden to become impure.
85 In the interpretation of the Babli, 4b, R. Simeon negates the possibility for anybody to validly vow to be a Samson-nazir.
86 Num. 6:21. In the Biblical text: "by the mouth of his vow".
87 Jud. 13:5.
Mishnah 3: An unspecified nezirut is for thirty days. If he said, I shall be a nazir once large, I shall be a nazir once small, even from here to the end of the world, he is a nazir for 30 days. I shall be a nazir [and] one day, I shall be a nazir [and] one hour, I shall be a nazir one and a half times, he is a nazir two times. I am a nazir for thirty days and one hour, he is a nazir for 31 days since a nazir vow cannot be made for hours.

88 If no particular time-frame was indicated at the time the vow was made, the vow automatically extends to 30 days, which is the minimum possible for the duration of such a vow.

89 All these expressions relate to surface area, not time measurements; they are irrelevant for a vow of nazir. From Mishnah 6 (cf. Note 106) it is clear that he said "I shall be nazir once from here to the end of the world."

90 This is the reading of the Babli and all Mishnah mss.; it is required by the context.

91 Since the original vow was not specified in time, it is for 30 days. If then something is added for a specific time (≤ 30 days), the second vow automatically is extended to the full 30 days.

92 Since the verse (Num. 6:13) speaks of "fulfilling the days of his nazir vow." Since he said "30 days and . . . " , he has to bring the three sacrifices after 30 days, shave, and observe a second period of thirty days. But if he said "30+x days", he observes 30+x days and only then brings the sacrifices.
Halakhah 3: "An unspecified nezirut is for thirty days," etc. Bar Qappara said "t'e‘t’e’" is thirty. Rebbi Samuel bar Rav Nahman in the name of Rebbi Jonathan: Corresponding to the 29 times that in the Chapter about the nazir in the Torah is written "vow, nazir, to vow as nazir." Are they not 30? Rebbi Yose ben Rebbi Abun said, one has to be removed for its definition. In the opinion of Bar Qappara, if he shaved on the 30th day, he did not fulfill his obligation. In the opinion of Rebbi Johanan, if he shaved on the 30th day, he fulfilled his obligation. Some want to understand it from here: "To let his head's hair grow wildly." How much is a hair growth? 30 days. Some want to understand it from here: "She shall cry for her father and her mother the days of a month." Since "days" mentioned there are 30, so also "days" mentioned here. Some want to understand it from here: "The prior days shall fall, for his nezirut is impure." The days which became permitted, which Moses and his court had permitted, and that is no less than 30 days. Some want to understand it from here: "Until the days are fulfilled." How much are full days? 30 days. Then if he shaved on the 30th day, he did not fulfill his obligation! Rebbi Isaac bar Eleazar said, "days" are written defectively טפם with a letter * missing.
Num. 6:5: "Until the fulfillment of the days he shall be holy". Since the verse mentions "the fulfillment of the days", it must refer to a fixed number; but none is indicated. The number is found by interpreting "he shall be" in the Alexandrian numbering system using letters as numbers. Since ρ (π) = 10, π (ε) = 5, the sum is 2 × 10 + 2 × 5 = 30. (In the Babli, 5a and Sanhedrin 22b, this is attributed to Rav Mattanah; in Sifry Deut. 25 it is a gloss.)

In Chapter 6, 6 times in v. 21, 4 times in v. 2, 3 each in vv. 5, 12, 16, 2 each in vv. 13, 19, and once in vv. 3, 4, 6, 8, 9, 20. In the Babli, 5a, this passage is attributed to bar Pada.

If one counts the related word יָדוּ in v. 7.

Before rules of the nazir can be explained, the notion of nazir has to be defined.

This should read: "R. Jonathan" since it refers to the statement of R. Samuel bar Nahman. (However, in the Babli, Sanhedrin 22b, R. Samuel bar Nahman reports a similar statement in the name of R. Johanan.)

Since the obligation is 29 days, the 30th day automatically is the day of celebration.

Num. 6:5.

The scribe wrote first: "How much is wild hair?" This might be the better reading.

Deut. 21:13. The argument is based on the doctrine of uniqueness of lexemes, viz., that a word used in the Torah has one and only one meaning: A meaning established in one place can be transferred to any other. Cf. Berakhot 1:1, Note 70.

Num. 6:12.

Moses had forbidden Aaron and his sons to let their hair grow in mourning for Nadab and Abihu (Lev. 10:6), which otherwise they would have done for the customary period of 30 days (cf. Num. 20:29, Deut. 34:8).

From one full moon to the next.

Therefore, there can be a day missing in the count, as there may be only 29 days from one full moon to the next.

כַּא הָאָם (51c, line 15)

אֶפְרָא אֲכַטִּית. סֵנֶיתָא הָיָא תֵּמֶר. אַחֲאָה.

There, we have stated: "I am a nazir from here to place X", and here, he says so? There is a difference, for he said "once".
Mishnah 1:6. He is a \textit{nazir} for the greater number of 30 days or the days one needs to get to place X. Why is the person who is a \textit{nazir} to the end of the world not a \textit{nazir} in perpetuity? Cf. Note 89. The same explanation is in the Babli, 7a.

Rav said: "I am a \textit{nazir} for 30 days and one day\textsuperscript{107}," he is a \textit{nazir} twice since he could have said "31 days". The Mishnah disagrees with Rav: "I shall be a \textit{nazir} [and]\textsuperscript{90} one day, I shall be a \textit{nazir} [and] one hour, I shall be a \textit{nazir} one and a half times, he is a \textit{nazir} two times." What could he have said, "30, and an hour"\textsuperscript{108}? A \textit{baraita} disagrees with the rabbis\textsuperscript{109}: Rebbi Ismael and Rebbi Aqiba did not disagree about one who said, "I am a \textit{nazir} 30 days and one day," that he is a \textit{nazir} only once. Where do they disagree? About one who said, "I am a \textit{nazir} 30 days and in addition one day," where Rebbi Ismael said, he is a \textit{nazir} twice\textsuperscript{110}, but Rebbi Aqiba said, he is a \textit{nazir} only once\textsuperscript{111}.

\textsuperscript{107} In contrast to the Mishnah (Note 90), where \textit{nazir} was not mentioned and, therefore, the addition was something new, here \textit{nazir} is mentioned and it is not clear whether the addition is a new vow.

\textsuperscript{108} The argument of Rav is disproved from the second part of the sentence, referring to the man who says that he shall be \textit{nazir} "and an hour". Since the Mishnah says that if he said "for 30 days and one hour" he is a \textit{nazir} for 31 days and the mention of "days" does not finish the sentence; each
sentence has to be analyzed to determine as to which expressions are covered by nazir.

109 It seems that this must read "Rav", since no rabbis are mentioned in this context.

110 Since "in addition" introduces a second vow.

While in speech, "and in addition" may introduce a new clause, in elementary arithmetic it simply means "+". Since one deals with numbers, the usage in arithmetic is decisive.

Mishnah 4: "I am a nazir like the hair on my head, like the dust of the earth, or like the sand of the sea." He is a nazir in perpetuity and shaves every thirty days. Rebbi says, this one does not shave every thirty days. Who is one who shaves every thirty days? If he says, "I am obligated for nezirut like the hair on my head, like the dust of the earth, or like the sand of the sea.""
In *Arukh*, s. v. *puns*, the reading is *an amphora full*. This is the basis of the translation, from the Greek *κάρυον Ποντικόν* "Pontic nut, filbert".

**Halakhah 4:** If somebody says, I am obligated as *nazir*, etc. Rebbi Manni said, one increases the severity. At the start one looks at it as if full of *etrogim*, after that pomegranates, after that walnuts, after that filberts, after that pepper kernels, after that sesame seeds, after that mustard seed.

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Rebbi Yose ben Rebbi Abun in the name of Rav: If somebody sets a term to his state of *nazir*, one does not allow him to shave. And it was stated thus: "I am a *nazir* all my days, I am a *nazir* in perpetuity; 100 years, or 200 years, he is not a *nazir* in perpetuity."
116 But he has only one period of nezirat, at the end of which he brings his sacrifices and shaves, and this even if the term he indicated probably exceeds his lifetime.

117 Tosephta 1:4. A similar text (1'000 instead of 200) in the Babli (7a,8b) 7.

118 By an error of the corrector, "he is a nazir in perpetuity" is missing here; it does appear in the parallels.

119 He is a nazir for 100 or 200 years, not obligated for any sacrifices but not allowed to shave in the meantime.

Mishnah 6: "I am a nazir from here to place X." One estimates how many days it is from here to place X. If less than thirty days, he is a nazir for 30 days, otherwise for the count of the days.

Mishnah 7: "I am a nazir according to the count of the days of the year, he counts nezirat in the count of the days of a year. Rebbi Jehudah said, this happened, and after he had finished, he died.
Halakhah 6: "I am a nazir from here to place X," etc. Where do we hold? If in the count of a solar year, 365 neziriot following the count of a solar year. If in the count of a lunar year, 354 neziriot following the count of a lunar year. But "the count of the days of a year" is problematic\textsuperscript{120}.

Since he could have in mind either an actual Julianic year of 365 or 366 days, or an actual Jewish lunar-solar year which according to the calendar in current use is between 353 and 385 days (with somewhat greater variations in the Mishnaic calendar, described in the appendix to the author's Seder Olam, Northvale 1998.)

In the Babi, 8b, and the Tosephta, 1:3, the cases of solar and lunar years are stated as a baraita. The formulation of the Yerushalmi Mishnah, referring simply to "a year" is not found in any of these parallel sources.

It was stated in the name of Rebbi Jehudah: This man was destined for death, only his nezirut suspended it.

At this point, the scribe of the ms. wrote

"One reads here from the first Halakhah at the start of Nedarim until the end of the Halakhah."

This was deleted by the corrector who prepared the ms. for the printer and inserted the text (Nedarim 1:1, Notes 93-102). The differences in readings are due to the corrector who was probably influenced by his training in the Babylonian Talmud. The main baraita, the story of Simeon the Just, also appears in the Tosephta, 4:7; Babi, 4b, Nedarim 9b; Sifry Na\textsuperscript{2}o 12; Num. rabba 10(7).
The Mishnah follows Rebbi Jehudah since it was stated in the name of Rebbi Jehudah, the ancient pious ones desired to bring a purification offering, but the Omnipresent did not let a sin happen to them; so they made a vow of nazir in order to be able to bring a purification offering. Rebbi Simeon says, they became sinners because they made a vow of nazir, for it was said: "He shall atone for himself for what he sinned about the person," that one sinned against his own person because he barred himself from [drinking] wine. It turns out that the position of Simeon the...
Just parallels Rebbi Simeon. As it was stated: Simeon the Just said, I never ate the reparation offering of a nazir except once. Once a man came to me from the South, I saw that he was handsome, with beautiful eyes and good looks, and his hair in waves. I said to him, my son, what induced you to cut off that beautiful hair? He said to me: Rabbi, I was a shepherd in my village and I went to fill the water vessel with water when I saw my mirror image in the water and my instinct rushed over me and tried to remove me from the World. I said to it, wicked! You are rushing me to something which is not yours; it is upon me to sanctify you to Heaven! I embraced him, kissed him on his head and said, my son, there should be many more in Israel who fulfill the Omnipresent’s will like you. About you the verse says, "man or woman, if he clearly articulates vowing a vow of nazir, to be a nazir for the Eternal." Rebbi Mana asked: Why following Simeon the Just, even following Rebbi Simeon? Did Simeon the Just never eat a purification offering for suet? Did Simeon the Just never eat a purification offering for blood? Simeon the Just holds that people make a vow while they are upset. Since they make the vow while they are upset, in the end, they wonder. But if he wonders, his sacrifices become similar to one of those who slaughtered profane animals in the Temple courtyard. But this one made a well thought-out dedication, when his mouth and his thoughts were in unison.
Mishnah 1: "I shall be a nazir [abstaining] from dried figs and fig cake," the House of Shammai say, he is a nazir, but the House of Hillel say, he is no nazir. Rebbi Jehudah said, when the House of Shammai expressed an opinion, it was about one who said, they are qorban for me.

1 Figs and all their derivatives are permitted to a nazir.
2 If he said "I shall be a nazir," he became a nazir. The qualification he appended is irrelevant. (In the Babli, 9a, this argument is attributed to R. Meër, who thinks that "people do not say nonsensical things").
3 Since a nazir is permitted figs, his statement makes no sense and nobody can become a nazir by a nonsensical statement since Num. 6:2 requires that the vow of nezirut be "clearly stated."
4 He disputes the Mishnah; nobody can become a nazir by vowing to abstain from figs and fig products. But anybody can make a vow to abstain from figs by declaring them qorban for himself (cf. Introduction to Tractate Nedarim.)
Halakhah 1: "I shall be a nazir [abstaining] from dried figs and fig cake," etc. Rebbi Johanan said, the reason of the House of Shammai: because he mentioned the state of nazir. Rebbi Simeon ben Laqish said, because of substitutes of substitutes. Rebbi Jehudah ben Pazi said, a verse supports Rebbi Simeon ben Laqish: "So says the Eternal, as cider is found in the grape bunch, etc." The Torah called a grape bunch "cider." And people call a dried fig cider, because of substitutes of substitutes. What is the difference between them? If he said, "I shall be a nazir [abstaining] from dried figs and fig cake." In Rebbi Johanan’s opinion he is a nazir, in Rebbi Simeon’s opinion he is not a nazir. "I shall be a nazir [abstaining] from a loaf of bread," in Rebbi Johanan’s opinion he is a nazir, in Rebbi Simeon ben Laqish’s opinion he is not a nazir. "From a loaf of bread," he did not say anything. Rebbi Uqba asked before Rebbi Mana: The opinion of Rebbi Simeon ben Laqish seems to be inverted, as we have stated there: "I take upon myself the obligation to bring a flour offering from barley.’ He shall bring from wheat." And Rebbi Abbahu said in the name of Rebbi Simeon ben Laqish, because he mentioned "flour offering. And here, he says so? He accepts one and he accepts
the other. He accepts because he mentioned the state of nazir, and he accepts because of substitutes of substitutes. You should know that it is so since we have stated: "If he said, the cow said." She did not say anything; it is because he mentioned the state of nazir, and here he mentioned the state of nazir.

5 Since the House of Shammai accept very far-fetched comparisons and substitutes for a vow of nezirut; cf. Chapter 1, Note 19. In the Tosephta, 2:1, this is explicitly given as the reason of the House of Shammai. The Tosephta must have been unknown to the editors of the Yerushalmi.

6 Is. 65:8.

7 This is difficult since the House of Shammai declare in the Mishnah that he is a nazir and the entire discussion only proceeds according to the House of Shammai. One has to assume that the person making the vow was asked what he understood by "dried figs." If he answered, dried figs, R. Simeon ben Laqish cannot consider this as substitutes of substitutes, but for R. Johanan he still pronounced the word nazir. (This interpretation is that of Tosaphot Menahot 103a, s.v. וְיִרְיָמָּה in the name of Rabbenu Tam.)

8 A loaf of bread is not a grape derivative by any stretch of the imagination.

9 Since the word nazir was not used. One has to assume that the expression נֶזֶר מִזְכָּרָה was used, since נֶזֶר מִזְכֹּרַת כּוֹכֶב would be a vow to abstain from bread as qorban (Chapter 1, Notes 44-45).

10 Mishnah Menahot 12:3. A voluntary flour offering is prescribed as an offering of fine wheat flour. Barley is prescribed only for some purification offerings which cannot be voluntary.

11 One would have expected R. Simeon ben Laqish to hold that the vow of the offering was invalid since it was impossible. In the Babli, 9b, his opinion is quoted as generally accepted.

12 He does not dispute the reason given by R. Johanan but only adds a second reason.

13 Mishnah 2:3. This discussion now also proceeds according to the House of Hillel.
Any expressions can be used for nezirut\textsuperscript{16} except the expression qorban. Any expressions can be used for qorban\textsuperscript{16} except the expression nezirut. If he said about a bunch of grapes, "I am locked away from you, I am separated from you, I am prevented from you, I am nazir from you," he is a nazir. "It is for me qorban," he only forbade it for himself as qorban\textsuperscript{17}. If he said about a loaf of bread, "I am locked away from it, I am separated from it, I am prevented from it, it is qorban for me," he only forbade it for himself as qorban\textsuperscript{18}. "I am nazir from it," he is a nazir\textsuperscript{19}. "Prevented" implies both nezirut and qorban. If somebody said about a bunch of grapes, "I am prevented from it," if he wanted to eat it, one tells him, is it not holy for its money's worth? If he redeemed it, one tells him, are you not a nazir\textsuperscript{20}?  

\textsuperscript{14} From the editio princeps. The scribe deleted an inappropriate word 'since' but both he and the corrector failed to replace it. 

\textsuperscript{15} Commentators read this as 'if he redeemed it.' This reading is accepted in the translation. 

\textsuperscript{16} If otherwise they are appropriate. 

\textsuperscript{17} He cannot use any of the grapes of the bunch but is permitted any other grapes in the world. If he said, "grapes are qorban for me," he is forbidden all grapes and their derivates but is not a
nazir.
18 Since nothing connected with a loaf of bread has any relation with the rules of nazir, any restriction must be interpreted as a vow of qorban.
19 Because he used the word nazir, not because of any connection with the loaf.
20 An ambiguous vow has to be interpreted restrictively in all respects. If the vow could be interpreted as qorban or nazir, it is both (and, in fact, is a triple vow since qorban may mean either a prohibition "as if it were a qorban" or an offering to the Temple.) Therefore, when the bunch of grapes was redeemed and its value given to the Temple, the person making the vow still cannot eat it since he might be a nazir (even though one vow cannot be both qorban and nazir.)

Any expressions can be used for redemption except the expression "exchange"21. Any expressions can be used for exchange except the expression "redemption." If he said about dedications to the altar: "this one is for that one, exchange for that one, barter for that one," it is an exchange22. "This is redeemed for that one," it is no exchange23. If he said about dedications for the upkeep of the Temple: "this one is for that one, barter for that one," its money's worth is engaged24. "Exchange for
that one," he did not say anything\textsuperscript{25}. The other [expressions] serve for redemption and exchange. Dedications to the altar are subject both to redemption and to exchange. [Animals] dedicated for the upkeep of the Temple\textsuperscript{26} who were dedicated before developing a defect, "this one is for that one," if he wants to sacrifice a perfect animal, one tells him that its sanctity is for its money's worth. If he wants to eat it after it developed a blemish, one tells him that it is holy as exchange\textsuperscript{27}: "Itself and its exchange shall be holy\textsuperscript{28}." Rebbi Isaac ben Eleazar said, since he knows that anybody who exchanges is whipped, it never occurred to him to exchange\textsuperscript{29}.

21 Animals dedicated for use on the altar acquire what is called נון מדויק "bodily sanctity." An animal used for the altar must be without blemish. Such an animal cannot be redeemed. It also should not be exchanged for another unblemished animal (Lev. 27:10). While any attempt to redeem the animal while unblemished, i.e., to subtract it to profane status, is simply impossible, the substitution of one unblemished animal for another, while sinful, nevertheless is possible and results in both animals being dedicated to the altar. If an altar animal develops a blemish, its bodily sanctity is reduced to דמיון ומות "holiness of monetary value." The animal must be redeemed, i.e., its sanctity transferred to the money paid for it, and the money then used to buy a replacement animal. In this case, a substitution is impossible; there is no shortcut to avoid the redemption process.

Anything donated to the Temple treasury has only דמיון ומות from the start; it can be redeemed but not substituted.

22 Sinful but valid.

23 If an unblemished animal was offered as exchange for an unblemished altar animal but the language of redemption was used, the transaction is void; the animal offered remains profane.

24 The object originally given to the Temple has been redeemed by the object offered as redemption (provided that the monetary value of the thing given in redemption was stated; MishnahTemurah 5:5).

25 Since דמיון ומות is impossible for
anything but unblemished animals dedicated as sacrifices.

26 This text is impossible since objects dedicated for the upkeep of the Temple are not subject to exchange but only to redemption. Unblemished animals may not be offered for the upkeep of the Temple; they automatically would be offered to the altar. Therefore, a "dedication for the upkeep of the Temple whose dedication preceded its defect" is an altar animal which developed a blemish and, therefore, has the reduced status of קָדוֹשׁ כָּפָרַת and can be redeemed. Blemished animals cannot be dedicated to the altar; any such dedication is invalid.

27 If an animal originally destined for the altar but later disqualified was redeemed not by money but by the offering of an unblemished animal and use of a term which can be interpreted to mean either redemption or substitution, the original animal is redeemed but the other animal is both a substitute and a redemption. It cannot be sacrificed since it is a redemption; one cannot wait until it develops a blemish with age because it is a substitution. It must be redeemed to eliminate the "holiness of monetary value" and then be sacrificed on the altar.

28 Lev. 27:10.

29 He objects to the construction of a case in which an expression was used that might mean both redemption and substitution. Since redemption is required but substitution is sinful, it is obvious that only redemption was intended.

משמשים ולשון דמי הם מלקושו ערכין. לפי ליאדו. עילויים עילוי. סדרורי עליל

Any expressions can be used for valuation except the expression "money's worth". Any expressions can be used for money's worth except the expression "valuation." If he said about a human, "I shall pay his cost, I shall pay his settlement, I shall pay his estimate, I shall pay his valuation,"
he has to pay his valuation. "I shall pay his money's worth," he has to pay his money's worth. "Estimate" is used as an expression both for valuation and money's worth. A human has both valuation and money's worth. If he said about a human, "I shall pay his estimate," if he was good looking, he pays his money's worth; if he was ugly, he pays his valuation.

30 "Valuation" is the sum fixed for vows in which a person promises to pay his or another person's valuation to the Temple (Lev. 27:1-8). The valuation depends on age and gender; it is fixed by the Biblical text (assuming a known ratio of the Biblical seqel to the local currency.) "Money's worth" of a person is the value he would fetch if sold as a slave. This worth can be promised by a vow, but not by a valuation.

31 If an expression is ambiguous but "paying the valuation" is one of the meanings, in the absence of a definite indication to the contrary that is the legal meaning.

32 In every case, he pays the larger sum.

The House of Shammai say, he is bound by a vow and is a nazir, but the House of Hillel say, he is neither bound by a vow nor is he a nazir.

33 This refers to the Mishnah. The person made an inappropriate vow of nazir, referring to food permitted to a nazir. The House of Shammai hold that he is forbidden all kinds of dried figs because of his vow, and he is a nazir since he used the word nazir. The House of Hillel hold that an inappropriate choice of words invalidates both vow and nezirut. This rejects R. Jehudah's interpretation.

The parallel in the Babli, 9b, shows that this is a baraita. There, it is given in two versions (of which the Yerushalmi text is a combination). In one, the House of Shammai say, he is bound by a vow and is a nazir, but the House of Hillel say, he is bound by a vow but not a nazir. In the other, the House of Shammai say, he is bound by
a vow but not a nazir, but the House of Hillel say, he is neither bound by a vow nor is he a nazir.

Hillel said, "If he said: "this cow shall be a nezirah if she be standing up," or "this door said, I shall be a nazir if I be open," the House of Shammai say, he is a nazir, but the House of Hillel say, he is no nazir.

Rebbi Jehudah said, when the House of Shammai expressed an opinion, it was only about one who said, this cow shall be qorban for me if she gets up.

The rancher has trouble to make the cow get on her feet; he says, it seems to me that the cow made a vow to be nezirah if she be standing up. For the House of Shammai, he used the word nazir; for the House of Hillel what he said was meaningless. Then the cow is forbidden to him as qorban, but he is no nazir.
Halakhah 2: "If he said: 'this cow said,'" etc. If he saw a Gentile passing by and said, "look what this Gentile said." Then he is a nazir. Does this mean that he is a nazir because Gentiles cannot make a vow of nazir? He has not said anything! Let us hear from the following: "If he said: 'this cow said'. You said this only because he spoke the word nezirut. And here, he spoke the word nezirut. If he saw a Jew passing by and said, "look what this Jew said." Then he is a nazir. He had not said anything. Does this mean that he is a nazir because Jews make a vow of nazir? Should we say that nevertheless he is a nazir or is he studying the case? So I am saying, "for example, if he was reading the Torah and mentioned nazir, naziq." 36 It is understood that he said: "look what this Gentile said, I shall be a nazir." 39 The passer-by. 40 Chapter 1, after Note 10. Since in that case he is not a nazir, he cannot be a nazir in the present case.

Can a man be taken to nezirut by language appropriate for a woman? There, they say, "a nezirah was passing by." Can a man be taken to nezirut by masculine language? Rebbi Yose said, the notion of nezirut is defined in the masculine: "... or a woman if he clearly makes a vow." 41 Probably one should translate: "a vow formulated in the feminine"; but the explanation given "there" (in Babylonia) then does not quite fit.
not pass". This refers to the case discussed in Halakhah 1:1 (Notes 2,23) that a person points to a nazir and indicates that he wants to be like him. It is admitted that he can point to a female.

43 Num. 6:2: "A man or a woman, if he clearly makes a vow". Since a verb referring both to a male and a female is used in the masculine by traditional grammatical rules, he infers that the masculine can be used in all cases.

44 Under which circumstances will the House of Shammai insist that the maker of the vow is a nazir? If the cow does stand up or if she never stands up?

45 Mishnah 5:6: "If people dispute facts; A says that he will be nazir if a fact is true, B says that he will be nazir if it is not true, C says that he will be nazir if both A and B are wrong. The House of Shammai say,..."

46 The text is garbled here (and somewhat garbled in Halakhah 6:6): "So is the Mishnah: ‘Whose words turned out to be true;’ it is formulated in the opposite, so as not to bury her son." The rancher’s statement, that his cow said, "I shall be a nezirah if I be standing up", for the House of Shammai has to be interpreted as a vow of nazir if the cow never stands up, since the cow standing up is the desired outcome; just as a woman who is afraid her son might die will formulate it saying her
son certainly will not die. (It is possible to read a similar interpretation into the text of the Babli, 10b.)

The House of Shammai say, he is bound by a vow and is a *nazir*, but the House of Hillel say, he is neither bound by a vow nor is he a *nazir*.

_Mishnah 3_: If a cup of wine was prepared for somebody who then said, "I am a *nazir* [abstaining] from it", he is a *nazir*. It happened that a cup of wine was prepared for a woman who already was drunk, when she said, "I am a *nazir* [abstaining] from it". The Sages said that she only intended to say, "it shall be *qorban* for me.

48 Mixed with water.
49 Since _nezirut_ cannot be partial.
50 Since she was drunk, she certainly did not want to forbid all wine to herself, but only that particular cup which was too much for her.
Mishnah 4: "I am a nazir on condition that I may drink wine or become impure for the dead," he is a nazir and forbidden everything. "I knew that there are nezirim but I did not know that wine is forbidden to the nazir"; wine is forbidden to him, but Rebbi Simeon permits. "I knew that wine was forbidden to the nazir but I thought that the Sages would permit me because I cannot live without wine, or because I am an undertaker," he is permitted but Rebbi Simeon forbids.

51 Since nezirut is defined in the Torah and any stipulation contradicting a biblical law is void (Ketubot 9:1, Note 5).

52 A person who declared himself a nazir, and when told that wine was forbidden to him declares that at the moment of the vow he was ignorant of its implications.

53 Because the vow was made in error and such a vow is excluded by the requirement that the vow be clearly enunciated (Num. 6:2).

54 For the majority, the vow is in error; for R. Simeon it is a frivolous vow.

Halakhah 3: "If a cup of wine was prepared," etc. The Mishnah applies if he is not used to it; but if he is used to it, that is what we have stated: "It happened that a cup of wine was prepared for a woman who already was drunk when she said, "I am a nazir [abstaining] from it". The Sages said that she only intended to say, "it shall be qorban for me." Rebbi Jeremiah in the name of Rebbi Ze'ira: It is not even an expression of qorban. Why? Because one can neither use an expression of nezirut for qorban nor an expression of qorban for nezirut.
55 The first part, in which the person who declares himself nazir for one cup is actually a nazir applies only to people who are not used to getting drunk.

56 As explained in Halakhah 1, Note 16.

The Mishnah follows Rebbi Meir, since Rebbi Meir says, one has to double one’s stipulation\(^{57}\). It follows everybody’s opinion\(^{58}\); one tells him: Watch and keep discipline\(^{59}\). The Mishnah follows Rebbi Meir\(^{60}\) or Rebbi Jehudah ben Tema\(^{61}\), as it was stated\(^{62}\): "This is your bill of divorce, on condition that you not fly in the air, that you not cross the Sea on your feet, that is a bill of divorce. On condition that you fly in the air, that you cross the Sea on your feet, that is no bill of divorce; Rebbi Jehudah ben Tema said, it is a bill of divorce." Rebbi Ze'ira said, you should realize that he seeks a subterfuge for the bill of divorce\(^{63}\), since he attached conditions that cannot be satisfied. What is Rebbi Jehudah ben Tema’s reason? Since he attached conditions that cannot be satisfied, it is as if the condition attached to the bill of divorce were satisfied\(^{64}\).

57 Mishnah Qiddusin 3:3. A legal stipulation must follow the example of the stipulation between Moses and the tribes of Gad and Reuben (Num. 32), which covers both the positive (if they fulfill the stipulation, they will acquire the land in Transjordan), and the negative (if they fail to fulfill the
stipulation, they will be given land in Cisjordan). Since in Mishnah 4 the person declaring himself a *nazir* failed to state that if he could not be a *nazir* on his terms, he would not be a *nazir*, his stipulation is invalid and he is a *nazir*.

58 The waiving of any stipulation in violation of biblical law (Note 51) does not depend on R. Meir's opinion.

59 *Deut.* 12:28; a poetic formulation of the principle of Note 51.

60 As explained in Note 57.

61 Who holds that an impossible condition is considered nonexistent. Since a stipulation against biblical law is impossible, the condition mentioned in the first sentence of Mishnah 4 is considered nonexistent.

62 Tosephta *Gitin* 5:12; Babli *Gitin* 84a.

63 He thinks that he can doubly hurt his wife, by preventing her to remarry and not paying her *ketubah*, since he may claim that he is waiting for her to satisfy the stipulation. By declaring the stipulation invalid, the court will permit her to remarry and force him to pay.

64 In Tosephta and Babli: R. Jehudah ben Tema states as a principle that any stipulation which cannot be satisfied is only intended as a delaying tactic.
permits." Did he not reserve shaving [and] impurity but Rebbi Simeon frees him? There is a difference, because of an opening for the vow. If it was because of an opening for the vow, does not the following state "he is permitted but Rebbi Simeon forbids"? Rebbi Simeon does not recognize it as an opening for the vow but the rabbis recognize it as an opening for the vow. Why? Because he connects his vow with his life. One understands, to drink wine. The defile oneself for the dead? It is his profession to bury the dead.

65 Since R. Simeon is quoted as disagreeing in two of the three cases quoted in Mishnah 4, does one have to assume that he agrees in the first case?
66 Mishnah Menahot 12:3. If somebody vows an offering of barley flour (which cannot be a voluntary offering), the rabbis require him to bring an offering of wheat flour but "R. Simeon declares him free, because his offering was not according to the way of offerers." One should assume that R. Simeon declares a person who wants to be nazir on condition that he may drink wine as "offering not according to the way of offerers." Why does he not disagree in the first case?
67 Since the person making the vow did not stipulate that he may shave, the vow is valid for the prohibition of shaving and a partially valid vow is valid.
68 The vow is partially valid; why is it not valid?
69 Since he bases his vow on an argument which will automatically grant him a revocation of the vow (cf. Nedarim Chapter 9), the vow is automatically revoked. In the Babli, 11b, this argument is attributed to Rav Assi. In the Tosephta, 2:3, it is explicitly attributed to R. Simeon.
70 If he needs wine for medical purposes, the use of wine must be permitted to him.
71 The only person who can have a vow of nazir annulled because he has to defile himself for the dead is the undertaker.
Mishnah 5: "I shall be a nazir and obligate myself to shave\(^{72}\) a nazir," if another heard him and said: "I also shall be and I obligate myself to shave another nazir," if they are clever, they will shave one another\(^{73}\); otherwise they have to shave other nezirim.

\(^{72}\) "To shave a nazir" means to pay for the three required sacrifices which enable a nazir to shave his head. It seems that most nezirim were poor and depended on charity to pay for their sacrifices; cf. Berakhot 7:3, Notes 78-89.

\(^{73}\) They will have fulfilled their vows without added expenditure.
Halakhah 5: "I shall be a nazir and obligate myself to shave a nazir," etc. This "I also", what do you subsume under it? Does "I also" refer to the entire sentence\(^74\); or does "I also" only refer to part of the sentence\(^75\)? If "I also" refers to the entire sentence, he says "I also am a nazir\(^76\)." If "I also" only refers to part of the sentence, he said "I am a nazir." It was stated in the House of Rebbi: "'I also' refers to the entire sentence\(^77\)." Rebbi Yose said, this implies that if some person said, I am a nazir for 100 days, and another person heard him and said, "I also"; the first one is a nazir for 100 days, the other is a nazir for 30 days unless he says, "I am like him, I am the same as he is." Rebbi Hiyya stated: "I am obligated to shave half [a nazir]. Then he said, I am a nazir. If he shaved after 30 days he has fulfilled his obligation\(^79\)." Rebbi Yose said, the Mishnah implies this: "'I shall be a nazir and obligate myself to shave a nazir,' if another heard him and said: 'I also shall be and I obligate myself to shave another nazir,' if they are clever, they will shave one another." But not themselves\(^80\). Because he said, "I shall be a nazir and obligate myself to shave a nazir". But if he said, "I obligate myself to shave half a nazir\(^81\)" and then he said, "I shall be a nazir," if he shaved himself he has acquitted himself of his obligation\(^79\). One understands that the second one can shave the first, but can the first shave the second? Rebbi Yose in the name of Rebbi Ze'ira: This means that a person can take upon himself the sacrifice of a nazir who only in the future will make his vow\(^83\). Rebbi Hinena in the name of Rebbi Ze'ira inferred three [statements]: It implies that if he shaved himself he acquitted himself. It implies that a person obligates himself for another's nezirut sacrifices of a future vow. It implies that a person chooses another's nezirut sacrifices without the other's knowledge. But he cannot dedicate [the animals] without the other's knowledge\(^84\).
74 In that case, the second person by saying "I also" would accept the obligations of being a nazir and of paying for another person's sacrifices. If then he adds a vow to pay for another person's sacrifices, he should be held liable for two sets of sacrifices. One has to assume that it refers only to the first obligation pronounced by the first person.

75 If then he adds a vow to pay for another person's sacrifices, he should be held liable for two sets of sacrifices. One has to assume that it refers only to the first obligation pronounced by the first person.

76 And he has to pay for another person's sacrifices.

77 The Babli, 11b, proves from the wording of the Mishnah that "I also" only refers to the first obligation pronounced by the first person.

78 Since without further specification, "I also" only refers to the first obligation pronounced by the first person.

79 Since the obligation to pay for a set of sacrifices precedes his own vow of nazir, he can fulfill his obligation by applying the sacrifices to himself.

80 Since the vow of nazir implies the obligation of the sacrifices, a later vow to pay for sacrifices establishes a separate obligation; it cannot be used retroactively for his own obligation.

81 Cf. Mishnah 6.

82 By the preceding argument, a vow to pay for sacrifices can be used for later vows of nazir, not for earlier ones.

83 It really is used in the inverse direction. If somebody makes a vow to pay for sacrifices, it does not matter whether or not the sacrifices were already due at the moment the vow was made. It is only for one's own sacrifices that the order in which the vows were made does matter.

84 Since an animal cannot be brought to the Temple without having been dedicated, and the dedication has to be for a specific obligation, the nazir whose sacrifices are paid for must be informed of the dedication for it to be valid. The same statement is in Pesahim 8:1(35d l.13), but is denied in the Babli, Nedarim 36a.

Rebbi Mana asked before Rebbi Yudan: If he said "I am obligated for the sacrifices of a nazir," might he make the vow of nazir in the future?
If he made the vow without explaining, he may shave any nazir, whether he already made the vow or whether he would make it in the future. If he explained? It can be compared to the following, as Rebbi Levi ben Hayyata asked: If he wrote to her, "I shall have nothing to do with the properties which you might inherit in the future." May a person make a condition on things not yet in existence?

The person B whose sacrifices A just has vowed to pay. A did not put any condition on his vow; when he comes to pay for it, he simply pays for any needy nazir whose sacrifices are due on that day.

May he specify that his vow is valid only for a nazir who was not yet a nazir at the time of his vow?

A husband, who normally would have the administration of his wife's property, writes a disclaimer to his wife in which he renounces all interest in her property. The details of this question are given in Ketubot 9:1, Notes 22-23.

Since Talmudic law does not admit futures contracts on produce which does not yet exist, there can be no valid vow for obligations that do not yet exist.

Mishnah 6: "I am taking upon myself to shave half a nazir," and his neighbor heard it and said, "I also am taking upon myself to shave half a nazir," each one of them shaves an entire nazir, the words of Rebbi Meir. But the Sages say, each of them shaves half a nazir.

Since the sacrifices of a nazir all; the vow for half the sacrifices must either be brought whole or not at
(which would be $1^{1/2}$ animals) is impossible. Since he made the vow, it has to be interpreted as a vow for a whole set of animals.

The vow simply was for paying half the expenses of one nazir.

Rebbi Abbahu in the name of Rebbi Johanan and Rav Hisda both say that they disagree if it was not spelled out. What are we dealing with? If he said, every half head, everybody agrees that he completely shaves a nazir. If he says, half of the obligation, everybody agrees that he shaves half a nazir. But we are dealing with the case that he says: "half". Rebbi Meir says, as if he said half a head, but the rabbis said, as if he said, half of the obligation. Rebbi Yudan said, it turns our that leniency is a restriction.

In the opinion of Rebbi Meir who said, as if he had said half a head, he brings one sacrifice since the nazir can shave on one sacrifice. In the opinion of the rabbis who said, half of the obligation, he has to pay for a sacrifice and a half, half of the obligation of a person.

92 If he vows half of every animal, he has to give three animals since half an animal is no sacrifice. (Note that the vow is interpreted as meaning "half a head", not "every half head").
Mishnah 7: "I shall be a nazir if I have a son," when a son is born to him, he is a nazir; if a daughter, a sexless, or a hermaphrodite, he is not a nazir. If he said, "when I see a child of mine," even if a daughter, a sexless, or a hermaphrodite were born to him he is a nazir.

94 He has neither penis nor vagina. Cf. Mishnah Yebamot 8:6; Notes 224-237; Niddah 1:1, Notes 27,28.
95 He has both penis and vagina.

Halakhah 7: "I shall be a nazir if I have a son," etc. A daughter counts for nothing, a sexless or a hermaphrodite are questionable.

96 This refers to the first part of the Mishnah. If the vow was conditional, a daughter certainly does not count as a son, but a sexless or a hermaphrodite might be crypto-males. This creates a problem only for R. Simeon who in the Mishnah holds that a vow of nazir whose validity is in doubt must be kept. There is no problem for the majority who hold that a vow of nazir whose validity is in doubt is void. The Babli, 13a, disagrees and accepts the Mishnah as everybody's opinion.
Mishnah 8: If his wife\textsuperscript{97} had a miscarriage, he is not a nazir. Rebbi Simeon says, he should say: If it was a viable child, I am a nazir as an obligation, if not, I am a nazir voluntarily\textsuperscript{98}. If afterwards she had a child, he is a nazir\textsuperscript{99}. Rebbi Simeon says, he should say: If the earlier one was a viable child, I earlier was a nazir as an obligation, and now I am a nazir voluntarily; otherwise, I earlier was a nazir voluntarily, and now I am a nazir as an obligation.

\textsuperscript{97} For whom he made the vow
\textsuperscript{98} He holds that a vow of nezirut after the stillbirth.
\textsuperscript{99} Since according to the anonymous majority he did not observe in doubt must be kept.
and what is end? Rebbi Samuel ben Rav Isaac said, everybody agrees that "I do not know whether I made a vow of nazir or not," is at the beginning, "whether it was for 30 or 50 days," is at the end. Rebbi Yose ben Rebbu Abun said: Rebbi Hiyya bar Abba and Rebbi Samuel ben Rav Isaac disagreed: Everybody agrees that "I do not know whether I made a vow of nazir or not," is at the beginning, "whether it was for 30 or 50 days," is at the end. Where do they disagree? If it was once or twice. Rebbi Hiyya bar Abba considered it the end, Rebbi Samuel considered it the beginning. Rebbi Mana: The problem for Rebbi Samuel ben Rav Isaac about one or two times is whether it is the beginning or the end.

100 Tosephta 2:8: "I shall be a nazir if I have a son," and there was a son born to him but it is doubtful whether he is viable or not. R. Jehudah frees him since a doubt of nezirut is permitted. R. Simeon obligates him since a doubt of nezirut is forbidden.

101 That a vow of nazir has to be kept.

102 Since a vow of nazir had to precede the statement of duration.

103 Whether he vowed one or two periods of nezirut.

104 In his opinion, R. Hiyya bar Abba had no problem with this case.

Mishnah 9: "I am a nazir and a nazir when a son is born to me." If he started counting for himself when a son was born to him, he finishes his own and then counts for his son. "I am a nazir when a son is born to
me, and a nazir." If he had started counting for himself when a son was born to him he interrupts his own, counts for his son\textsuperscript{105}, and then finishes for himself\textsuperscript{106}.

105 Then he brings his sacrifices and shaves.

106 Since it is after shaving, he has to complete 30 days.

Halakhah 9: "'I am a nazir and a nazir when a son is born to me," etc.

Rebbi Yose asked: If he said, "I am a nazir for these 30 days and those 30 days.\textsuperscript{107}" Rebbi Ze'ira said before Rebbi Mana: Is that not the Mishnah? "He interrupts his own, counts for his son, and then finishes for himself." Not even if his wife is in the process of giving birth\textsuperscript{108}? He said to him, his nezirut is not comparable to his son's nezirut\textsuperscript{109}, but to the case that he said, "I am already a nazir and a nazir after twenty days.\textsuperscript{110}" Rebbi Eleazar and Rebbi Yose ben Hanina both say: If he finished his nezirut, his son's nezirut cannot start for him before he was shaving with a
sacrifice. About a nazir who became impure, the opinions of Rebbi Yose ben Hanina seem contradictory. There, he says, if a person impure by the impurity of the dead made a vow of nazir, his seventh day is counted. If a nazir becomes impure, his seventh day is not counted. In our case, is he not like a person impure by the impurity of the dead, who made a vow of nazir? And is not the seventh day counted for a person impure by the impurity of the dead, who made a vow of nazir? Would this obligate him to bring a sacrifice for his impurity? But if a nazir who becomes impure, his seventh day is not counted; does it not obligate him to bring a sacrifice for his impurity? And here, because he is obligated to bring a sacrifice (of impurity), the seventh day is [not] counted for him.

107 Since he vows twice for the same period of time, may he observe his nezirut for 30 days and then bring two sets of sacrifices to fulfill both vows?

108 If he made any of the vows described in the Mishnah while his wife was in labor, the Mishnah still requires him to first observe nezirut for his son and only then his own even though they might start on the same day.

109 In the case of the Mishnah, the two periods cannot start together since it is possible that his wife's labor be prolonged and there is a 50% chance that the child will be a girl.

110 Where he has to start the second period of nezirut not after 20 days but after 30 days and after he acquitted himself of his obligatory sacrifices.

111 If the person was purified by water containing some ashes of the Red Cow on the 3rd and 7th days of his impurity, he immerses himself in water on the 7th day and is pure (Num. 19). There is no reason why he cannot start a period of nezirut on that same day. Quoted in the Babli, 17a, 18a.

112 It is a biblical decree that he has to bring a sacrifice on the 8th day and start counting anew from that day (Num. 6:10).

113 Of the father expecting a baby boy. His vow is a new one, not a continuation of an old one as in the case of the impure nazir.
The text is corrupt: He is obligated to bring a sacrifice for the end of his first nezirut, but it is not a sacrifice for impurity.

The text is corrupt: The count of the new nezirut cannot start before he has acquitted himself of his prior obligations; therefore the 30th day of his nezirut, which corresponds to the 7th day of impurity, cannot be counted.

Simeon bar Abba in the name of Rebbi Johanan: If he polluted himself during his son’s nezirut but was warned because of his own nezirut, he is whipped. If he dedicated his sacrifices, they are sanctified.

One does not consider what Rebbi Hiyya stated: "His sacrifice to the Eternal for his nezirut, i.e., his vow of nazir should precede his sacrifice, rather than that his sacrifice precede his vow of nazir.

Since a nazir is forbidden by biblical law to pollute himself with the impurity of the dead (Num. 6:6-7), if he pollutes himself intentionally and his criminal intent was ascertained because he was warned by two witnesses not to pollute himself and he did it anyway, he is punished in criminal law. In order to lead to prosecution, the warning must correctly state the law which might be broken.

In the Babli, 14a, in a different context, R. Johanan holds that his two neziriot are only one extended vow. There, it is disputed by R. Simeon ben Lakish.

Num. 6:21. Tosephta 2:6, Halakhah 3:2 (52c l. 37), Ṣebuot 4:4 (35c l. 58) (Num. rabba 10:42). In the parallel sources, the statement is accepted as practice.
Rebbi Judah asked before Rebbi Yose: Why should his nezirut not precede that of his son? Did not Rebbi Abbahu say in the name of Rebbi Johanan: "This animal shall be dedicated as elevation sacrifice after 30 days." If he sold it within the thirty days, it is sold; its dedication sanctifies. He said, is that not, if one said "This". Perhaps if he said: "I have the obligation"? But the one who says, "I am", is like one who says, "I have the obligation."

119 This refers to the second part of the Mishnah. If he had started his own nezirut when his son was born, why should he not finish his own and only then start the nezirut honoring his son's birth?

120 If the animal dedicated as one kind of sacrifice after 30 days was dedicated and used for another sacrifice within this period, it is perfectly legal since the prior dedication was inactive in the intervening period. (Quoted in Qiddusin 3:1, 63c l. 42.)

121 If a person dedicates an animal saying: "this animal is dedicated", and anything happens to the animal before it is sacrificed, the owner does not have to look for a replacement. But if he says, "it is my obligation to bring", he has to bring the dedicated animal and, if anything happens to it, the owner must provide a replacement. Therefore, if the animal was dedicated after 30 days but no longer exists, no replacement is due. But a vow of nazir is personal and has to be dealt with under the rules of personal responsibility.

Rebbi Hiyya stated: "Nazir after twenty days and nazir 100 days from now on." He counts twenty days, interrupts and counts another 30 days, and counts another 80 to complete his first nezirut.

122 Tosephta 2:10, Babli 14a. A person makes a vow to be a nazir after 30 days and simultaneously makes a vow immediately to be a nazir for 100
days. Then he starts his immediate nezirut for 20 days, continues to count the 30 days of his other nezirut, brings his sacrifices and shaves, and counts the remaining 80 days of his immediate nezirut and brings the second set of sacrifices. Since the continuation of the interrupted nezirut is for more than 30 days, it is a valid nezirut and he does lose the initial 20 days.

Mishnah 10: "I shall be a nazir if a son is born to me and a nazir for 100 days." If a son is born to him in less than 70 days, he should not lose anything. After 70 days, he reduces to 70 since no shaving is for less than 30 days.

An unspecified term, i.e., 30 days.
He starts this nezirut immediately.
As explained in Note 122, he starts his nezirut, after his son's birth he starts counting 30 days, brings the count of the days missing for the vow of 100 days.
If less than 30 days were left in his count of 100, he must observe nezirut for 30 days after his celebration for his son.

Halakhah 10: "'I shall be a nazir if a son is born to me,' etc. It is obvious that the end of a day is counted as a full day. Is the start of a
day counted as a full day? Is that not the Mishnah: "after 70 [days], he reduces to 70," not even a part? This implies that the start of a day is counted as a full day.

127 If the son was born towards the end of a day, that day counts as day 1 of the son's nezirat which by Mishnah 9 starts automatically at the moment of birth.

128 If the son was born during daytime and the father started the day as nazir on his own count, does the day also count as a full day for the father?

129 If part of the day is not counted as a full day then if the son was born on the 71st day, no day would be lost. Since the Mishnah says that even in this case, a day is lost, it implies that without this rule the 71st day would count for both nezirat. Therefore, the 70th day counts for both. In the Babli, 15a, this a statement attributed to Rav.
If he was born on the eightieth day, he eliminates ten. If he was born on the ninetieth day, he eliminates twenty. If he finished his nezirut and came to complete his son's nezirut and became impure within the first ten days, he eliminates everything. Within the last twenty days? Rebbi Abba in the name of Rab and Rebbi Johanan both say, he eliminates thirty. Rebbi Samuel said, he eliminates seven only. Samuel bar Abba asked before Rebbi Yose: Does Rebbi Johanan think that eliminating by a shaving knife is identical with substantial eliminating? Rebbi Ze'ira said, if Rebbi Johanan thought that eliminating by a shaving knife is identical to substantial eliminating, why would he say that he eliminates thirty? Should he not invalidate everything? Rebbi Abin bar Hiyya said before Rebbi Ze'ira: Explain it if he was born on a day unsuitable to bring a sacrifice. Think of it, if he was born in the night, is that not unsuitable to bring a sacrifice? It is suitable; the night caused it. Think of it, if he was born on the Sabbath, is that not unsuitable...
to bring a sacrifice? It is suitable; the Sabbath caused it. If he had finished his nezirut but did not manage to shave when [the son] was born on the Sabbath, is that not unsuitable to bring a sacrifice? It is suitable; the Sabbath caused it. If he had finished his nezirut but did not manage to shave before his son was born, he celebrates one shaving for both. If he had dedicated his sacrifices but did not manage to shave before his son was born. There, they say that he celebrates one shaving for both. Rebbi Johanan said, he shaves and then shaves a second time. A baraita disagrees with Rebbi Johanan: They asked Rebbi Simeon ben Iohai: Assume that he was both a nazir and a sufferer from scale disease, may he shave once and have it counted for his nezirut and his scale disease? He said to them: If he shaved to remove hair, you would be correct. But the nazir shaves to remove hair whereas the sufferer from scale disease shaves to have hair grow. They said to him, if it cannot be counted for the days of his completeness, should it not be counted for the days of his count? Both of them shave to remove hair. (They said to him. If both of them shaved before the sprinkling of the blood, you would be correct. But the nazir shaves before the sprinkling of the blood and the sufferer from scale disease shaves after the sprinkling of the blood! They said to him, if it cannot be counted for the days of his completeness, should it not be counted for the days of his count? Both of them shave before the sprinkling of the blood!) He said to them, if both shaved before they immerse themselves in water, you would be correct. But the nazir shaves before he immerses himself in water and the sufferer from scale disease shaves after he immerses himself in water. They said to him, the matter is settled. It cannot be counted for the days of his completeness, it cannot be counted for the days of his count. It cannot be counted for purification; it cannot be counted for
impurity. That is, if he was a nazir and sufferer from scale disease. But if he was a nazir and nazir, he may shave once for both. What does Rebbi Johanan do with this? He explains that they disagree with Rebbi Simeon ben Laqish.

130 Since only the first 70 days of the father's first nezirut are counted, the last 10 are disregarded. (A gloss in Tosaphot 13b, s.v. יִפְנָל has a different explanation.)

131 If the son was born on the 90th day of his nezirut and he starts counting his son's days, as long as his 100 days are not completed, any impurity of the dead will invalidate all his nezirut (Mishnah 3:4). If the impurity occurs after he has counted 100 days, his days are immunized; the question is only what happens to the days he counts for his son.

132 He has to keep 30 days in purity for his son and afterwards another thirty to finish his nezirut as prescribed in the Mishnah.

133 Of his own completed count, only the seven days of impurity of the dead are invalidated, following R. Eliezer (Mishnah 3:3).

134 The nazir is forbidden to shave. If he shaves anyway, he loses 30 days of his count (Mishnah 6:5). But impurity of his body, called here "substantial", invalidates everything from the start.

135 Obviously, if the nazir for 100 days becomes impure (being defiled by a corpse) at any time before he has completed his count, he has to start a new count.

136 Everybody agrees that a defiled nazir has to start anew if he was defiled before he could have offered his sacrifices. Could one think of a situation where he had finished his count and still could not have offered sacrifices? The answer is negative.

137 No sacrifice can be offered in the night. Megillah 3:5,6 (73c l. 8,10), Babli 20b, Sifra Saw Pereq 18(7), based on Lev. 7:38.

138 The only sacrifices possible on the Sabbath are those which are explicitly commanded for that day.

139 And automatically his new nezirut starts on the day of the birth. He now cannot bring the sacrifices for the prior nezirut since this would involve shaving his hair.

140 In Babylonia, they hold that not the dedication but rather the actual Temple ceremony determines the end
of his nezirut.

141 Tosephta 5:2, Babli 60b, Sifry Num. 38 (best Sifry text in Yalqut Sim'ony Num. #709).

142 In Sifry, the persons who ask are R. Eleazar ben Šamua' and R. Johanan the Alexandrian.

143 While suffering from the disease, he is impure. The ritual of purification (Lev. 14) requires the healed patient to shave all his hair after a preliminary ceremony (14:8), undergo a week of quarantine, shave again, including even his eyebrows (14:9), and offer his sacrifices the next day (14:10). The only impurity forbidden to the nazir is the impurity of corpses; therefore, it is quite possible for a sufferer from scale disease to be a nazir (even though such a person could never shave before he is healed since he cannot enter the Temple precinct.)

144 Probably, the text of Tosephta and Sifry is better: "If each of them shaved . . .". In the Babli: "If both of them shaved to grow or both of them to remove."

145 After the preliminary ceremony, he shaves to have his hair grow to be shorn after a week.

146 The impurity of the sufferer from scale disease varies with his status. It is a minor impurity as long as the diagnosis of his sickness is only tentative (Lev. 13, passim), it is severe while his diagnosis is complete (Lev. 13:45,46), and it is minor again during his quarantine in the process of purification. What Yerushalmi, Tosephta, and Sifry call נזיר "his completeness (of diagnosis)", the Babli calls הלא יצר "his absoluteness".

147 Of his quarantine, after which he has to shave again. (But then he shaves after 7 days, not at least 30 days as required for a nazir.)

148 This must read: He said to them (as in Tosephta and Sifry).

149 The passage in parentheses is hopelessly corrupt. It is missing in Tosephta and Sifry. One should read with the Babli: "But the nazir shaves after the sprinkling of the blood and the sufferer from scale disease shaves before the sprinkling of the blood." The nazir shaves after the sacrifices have been brought (Num. 6:18) while the person healed from scale disease shaves the day before he brings his sacrifices. The problem is that the students declare that both the nazir and the sufferer from scale disease in his preliminary purification shave before the sprinkling of the blood; this seems to presuppose the uncorrected reading in the preceding sentence. The only way to make sense of the statement is
also to emend this sentence: "Both of them shave after the sprinkling of the blood," and to refer to the blood of the bird used in the preliminary ceremony of the sufferer from scale disease (Lev. 14:7).

150 One has to read (with the parallel sources): "But the nazir shaves after he immerses himself in water and the sufferer from scale disease shaves before he immerses himself in water." The nazir shaves in the Temple, therefore he had to immerse himself in water to be able to enter the Temple. The sufferer from scale disease is required to shave before he immerses himself (Lev. 14:9).

151 Probably one should read with Tosephta and Sifry: "It does not count in the days of his completeness; it counts in the days of his count. It does not count if [the nazir] is pure; it counts if he is impure." The impure nazir shaves on the seventh day of his purification; this may be before he immerses himself. He has to shave before he brings his sacrifice on the eighth day. Therefore, a healed sufferer from scale disease who also is an impure nazir may combine his first shaving for his healing together with the shaving for his impure nezirut.

152 This sentence, which is not in any of the other sources, supports the Babylonians and contradicts R. Johanan.

153 Since the baraita is declared to be R. Simeon ben Laqish's personal opinion, it is a minority opinion which does not represent practice.
Mishnah 1: If somebody said, "I am a nazir," he shaves on the 31\textsuperscript{st} day, but if he shaved on the 30\textsuperscript{th} day, he has fulfilled his obligation\textsuperscript{1}. "I am a nazir for 30 days\textsuperscript{2}," if he shaved on the 30\textsuperscript{th} day, he did not fulfill his obligation.

1 An unspecified nezirut is 30 days (Mishnah 1:3), and part of a day is counted as a full day (Chapter 2, Note 127).

Halakhah 1: "If somebody said, "I am a nazir," etc. This supports Bar Qappara\textsuperscript{3}, that if he shaved on the 30\textsuperscript{th} day, he did not fulfill his obligation. This supports Rebbi Jonathan\textsuperscript{4}, that if he shaved on the 30\textsuperscript{th} day, he did fulfill his obligation. Both of them\textsuperscript{5}? It is only one opinion, "this testimony\textsuperscript{6}". They knew that it was forbidden to shave on the 30\textsuperscript{th}; they thought that if he shaved on the 30\textsuperscript{th} day, he did not fulfill his obligation. He came to testify that if he shaved on the 30\textsuperscript{th} day, he fulfilled his obligation.
3 Chapter 1:3, Note 93.
4 Chapter 1:3, Note 94.
5 One anonymous Mishnah cannot represent two contradictory opinions.
6 Mishnah 2. R. Pappaias testified that a person who vowed two neziriot and shaved for the first on the thirtieth day may shave the second time on the 60th day (since the 30th day is counted for both; cf. Note 1.) Since the testimony is formulated conditionally, "if he shaved on the 30th day", not as an absolute statement, "he shaves on the 30th and 60th days", it follows that shaving on the 30th day is irregular. The Mishnah follows neither Bar Qappara nor R. Jonathan but the practice proclaimed by R. Pappaios.

Something happened to Rebbi Immi and he shaved on the 30th day, and something happened to Rebbi Immi and he shaved on the 31st day. Rebbi Zeriqa said, Rebbi Immi learned this from the Mishnah, as we have stated there: "If somebody vowed two neziriot, he shaves for the first on the 31st day, for the second on the 61st day." Rebbi Yose said, there when it happened, here from the start. Rebbi Jeremiah instructed Rebbi Isaac Atoshia, and some say, Rav Hiyya bar Rav Isaac Atoshia, to shave on the 30th day, following the Mishnah: "Eight days, the decree of 30
days is waived for him." The eighth has the same status as the 30th day. Rebbi Yose said, there is a difference; there they permitted in order to honor the holiday. You should know this, since Rebbi Helbo bar Huna said in the name of Rebbi Johanan: If his eighth day falls on the Sabbath, he shaves Sabbath eve. If you say that they did not permit in order to honor the holiday, then even if his 30th day falls on the Sabbath, he should shave Sabbath eve. In addition, from what Rebbi Johanan had said: "For all deceased he stitches together after seven days and mends after 30." Why should he not stitch on the seventh day and mend on the 30th day? Rebbi Haggai said, this has been transmitted in this way and that has been transmitted in that way.

7 A close relative died. By rabbinic convention, the mourner cannot leave his house for the first seven days after burial; he does not shave for thirty days. R. Immi considered the 30 days' period of the nazir as a paradigm for the 30 day period of the mourner.

8 He was inconsistent in his actions.

9 Mishnah 2.

10 The argument is from the part of the Mishnah which is not quoted: "But if he shaved for the first on the 30th day, he shaves for the second on the 60th" (cf. Note 6).

11 R. Yose criticizes R. Immi. The Mishnah requires the nazir to shave on his 31st day; it only legitimizes shaving on the 30th after the fact. But R. Immi shaved on the 30th on his own initiative. R. Zeriqa seems to hold that what is acceptable after the fact in biblical rules is permitted from the start in rabbinic usage.

12 Mo'ed qatan 3:5. "If somebody buried his relative three days before a holiday, the seven-day rule is waived for him. Eight days, the 30 day rule is waived for him, as they said: Sabbath is counted but does not interrupt, holidays interrupt but do not count." If somebody was mourning for three days before the holiday, he does not have to continue the intense mourning period after the holiday; he continues with the remainder of the 30-day period. Similarly, if he was keeping at least one day of mourning after the seven-day period, the holiday cancels the
remainder of the 30-day mourning period. (The Babli, Mo'ed qatan 19b, reduces the 8 day period to 7 since "part of a day is like a whole day" and the 30-day period starts on the seventh.)

13 The argument here goes as follows: If the 8th day of mourning was holiday eve, the mourner can shave in the afternoon in preparation for the holiday. The time elapsed from dawn to the afternoon is counted as a full day for him. Therefore, the person who shaves on the 30th day can nevertheless count the entire 30th day as being part of his mourning period. Nobody allows the mourner to shave on the 29th day. (Quoted by Tosaphot Mo'ed qatan 19b, s. v. הלב, Mo'ed qatan 3:5 (82b l. 10), 3:8 (83d l. 23); Babli 22b.

16 Except for father and mother.

The first sign of mourning required is to tear one's garment. For the seven-day period, the mourner is required to wear the torn garment. He can stitch together the tear after the end of the seven-day period (after 30 days for father or mother) and invisibly mend it after thirty days (never mending invisibly for father or mother.) Why does one not allow stitching or mending on the last day of a period if "part of the day is counted as a whole day"

16 Since one tradition is in the name of R. Johanan himself (meaning that the exact formulation is R. Johanan's) but the other is R. Helbo bar Huna's formulation of a ruling which R. Johanan had given, there is no proof that R. Johanan had meant to negate that part of the day is counted as a whole day.
Mishnah 2: If somebody vowed two neziriot, he shaves for the first on the 31st day, for the second on the 61st day, but if he shaved for the first on the 30th day, he shaves for the second on the 60th, and if he shaved on the day before the 60th, he has fulfilled his obligation. The following testimony did Rebbi Pappaias give: if somebody vowed two neziriot, he shaves for the first on the 31st day, for the second on the 61st day, but if he shaved for the first on the 30th day, he shaves for the second on the 60th, and if he shaved on the day before the 60th, he has fulfilled his obligation since the 30th day is counted for him.

17 In all cases in this Mishnah, "part of a day is counted as an entire day" and the last day of a period is at the same time the first of the next period, whether the period be 30 or 31 days.

18 Compare Latin usage to replace 19 by 20-1, etc.

19 Any "testimony" mentioned in the Mishnah was given in Yabneh and accepted by the Synhedrion.
Halakhah 2: "If somebody vowed two neziriot," etc. If he finished his first period of nezirut and started to lean\(^{20}\) on the second, when they did not find an opening for the first while they found an opening for the second\(^{21}\), the second can be used for the first\(^{22}\). Where do we hold? If he said, "I am a nazir twice," a vow which is partially annulled is totally annulled\(^{23}\). If he said, "I am a nazir for these 30 days and those 30 days," in this case the second cannot be used for the first\(^{24}\). But we must hold that he said, "I am a nazir and nazir." If he said, "these are for nezirut.\(^{25}\)" But if he said, "these are for my nezirut; those are for the other nezirut," in this case the second cannot be used for the first\(^{24}\). Rebbi Eleazar said, if he finished the first nezirut, as soon as he brought a sacrifice and shaved, the first is credited for the second\(^{26}\). Rebbi Jacob bar Aha commanded the colleagues: If you hear anything formulated by Rebbi Eleazar, you should know that Rebbi Johanan disagrees\(^{27}\): not unless he brings all his sacrifices, following the rabbis; but following Rebbi Simeon even if he brings only one sacrifice\(^{28}\). If he dedicated both together, he has only one in his hand\(^{29}\). If he dedicated each of them separately or\(^{30}\) brought each of them for the other, he did not acquit himself [of his
obligation]. This means that as far as holiness goes, they became holy. But did not Rebbi Hyya state: "His sacrifice to the Eternal for his nezirut," i.e., that his vow of nazir should precede his sacrifice, rather than that his sacrifice precede his vow of nazir. It is different, because he still is in nezirut. One understands the second for the first. The first for the second? Rebbi Jehudah said, this supports Rebbi Eleazar. But did not Rebbi Jacob bar Aha command the colleagues: If you hear anything formulated by Rebbi Eleazar, you should know that Rebbi Johanan disagrees; not unless he brings all his sacrifices. They wanted to say, following the rabbis. But here, we hold with Rebbi Simeon. Rebbi Hinena in the name of Rebbi Phineas: Explain it for his nezirut and the nezirut he pledged for his son. In that, the second can be used for the first. Rebbi Yose ben Rebbi Abun said, did we not argue about one who said, "I am a nazir"? He really should be a nazir only once. You were severe with him and obligated him to be a nazir twice. Is it not enough that you were severe with him and obligated him to be a nazir twice, that now you say, he has nothing in his hands?

20 The expression "to lean on" for "going to start" is found only here.
21 Since nezirut presupposes a vow, any nezirut can be eliminated by an Elder who finds "an opening" to declare the vow invalid; cf. Nedarim, Introduction, p. 422; Chapter 3:1, Notes 6-9; Chapter 9:1.
22 If he had sacrifices prepared for the second nezirut but none for the first, those of the second may be used for the first.
23 Mishnah Nedarim 9:6. In this case, no sacrifice is due since there is no nezirut; if he wishes, he can shave without formality.
24 If he made two separate vows, rather than one vow covering separate periods, the sacrifices are not transferable since they are dedicated for separate vows.
25 He refers to the vow but not to the particular instance mentioned in the vow. Then the sacrifice can be
brought for any obligation implied by the vow.

26 R. Eleazar deals with the opposite case. He made the double vow, finished the first period, brought a sacrifice, and then went to ask an Elder about his vow. If the first nezirut was annulled, he can count the nezirut he kept as second nezirut and be freed from his obligation. This is essentially stated in Tosephta 2:15 (quoted in the Babli, Nedarim 17b, Sebuet 27b): "If somebody vowed two neziroth, finished the first one but did not bring his sacrifices, went to an Elder to ask to annul his first [nezirut], the second nezirut is fulfilled by the first."

27 Since R. Eleazar was R. Johanan's student, if he felt impelled to formulate a statement by himself, not referring to R. Johanan, it is safe to assume that R. Johanan disagreed.

28 R. Johanan does not disagree with the main thrust of R. Eleazar's statement, that the nezirut can be counted as the one covered by his vow, but he objects to the formulation referring to "a sacrifice", which implies that a nazir can shave and drink wine after one sacrifice. This is R. Simeon's opinion in Mishnah 6:11. R. Johanan insists that all three sacrifices be brought in order to be valid; this is the opinion of the anonymous majority which in R. Johanan's opinion always defines practice (cf. Yebamot 4:11, Note 177).

29 This refers to a different situation, Tosephta 2:15: "If somebody vowed two neziroth, finished both of them, and brought the sacrifices for both of them together, he has only one in his hand." Since the sacrifices of a nazir presuppose a period of at least 30 days for the growth of his hair, it is impossible for one person to bring sacrifices for multiple periods of nezirut together. He has to be nazir for another 30 days and bring another set of sacrifices.

30 This must read "and"; then the text becomes the last sentence in Tosephta 2:15.

31 If one of the neziroth was dissolved by an Elder, why should the sacrifice attached to it be holy? If the vow was in error, the dedication is in error.

32 Chapter 2:9, Note 118.

33 The argument of R. Hiyya is not applicable to our case. It is clear that a person cannot dedicate animals to satisfy a future vow of nazir since that would be "stipulating about non-existence" (Chapter 2:5, Note 89). But in the present case, the vow exists.

34 The case treated at the start of the Halakhah.
The case discussed by R. Eleazar. Does the argument of R. Hiyya not apply in this case, when the dedication of the sacrifice for the first period preceded the start of the second.

Since the disagreement between R. Eleazar and R. Johanan only refers to the disagreement between R. Simeon and the rabbis, it is clear that R. Eleazar follows R. Simeon and the second period substituted for the first both in time and in sacrifices.

He rejects the previous explanation and restricts the possibility of substituting the second period for the first to the case that both are occasioned by the birth of a son, one period for himself and one for his son's birth. In this case, it was stated in Chapter 2:9 (Note 118) that R. Hiyya's argument is disregarded; both neziriots combined constitute one vow.

It had been decided that the substitution of sacrifices was possible only for the person who said, "I am a nazir and nazir." It would be a reasonable interpretation to say that the second "and nazir" was said for emphasis rather than duplication. Therefore, the second nezirut is a rabbinic obligation, not an original vow, and there should be no discussion of legalistic niceties in this case.

Mishnah 3: If somebody says, "I am a nazir" and became impure on the 30th day, he invalidated everything; Rebbi Eliezer says, he invalidated only seven. "I am a nazir for 30 days," if he became impure on the 30th day, he invalidated everything.

Before he offered his sacrifices, he has to wait 7 days to cleanse himself from the impurity of the dead, shave, bring the sacrifices prescribed for the impure nazir, and be a nazir another 30 days in purity.
wait 7 days to cleanse himself from the impurity of the dead, shave, bring the sacrifices prescribed for the impure nazir, wait another 7 days to have some hair to shave, and then brings his 3 sacrifices and shaves in purity.

42 R. Eliezer agrees that he has to start anew since he must wait until the 31st day to bring his sacrifices.

Halakhah 3: "If somebody says, 'I am a nazir,'" etc. Rebbi Abbahu in the name of Rebbi Johanan: Rebbi Eliezer learned from the sufferer from skin disease, for whom we find seven days between shaving and shaving. Why does he not learn from the impure nazir? The sufferer from skin disease shaves repeatedly; the impure nazir does not shave repeatedly. The rabbis from Caesarea say, they disagree explicitly: Rebbi Johanan said, Rebbi Eliezer learned from the sufferer from skin disease; Rebbi Eleazar says, Rebbi Eliezer learned from the impure nazir. What difference does it make for Rebbi Eliezer whether the vow for nazir was implicit rather than explicit? If the vow for nazir was implicit, he does not invalidate if he tears his hair out, and his seventh day is counted for him; if the vow for nazir was explicit, he invalidates if he tears his hair out and his seventh day is not counted for him.
43 Cf. Chapter 2:10, Note 143.
44 Who shaves after 7 days, Num. 6:9.
45 Whether he says "I am a nazir" and it is understood that he will be a nazir for 30 days, or he says "I am a nazir for 30 days"?
46 Num. 6:5 spells out first a prohibition, "a shaving knife shall not touch his head", followed by a positive commandment "he shall let the hair of his head grow wildly." If the order had been inverted, it would have been clear that only shaving with a knife was forbidden. Now that the commandment of letting the hair grow is separated from the prohibition of using a knife, the majority opinion (Sifry Num. 25; Tosephta 4:3; Halakah 6:2, Babli 39b) holds that removing any hair is forbidden and the simultaneous removal of any two hairs during the period of nezirut invalidates the nezirut and requires a fresh start. Only on the 30th day, tearing out a hair has no consequences since Num. 6:5 also states: "until the days are completed he shall be holy," and on the 30th day of the implicit vow they are completed.
47 If he became impure by the impurity of the dead, he has to shave on the 7th day itself.
48 Then his days were not yet completed when he became impure.

Mishnah 4: "I am a nazir for 100 days," if he became impure on day 100 he invalidated everything but Rebbi Eliezer said, he invalidated only 3049. If he became impure on day 101, he invalidated 30; Rebbi Eliezer said, he invalidated only seven41.

47 Even though he may offer his sacrifices only on day 101, the 100th day is "the day of completion" of his vow; if he shaves for his impurity, he only has to keep the days of an implicit vow.
Halakhah 4: "I am a nazir for 100 days," etc. Rebbi Ze'ira in the name of Rebbi Simeon ben Laqish: The reason of Rebbi Eliezer: "This is the teaching for the nazir on the day of his fulfilling" if he becomes impure on the day of his fulfilling, one gives him the teaching for the nazir. Samuel bar Abba asked before Rebbi Ze'ira: If he becomes impure in those days, what is their status, to be given the teaching for the nazir? Rebbi Shammai said, he is obligated by the teaching for the nazir if he becomes impure on the day of his fulfilling, and for one who becomes impure on the day of his fulfilling the seventh day is not counted. Rebbi Mana asked: If he becomes impure at fulfilling, why should he invalidate 30, should he not invalidate only seven? But if somebody became impure after fulfilling, the seventh day is counted for him.

48 Num. 6:13.
49 And the implicit vow of a nazir runs for 30 days.
50 If he became impure on the last day of his nezirut; according to R. Eliezer, how many days does he lose if he becomes impure again while keeping the 30 days of nezirut.
51 The problem arises only if he becomes impure on the 30th day since before it is obvious that he has to start anew. If he is considered to have finished his nezirut, then the 7th day of purification can also be the day he brings his sacrifices since "part of the day is counted as an entire day."
(Halakhah 2:10, Note 129). But if he is under the rules of the nazir who shaves on the 7th but brings his sacrifice only on the 8th (Num. 6:9,10), the 7th day obviously cannot be the day on which he can conclude his nezirut.

Since the entire argument follows R. Eliezer, why does he make a difference between the cases of Mishnaiot 3 and 4?

If he becomes impure on day 101, R. Eliezer will apply his ruling of Mishnah 3.

Mishnah 5: If somebody made a vow of nazir while he was in a cemetery, even if he stayed there for thirty days, they are not counted and he does not bring a sacrifice for impurity. If he left and re-entered, they are counted and he has to bring a sacrifice for impurity. Rebbi Eliezer said, not on that day, since it is said: "The earlier days fall away," until he has earlier days.

Since a nazir may not be in a cemetery, in one opinion the vow cannot be activated until he leaves the cemetery; in the other opinion the vow is activated but the days cannot be counted since the nazir is not pure (Babli 16b).

The vow is activated the moment he leaves the cemetery. While the nazir is forbidden to defile himself by the impurity of the dead, it is not forbidden to vow to be a nazir while one is impure. He has to undergo the seven-day purification ritual; these days are counted as regular days of nezirut.

The special sacrifices prescribed for the nazir who became impure, Num. 6:10-11.

Num. 6:12. Since a plural...
indicates at least 2, no sacrifice is due at least 2 days, unless the person has been a nazir for

Halakhah 5: "If somebody made a vow of nazir while he was in a cemetery," etc. If he made the vow while he was among grave sites\(^6\), Rebbi Johanan said, one warns him about wine and shaving\(^6\). Rebbi Simeon ben Laqish said, since one cannot warn him because of impurity, one does not warn him about wine and shaving\(^6\). The argument of Rebbi Johanan seems inverted. There\(^6\), he says, one warns him about wine, impurity, and shaving. And here, he says so? The rabbis from Caesarea: They disagree about the whole, for Rebbi Johanan said, one warns him about wine and shaving\(^6\). Rebbi Simeon ben Laqish said, since one cannot warn him because of impurity, one does not warn him either about wine or about shaving.

\(^5\) He is not in an open cemetery but in a graveyard consisting of burial caves. A cave forms a "tent"; the impurity of the dead is transmitted by the tent even without any touching (\textit{Num.} 19:14). But in the open space before the caves, no impurity is transmitted; it is possible there to start a vow of nazir. It is assumed that the person making the vow participated in a burial and is impure at the moment of the vow.

\(^6\) It is impossible to require that he be pure from the moment of the...
vow, since he is impure. R. Johanan holds that in all other respects the vow is valid immediately.

60 For him, the vow is suspended until the nazir has undergone the ritual of purification; once he is pure he can be punished for drinking wine or shaving.

61 Halakhah 6:4. The text there consists simply of a referral to the present Halakhah. A nazir who does not observe the rules of nezirut has to be warned and can be punished for every infringement. There, R. Johanan requires that even a nazir who comes to drink wine has to be warned about wine, impurity, and shaving. Then it should be impossible to punish a nazir for infringing the rules of wine and shaving, if he is not punishable for impurity.

62 It is understood: because from the start one also warns him about impurity.
If he is still there, Rebbi Johanan said, one warns him about everything for every possible leaving, and he is whipped. Rebbi Eleazar said, he does not accept [warning] unless he leaves and returns. Rebbi Abba said: So did Rebbi Johanan answer Rebbi Eleazar: Is it not written, "he shall not come" and "he may not defile himself"? He said to him, if they warned him because of "he shall not come", he is whipped; because of "he shall not defile himself" he is not whipped. Rebbi Hila said, Rebbi Johanan learned from prostrating, as we have stated there: "If he prostrated himself or stayed there long enough to prostrate himself." Rebbi Mattaniah said, we thought that was where they do disagree? About lashes, but not about a sacrifice. Since Rebbi Hila said, Rebbi Johanan learned from prostrating, that means that lashes and sacrifices are one and the same. A Mishnah disagrees with Rebbi Johanan: "A nazir who drank wine the entire day is guilty only once." He explains it, that his throat was never empty. A Mishnah disagrees with Rebbi Johanan: "If he was defiling himself for the dead the entire day, he is guilty only once." He explains it about one who waits before every leaving, who is whipped. A baraita disagrees with Rebbi Johanan: If a Cohen was standing in a cemetery and they were handing another corpse to him, could he accept? The verse says, "the husband shall be defiled for his family." If he accepted it, I could think that he was guilty. The verse says, "to be profaned". One who adds impurity to the impurity; that excludes him who does not add impurity to his impurity. Rebbi Ze'ira said, Rebbi Nehemiah said, "to be profaned", that excludes him who does not add impurity to his impurity, lest he say, because I became defiled for my father I may go and collect the bones of X. "To be profaned", at the
time of death; Rebbi said, also "in their death." Rebbi Simeon ben Laqish said, they disagree. It follows that Rebbi Simeon bar Abba follows Rebbi Simeon ben Laqish. When Simeon bar Abba was dying, he said, this should be taken out here, that should be taken out there.

Here starts the discussion of the Mishnah. What is the situation of the person who vowed in the cemetery to be a nazir.

R. Johanan holds that the vow becomes effective the moment it is uttered. Then the nazir is informed that he has to leave the cemetery immediately (and refrain from wine and shaving). If he does not obey, he can be repeatedly warned and the disregard of every warning is a new, punishable offence.

He holds that the vow becomes effective only when the nazir leaves the cemetery. Then also the warning becomes relevant for him and he can be punished if he returns to the cemetery.

If Num. 6:6, there is a general prohibition, "to any dead person he shall not come." In v. 7, there is a particular prohibition; for close relatives "he may not be defiled." R. Johanan interprets this to mean: even in a case where he does not defile himself, because he was defiled before he made the vow, he violates the separate prohibition of v. 6.

He reads the verses as they are written. The nazir can be warned, and is whipped, for an active coming to corpses. But nobody can be whipped for a prohibition formulated in the passive voice.

Mishnah Sebuot 2:3. A person who comes to the Temple precinct and belatedly remembers that he is impure, has to leave immediately. If he tarry long enough for an act of prostration, he is punished.

Where the main thrust of the entire Chapter in the Mishnah is the obligation to bring a sacrifice to purify himself from the inadvertent sin.

Mishnah 6:4. This presupposes that he was warned only once.

If the nazir actually never stopped drinking the entire day, he could not have been warned more than once. The Mishnah is irrelevant for the statement that separate warnings imply separate punishments.

He explains the Mishnah, if there was only one warning. But if he was warned repeatedly, each action
represents a new offense. (Whether tarrying plays a role in this case remains an open question in the Babli, Sebuot 17a.)

73 Legitimately, when burying a close relative.

74 Lev. 21:4. The verse really reads: "The husband shall not be defiled for his family, to be profaned," meaning that the Cohen cannot defile himself for a wife he was forbidden to marry. This implies that he can be defiled only for the benefit of his legal family.

75 If he already is impure, touching another corpse does not change his status. (In the Babli, the Babylonian authorities disagree, 42b.)

76 Num. 6:7 prohibits the nazir from being defiled for his close relatives "in their death", meaning that he does not have to leave the house when they lie dying, but only after they are dead. The same baraita is quoted in the Babli, 43a.

77 The authorities disagreeing with Rebbi require the nazir to leave the house when they lie dying.

78 To avoid that vessels become impure at his death.

79 He left the cemetery and then re-entered as nazir.

80 Since he already was defiled when he made his vow, how can he be prosecuted for defiling himself?

81 As long as he was in contact with a corpse or forming a "tent" over it and he touched another person, that
person becomes impure and has to undergo the 7 day ritual.

82 If one who is impure by the impurity of the dead touches another person, that person becomes impure in a derivative way. He has to immerse himself in water and becomes pure at sundown.

83 This is clearly a scribal (corrector's) error and must read: "the impurity of 7 days." In the cemetery, he at least acquires the capability of transmitting the impurity of 7 days. Therefore, his status of impurity has changed; he can be prosecuted.

Rav said, when he has left, he counts his nezirut in purity. If he entered again on his seventh day, he brings a sacrifice of impurity for that day; Rebbi Eliezer said, not for that day. Cahana asked before Rav: Does he not need the sprinkling of the third and seventh? He answered him, the Torah called "pure" the one who leaves the grave: "After his purity, seven days shall be counted for him." Samuel said, after he left, sprinkled, and repeated, immersed himself, and entered again on that day, he brings a sacrifice of impurity for that day; Rebbi Eliezer said, not for that day.

84 The person who vowed in the cemetery to be a nazir and who will be impure for the next 7 days does nevertheless count his valid days of nezirut from the moment he leaves the cemetery.

85 If he entered the cemetery again on the day he regained his purity, he is considered a nazir who became impure on the first day of his nezirut, obligated for a sacrifice according to the rabbis but not R. Eliezer.
86 The purification rite prescribed in Num. 19: Being sprinkled with water containing some of the ashes of the Red Cow on the 3rd and 7th day, and immersing himself on the 7th. He becomes pure only after immersion.

87 Ez. 44:26; one would have expected: "Seven days shall be counted until his purity." Even though this is a verse by a prophet and therefore without legal standing, it can be applied to show usage.

88 Samuel disagrees with Rav; the rules of purity start only on day seven, after the completion of the purification. In the Babli, 19a, Rav agrees with Samuel.

89 Ulla bar Ismael said, what is his problem? Of an impure nazir. But for a pure nazir, even Rebbi Eliezer agrees if he has nothing to omit. Samuel bar Abba asked: May one day of his nezirut and one day of nezirut for his son be combined? Where do we hold? If his son was born today and tomorrow he enters, he has two days for his nezirut. If his son was born the next day and he enters the next day, he has two days for his son's nezirut! Rebbi Mana said, explain it at twilight. Rebbi Abin said, even if you say in the middle of the day, did we not intend to say that the start of the day is counted for him, the end of the day is counted for his son?

89 He refers to the statement of R. Eliezer in the Mishnah. R. Eliezer requires at least two days of nezirut only from a nazir who made his vow in
impurity. If the vow was made in purity, he agrees that even if he becomes impure on the first day, he is required to bring a sacrifice.

90 In the case described in Mishnah 3:9: He started his own nezirut; at the son’s birth his count is interrupted automatically and his son’s begins.

91 This must read: His son’s. The remainder of the day of birth and the start of the next day are counted as two days; if he becomes impure he has to bring a sacrifice even if we reject the interpretation of Ulla bar Ismael.

92 This must read: His own.

93 Then the entire first day is the father’s only.

94 As explained in Halakhah 3:10, the first part of the day of birth is counted as a full day for the father’s nezirut; the second part, after the birth, is counted as a full day for the nezirut on account of the son. It is not unreasonable to expect that for R. Eliezer the day also is counted as two.

Rebbi Yose said, what is his problem? Of a pure nazir. But for an impure nazir, it is obvious to him that they cannot be combined. Rebbi Mana said before Rebbi Yose: Is that not an argument of "so much more"? Since for days which are counted neither for his nor for his son’s nezirut, you say that they are combined, days which are counted for his and for his son’s nezirut, it would only be logical that they should be
combined! Rebbi Mana said, there he is not in a state to receive a warning, but here he is in a state to receive a warning. Rebbi Abun bar Hiyya asked: Since you say there about Rebbi Eliezer, at the start only if he has something to omit; at the end even if he has nothing to omit? Rebbi Ze'ira said before Rebbi Mana, is that not a Mishnah? "If he became impure on day 101, he invalidated 30; Rebbi Eliezer said, he invalidated only seven." He said, we hear that he invalidates; did we hear that he brings a sacrifice?

95 From R. Mana's argument, it seems that one has to read "they are" instead of "they cannot". If the Italian scribe wrote from dictation, he would not hear the difference between the two words.

96 The days of impurity.

97 The reading "R. Mana" should be confirmed as lectio difficilior. It is not unique that a person who raises a difficulty should answer it himself.

98 If he is impure, he cannot be warned not to become impure. It does not matter in which nezirut he is at the moment.

99 If he is pure, the person who warns him not to become impure must deliver separate warnings depending on him being a nazir for himself or for his son. Therefore it is not automatic that the days may be combined.

100 Sifry Num. 30 on Num. 6:12: "The earlier days fall away," can be said only if there are later days. If he made a vow to be a nazir for 100 days and became impure on day 101, one would expect R. Eliezer to rule that no sacrifice for impurity is due.

101 Since he has to keep another 7 days even for R. Eliezer, R. Abun bar Hiyya's question should become moot.
Mishnah 6: If somebody vowed\(^\text{102}\) a lengthy nezirut, finished his nezirut, and then came to the Land, the House of Shammai say, he is a nazir for 30 days\(^\text{103}\), but the House of Hillel say, he is a nazir from the start. It happened to Queen Helena\(^\text{104}\) that her son went to war and she said, if my son returns from the war, I shall be a nezirah for seven years. Her son returned from war and she was a nezirah for seven years. At the end of seven years, she came to the Land\(^\text{105}\), and the House of Hillel instructed her to be a nezirah for another seven years. At the end of seven years she became impure and was nezirah for a total of 21 years. Rebbi Jehudah said, she was a nezirah only for fourteen years\(^\text{106}\).

\(^{102}\) Somewhere in the diaspora.
Then he should have come to the Land immediately since outside he is automatically impure in the impurity of "the land of the Gentiles" which has aspects of the impurity of corpses.

\(^{103}\) The minimum needed for nezirut in genuine purity which permits the nazir to offer his sacrifices.

\(^{104}\) Of Adiabene.

\(^{105}\) According to Josephus, she arrived about 43 C.E.

\(^{106}\) Since R. Ilai, R. Jehudah's father, was a student of R. Eliezer who followed the House of Shammai, R. Jehudah tells us that Helene followed the House of Shammai, became impure at the end of 30 days, and had to restart her original nezirut.
Halakhah 6: "If somebody vowed," etc. Rebbi Yose ben Rebbi Abun said, Rebbi Hiyya bar Joseph and Rebbi Johanan disagreed. One said, Rebbi Jehudah follows the House of Shammai. But the other said, Rebbi Jehudah thinks that she never became impure. If you say, Rebbi Jehudah follows the House of Shammai, should he not have stated 30 days and fourteen years? One does not state months while reporting years \(^{107}\).

\(^{107}\) The Babli disagrees, 20a.

Mishnah 7: If two groups of witnesses were testifying against a person, one group say that he vowed nazir two times, the others say that he vowed nazir five times. The House of Shammai say, the testimony is split \(^{108}\) and there is no nezirut here. But the House of Hillel say, five contains two \(^{109}\); he should be a nazir twice.

\(^{108}\) Following the rules of criminal procedure by which contradictory testimony has to be disregarded.

\(^{109}\) Following the rules of civil procedure. If one group testifies that A owes 500 while the other group testifies that he owes 200, he has to pay 200. An identical Mishnah is Idiut 4:11.
(ählt Acrobat. מפות.آنם אמרים. אהים אמרו: "蛞ך אמר". הקלת אתראב
הוה. Yong. מכחדURLConnection.עדות לא בצלת עדות.』רבי יוחנן אמר:
מכחשי עדות בטלת עדות בטלת עדות.』רבי יוחנן אמר: וכד.
נסכים עדות בטלת עדות בטלת עדות.』רבי יוחנן אמר: וכד.
הAŞ หาก מכחל השעתה.』רבי יוחנן אמר: וכד.כיי י ihtnik גזירות.
Halakhah 7: "If two groups of witnesses," etc. 110Rav said, they differ in the overall testimony. But in detail, everybody agrees that five contains two, and that he has to be a nazir for two periods. Rebbi Johanan said, they differ in counting. But in an overall testimony, everybody agrees that the testimonies contradict one another and there is no nezirut. What is overall and what is counting? Overall, this one says two, the other one says five. Counting, this one says one, two, the other one says three, four, five. Rav said, if testimony was contradictory in its essence, the testimony is not void. Rebbi Johanan said, if testimony was contradictory in itself, the testimony is void. In the opinion of everybody, if testimony was contradictory in some aspects that belong after the fact, the testimony is not void. Rebbi Johanan is consistent in what he said, since Rebbi Abba, Rebbi Hyya, said in the name of Rebbi Johanan, if it was agreed that he counted but one [witness] said, he counted from a wallet and the other said, he counted from a bundle, that contradicts the
essence of the testimony, and Rav will agree that the testimony is void. Where do they disagree? If there were two groups of witnesses, these say he counted from a wallet and the others say he counted from a bundle. That contradicts the essence of the testimony, the testimony is void, but according to Rav, the testimony is not void. If one [witness] said, he killed him with a mace, the other [witness] said, he killed him with a sword, that contradicts the essence of the testimony; the testimony is void and Rav will agree that the testimony is void. Where do they disagree? If there were two groups of witnesses, these say he killed him with a mace and the others say, he killed him with a sword. That contradicts the essence of the testimony; the testimony is void, but according to Rav, the testimony is not void. If these say, he ran away to the South and those say, he ran away to the North, everybody agrees that the testimony was contradictory in some aspects that refer [to]\textsuperscript{111} the facts, the testimony is not void. The strength of Rav comes from the following: "Rebbi Jehudah and Rebbi Simeon say, since both agree that he is not alive they can remarry." He did nor hear that Rebbi Eleazar said, Rebbi Eliezer\textsuperscript{112} concedes in the case of witnesses. What is the difference between witnesses and the co-wife? They do not consider the co-wife's words compared to that of her companion. A Mishnah disagrees with Rav: "Both in investigations and in cross examinations, if they contradict one another their testimony is void." Rebbi Mana said, Rav will explain that as referring to single witness against single witness. Rebbi Abun said, even if you say groups and groups. There is a difference in criminal cases, as it is written: "Justice, justice you shall pursue".
110 Parallels are in Yebamot 15:5 (\(\hyperlink{\text{110}}{\text{5}}\)) readings.

Notes 115-134, and Sanhedrin 5:2 (\(\hyperlink{\text{111}}{\text{6}}\))

111 Read: "after"; cf. the variant readings.

112 Read: "R. Simeon and R. Jehudah"; cf. the variant readings.

It was stated\(^{113}\): "Rebbi Ismael and Rebbi Aqiba do not disagree about a person about whom two groups of witnesses testify, that he should be nazir according to the minimal testimony. Where do they disagree? About two witnesses, where the House of Shammai say, the testimony is split\(^{108}\) and there is no nezirut, but the House of Hillel say, five contains two and he shall be a nazir twice.\(^{109}\)"

113 An alternative text of the Mishnah. In Babylonian sources (Babli 20a, Tosephta 3:1): "R. Ismael, son of R. Johanan ben Baroqa, says, the Houses of Shammai and Hillel do not disagree about . . ." The text shows that this is the correct version.
Mishnah 1: If somebody said "I am a nazir" and another person heard it and said, "and so am I", "and so am I", "and so am I", all of them are nezirim. If the first one was permitted, all are permitted; if the last was permitted, the last is permitted and all others forbidden. "I am a nazir" and another person heard it and said, "my mouth is as his mouth and my hair as his hair," he is a nazir. "I am a nazir" and his wife heard it and said, "and so am I", he can dissolve hers but his vow remains. "I am a nezirah" and her husband heard it and said, "and so am I", he cannot dissolve.

1 A₁ declares to be a nazir, A₂ hears A₁ and says "so am I", A₃ hears A₂ and says "so am I", A₄ hears A₃ and says "so am I".
2 If the first went to an Elder who dissolved his vow, the others did refer to a non-existent vow; their vows are non-existent. Cf. Mishnah Nedarim 9:7.
3 In general, if A₁ had his vow dissolved, automatically all vows of persons Aᵢ, j > i, are dissolved.
4 Even though the initiative is his, it does not limit his power to dissolve his wife's vows (cf. Nedarim Chapter 10).
5 Nobody can dissolve his own vow. If he could dissolve his wife's vow, his own would be dissolved, as explained in the second sentence of this Mishnah.
Halakhah 1: "If somebody said 'I am a nazir' and another person heard it and said, 'and so am I,' etc. So is the Mishnah: "and so am I", "and so am I". Who is the Tanna of conjunctions? Rebbi Jehudah. But following Rebbi Meir, "I am," "I am". Does the Mishnah require that all of them follow immediately after the speaking of the first? It was stated: If the middle one was permitted, all following him are permitted, all preceding him are forbidden. The Mishnah applies even if not all of them follow immediately after the speaking of the first, but each one follows immediately after the preceding person. What means "to follow immediately after the speaking"? Rebbi Simon in the name of Rebbi Joshua ben Levi: The time needed for greeting between two people. Abba bar bar Hana in the name of Rebbi Johanan: The time needed for greeting between teacher and student, that he say to him, "peace upon you, my master."

6 This version has only two people responding, with most of the Babli and some Mishnah mss. The paragraph is discussed in detail by J. N. Epstein, p. 477-479.

7 He holds that there is a connection between the statements only if they are formulated as conjunctions; cf. Chapter 1:2, Note 40, Gittin 9:7, Notes 85-101.
both \( A_2 \) and \( A_3 \) refer to the original vow, not that \( A_3 \) refers to that of \( A_2 \)? In that case, there would not be time for three additional people to express their vow if the rule at the end of the paragraph be followed.

9 The same baraita is quoted in the Babli, 21a, for the same conclusion.

10 This is only possible if \( A_{i+1} \) refers to \( A_i \)'s vow, not to \( A_1 \)'s. Therefore, the original text of the Mishnah is correct and essential.

11 This is explicit in Tosephta 3:2:

"If somebody said 'I am a nazir' and another said 'so am I' but not immediately after him, the first is forbidden but the second is permitted."

12 Berakhot 2:1 (Notes 50-52), Mo'ed qatan 3:7 (83c l. 37). Babli 20b, Makkot 6a, Baba qama 73b, Sebuot 32a.

In the Babli, the longer version has an additional word: "peace upon you, my teacher and master."

If one said, "I am a nazir for 100 days, and another heard it and said, "so am I for 100 days", and repeated and said, "so am I", the main [statement] becomes an accessory.

If one said, "I am a nazir;" somebody said "and I" following immediately the first, another heard it and said, "so am I" following immediately the second. If the first became permitted, so does the second. If the second became permitted, the third was not permitted.

If one said, "I am a nazir twice," and two people heard it and said, "so are we", are they two nezirim or is each of them a nazir twice? If he
was permitted, they were permitted. 17 He was not permitted.

If two said, "we are nezirim," another heard it and said, "so am I," did he make a vow regarding both of them or did he make a vow parallel to each of them? If they were permitted, [he] was permitted; if [he] was permitted, they were not permitted.

13 It is not clear who is speaking, whether the second is making an additional vow or the first is repeating after the second. In the first case, if the first had his vow permitted, the second was not permitted; the "main vow", his hitching on to the first person's, becomes an accessory to the second vow which needs separate permission. In the second case, the first vow of the first person (the "main") cannot become permitted unless the Elder also permits the secondary vow (the "accessory").
14 And the third.
15 The Tanna of this baraita disagrees with the argument of the preceding section and holds that, since the vow of the second is predicated on the first, the third also depends on the first but not on the third. Therefore, if the first vow is annulled, all are annulled; if any other vow is annulled, that alone is annulled but nothing else.
16 The question is not answered. The answer is obvious both for R. Jehudah and for R. Simeon (Chapter 2, Note 100; Tosephta 2:8).
17 It seems that a sentence is missing: "If he was permitted, they did not become permitted."
18 Then he would have vowed two neziriot.
19 Reading he was permitted for incomprehensible "today".
20 Reading he for "they".

"My mouth [shall be nazir] from wine, my head from shaving, my hand from impurity, my foot from impurity; my head shall be nazir, my
liver shall be *nezirah*,

"My walking shall be *nazir*; my talking shall be *nazir*"; he did not say anything. Why? Because he referred the vow to something on which life depends. "Vow, vow." Just as "vow" mentioned there refers to something on which life depends, so "vow" mentioned here refers to something on which life depends.

21 This refers to the Mishnah, where one person says "my mouth shall be like his mouth." Somewhere it must have been mentioned that the mouth is the organ to which wine is forbidden. Similarly, if head or foot are mentioned, reference must be to the corresponding taboo imposed on the *nazir.* Then it is a valid vow of *nazir* by Mishnah 1:2.

22 This is a separate set of rules. If somebody says, my *x* shall be *nazir*, he is a *nazir* as long as *x* is a body part necessary for survival (Babli 21b, Tosephta 3:3).

23 One invokes the rule of *gezerah sawah*, "equal cut" (cf. Berakhot 1:1, Note 70; Nedarim 1:1, Note 18, 1:4, Note 159.) The *nazir* starts his obligation with a vow, mentioned "here" (Num. 6:2). Another personal obligation accepted by a vow is that of paying "the valuation of living persons", mentioned "there", (Lev. 27:2). In a different formulation, the argument is in Sifra Behuqqotay Parasah 3(6).

**Mishnah 2:** "I am a *nazir*, and you?" If she said "amen", he may dissolve hers, and his is void. "I am *nezirah*, and you?" If he said "amen," he cannot dissolve.

24 The husband makes a vow and invites his wife to join him. As the Halakhah explains, he makes his vow conditional on her concurrence.

25 By asking her, he did not waive his privilege of dissolving her vows.
26 Since his vow is conditional on hers, his disappears with hers. "Void" is also the reading of Maimonides (in his Mishnah Commentary and his Code, Nedarim 13:14), against the Babli in Mishnah and Gemara which reads "confirmed". Y. Qafeh in his edition of Maimonides's Commentary notes (in his grandfather's name) that the disagreement between Rav Jehudah and Abbai in the Babli (22b) may be based on different readings in the Mishnah.

27 The wife makes a vow and invites her husband to join her.

28 By this act, not only did he become a nazir but he confirmed her vow and, therefore, lost his power of dissolution.

Halakhah 2: "I am a nazir, and you," etc. If he was permitted, she is permitted\(^\text{29}\). If she was permitted, he is not permitted.

29 This must refer to Mishnah 1, the case that the wife says "and so am I". Then her vow is dependent on his; if his vow is declared non-existent, so is hers. But in Mishnah 2, saying "amen" makes her vow independent of his; if his vow were permitted, hers would still exist.

What about, "and so am I\(^\text{30}\)," how do you treat this? As "amen, it is confirmed for you,\(^\text{31}\)" or "you did well\(^\text{32}\)? The elder [Rebbi] Hiyya and the elder Rebbi Hoshiaia. It is stated: If a woman made a vow to be a...
nazir; her husband heard and said to her, "why did you make a vow of nazir? What did you do to make a vow of nazir? I would not like that you made a vow of nazir! There is neither vow nor oath here;" he did not say anything. But if he said, "you did well that you did make a vow of nazir; I liked that you did make a vow of nazir; if you had not made a vow of nazir I would have told you to make one", Rebbi Hiyya stated on this, in all of these cases he cannot dissolve. But Rebbi Hoshia stated: In all these cases, he can dissolve unless he said "amen" or "it is confirmed for you", then he can no longer dissolve.

The last case in Mishnah 1, if the husband says "so am I" to his wife's vow. Then he confirmed his wife's vow. The confirmation of a wife's vow by her husband is irrevocable. This is talk, not confirmation. The only language which the husband is empowered to use is that of dissolution, המילה יתירה. Any other language is invalid; cf. Nedarim 10:10, Note 95 (Babli Nedarim 77b).

In his opinion, confirmation of a vow is not restricted to a fixed formula, but dissolution would be.

If she is permitted, he is permitted. If he is permitted, she is not permitted. Rebbi Abbahu in the name of Rebbi Johanan: Because he makes his vow conditional on hers, if he says, on condition that you [accept]. This now refers to the first sentence in Mishnah 2 and explains why his vow disappears with hers. The explanation is that given by Abbai in the Babli, 22b. Since her vow was an independent act. But if the Mishnah is taken as
formulated, that the husband’s vow is absolute and the wife is only invited to participate, if she has her vow revoked by an Elder, his vow is not touched.

Rebbi Abbahu in the name of Rebbi Johanan: The husband who said "there is no vow, there is no oath," did not say anything. Also the Elder who said "it is dissolved for you, it is voided for you," did not say anything. But everybody has to follow his own rules. The husband says "it is dissolved for you, it is voided for you," and the Elder says, "there is no vow, there is no oath".

Mishnah 3: If a woman had made a vow of nazir but drank wine or defiled herself for the dead, she receives forty [lashes]. If her husband had dissolved her vow but she did not know that he had dissolved her vow when she drank wine or defiled herself for the dead, she does not receive forty [lashes]. Rebbi Jehudah said, if she does not receive forty, let her receive blows of rebelliousness.
39 Since she violates biblical prohibitions, is duly warned by two witnesses, and persists in her action, she is subject to the biblical punishment of at most 39 lashes.

40 Since the husband can dissolve his wife's vows in her absence.

41 While there was criminal intent, there was no crime committed. The husband had legitimized her actions.

42 Rabbinic punishment, usually reserved for transgression of rabbinic rules.

Halakhah 3: "If a woman had made a vow of nazir," etc. Biblical whippings are 39 lashes. One evaluates him; if he can stand it, one whips him, if not, one does not whip him. Blows of rebelliousness: one strikes him until he accepts or until he dies.

43 Mishnah Makkot 3:10.

44 To follow rabbinic rules.

It is written: "The Eternal will forgive her." This tells that she needs forgiveness. When Rebbi Jacob came to this verse, he used to say: If somebody needs atonement having intended to get pig's meat but happened to get kosher [animal's] meat, so much more one who had the intent to get pig's meat and got pig's meat.

45 Num. 30:6,9,13. The verses refer to girls or women whose vows are dissolved by father or husband. The verses assume that they felt impelled to make vows for some hidden guilt. In the Babli, 23a, the verse is interpreted
to refer only to the case of the woman had been dissolved. The speaker there violating her vow, not knowing that it and in Tosephta 3:14 is R. Aqiba.

It was stated\(^\text{46}\): "A woman made a vow as nazir and her friend heard it and said, ‘so am I;' if the first’s husband heard and told her, ‘it is permitted to you,’ the first one is permitted but the second forbidden\(^\text{47}\). Rebbi Simeon says, if she said, my intention was only to be like her, in her state, the second also is permitted."

\(^{46}\) Tosephta 3:10; Babli 22a.

\(^{47}\) The Babli explains that in contrast to an Elder, who has the power to retroactively annul a vow from the start, the husband can only annul his wife's vow from the moment he heard about it. Therefore, for the second woman, the reference was to a valid vow and she is a nezirah.
There, we have stated: "Rebbi Eleazar says, only if he mentions ‘oath’ at the end. Rebbi Simeon says, only if he mentions ‘oath’ for every item.”

Rebbi Johanan said, [Rebbi Simeon implies] if it turns out that he had no wheat, he is not prosecutable for the rest. Rebbi Abba said, even Rebbi Jehudah will agree with this. If it turns out that he had no wheat, does [the oath] refer to the other kinds? The colleagues said, it does not; Rebbi Ze’ira said, it does. Rebbi Jacob bar Aha said, the baraita supports the colleagues: "A woman made a vow as nazir and her friend heard it and said, ‘so am I;’ if the first’s husband heard and told her, ‘it is permitted to you,’ the first one is permitted and the second forbidden. Rebbi Simeon says, if she said, my intention was only to be like her, in her state, the second also is permitted." Because she said "to be like her, in her state;" therefore, if she did not say "to be like her, in her state," the first is permitted and the second forbidden. Since there, where there was no original nezirut, you say it applies, here, where there was an original oath, not so much more? When Rebbi Johanan said, Rebbi Simeon implies that if it turns out that he had no wheat, he is not prosecutable for the rest, if he attaches: If he says, [my obligation for] barley shall be like that for wheat; [my obligation for] spelt shall be like that for wheat.
48 Mishnah Sebuot 5:3: "If 5 people claim a deposit which he holds for them and he swears that he holds nothing of theirs, and this was false, he can be prosecuted for one perjury. But if he said, an oath that I hold nothing of yours, and of yours, etc. (using the singular in each case), he can be prosecuted for 5 perjuries. R. Eleazar says, [he can be prosecuted for 5 perjuries] only if he mentioned 'oath' at the end (to make it clear that he meant an oath for each of them singly.) R. Simeon says, only if he mentioned an oath in every case," i.e., an oath that I hold nothing of yours, and an oath that I hold nothing of yours, etc.

The following Mishnah 5:4 deals with the case that one claimant demands from him wheat, barley, and spelt which he holds, and he swears falsely that he holds nothing, he is prosecuted for one perjury. But if he swears that he holds neither wheat, nor barley, nor spelt, he is prosecuted for each item separately; R. Meir says, even if he swore that he did not have wheat, barley, spelt. For this part of the Mishnah, cf. Ketubot 13:4, Notes 79-86.

49 From here to the end of the Halakhah, a parallel text is in Sebuot 5:4 (36b l. 46).

50 The parallel text and the quote later in this paragraph show that the text in parentheses belongs here.

51 Since in the preceding Mishnah, R. Simeon held that the "oath" only referred to the first item on the list; if there was no perjury for the first item, there was no perjury. (The Babli agrees, Menahot 103a.) As long as he did not say, "an oath for barley, and an oath for spelt", he cannot be prosecuted for lying about these items.

52 It is established in Sebuot that R. Jehudah is the anonymous Tanna of these Mishnaiot. He agrees that no prosecution is possible if the oath regarding the first item of the list was true.

53 When she said, "so am I", she only referred to the first woman in her present state, as nezirah, without further thought. This supports the colleagues' interpretation.

54 Interpreting R. Simeon's opinion, they hold that any vow or oath only refers to the item mentioned as its object.

55 The argument of R. Jacob bar Aha is rejected. If an accessory vow is interpreted maximally, an original oath cannot be interpreted minimally.

56 He explicitly attaches the second and third items to the first. Then it is clear that he cannot be prosecuted for perjury if he swore correctly on the first item.
The following is obvious: If her husband did not dissolve for the first [woman] and she transgressed her vow, she is whipped. Can the second be whipped? Rebbi Yose said, since one is whipped, the other also is whipped. Rebbi La said, this follows Rebbi Simeon. Can the second not be considered like one who said, I am a nezirah after twenty days? Rebbi Simeon follows his own opinion; for Rebbi Simeon declares him free, because his offering was not according to the custom of offerers.

57 If the second woman stated that "my intention was only to be like her, in her state," and the first violated her vow and now cannot be a nezirah while she undergoes the purification rite, when the second also violated her vow.

58 R. Yose's statement.

59 That the vow should count again after the first woman was purified.

60 Mishnah Menahot 12:3 (formulated in the masculine), cf. Halakhah 2:4, Note 66. There does not exist an intermittent vow of nazir; if the second woman's vow was valid, it remains valid.
Mishnah 4: A woman who had made a vow of nazir and designated her animal when her husband dissolved her vow, if the animal was his, it leaves and grazes with the herd. But if the animal was hers, the purification offering shall die, the elevation offering shall be brought as an elevation offering, the well-being offering as a well-being offering, to be eaten on one day; it does not need bread. If she had money not designated, it should be given as a donation. If the monies were designated, the value of the purification offering shall be thrown into the Dead Sea; one may not use it but there can be no larceny. For the value of the elevation offering, they shall bring an elevation offering; it is subject to the law of larceny. For the value of the well-being offering, they shall bring a well-being offering, to be eaten on one day; it does not need bread.

61 Really three animals for her prescribed sacrifice.
62 Since one cannot dedicate anybody else's property, the animals are not dedicated.
63 If the spouses had signed a contract of separation of properties by which the husband renounced his right of administration and usufruct. Then the wife can dedicate her property without asking the husband's consent.
64 Since an animal designated as purification offering can never be redeemed.
65 Since elevation offerings can be brought as voluntary gifts; Lev. 1.
66 Most well-being offerings are voluntary gifts. But those are eaten during two days and the intervening night (Lev. 7:16) while the nazir's well-being offering follows the rules of thanksgiving offerings which may be eaten only during one day and the following night (Lev. 7:15). The nazir's
offering also needs an accompanying gift of bread, similar to the thanksgiving offering. But since the woman is no nezirah after the husband’s dissolution of her vow, the bread cannot be offered. (The bread is baked on the day it is offered; since the husband has to dissolve the vow before it has run its course, there is no dedicated bread.)

Money put aside for her sacrifices, without specifying which money should be used for which animal.

Given to the special Temple account, to be used for elevation sacrifices if the altar otherwise would be vacant.

Where it will be quickly dissolved by the chemicals in the water. "Throwing something into the Dead Sea" means: "making sure it cannot be used."

Since it is designated for a sacrifice.

Since the sacrifice cannot be offered, misappropriation of the money cannot be prosecuted; the rules of Lev. 5:14-16 cannot be applied.

Well-being sacrifices remain the property of the offerer; they may be sancta, but are not "The Eternal's Sancta", never subject to the rules of Lev. 5:14-16.

Halakhah 4: "A woman who had made a vow of nazir," etc. Does this mean it became holy by dedication? But if a third person gave her a gift and said, on condition that your husband have no right of disposition over it, then it is hers. Rebbi Mattaniah said, if he gave her power over his properties. If he comes to protest, it did not become holy; otherwise, it became holy.

Since in the absence of a contract to the opposite, all property of the wife’s is administered by her husband, how can the wife dedicate animals for her sacrifices without asking her husband to do it for her?
74 This is one scenario in which the husband has no say in what she does. (Cf. Nedarim 11:8, Notes 69-70; Babli 24b.)

75 The husband gives her the right to sign for everything concerning their properties. In this case, she is able to dedicate the animals but he retains veto power. In the scenario described in Note 63, he has no veto power.

76 Mishnah 5:3: If an Elder annuls the vow for which animals already had been reserved, the animals are profane. Why are the wife’s animals not profane if her husband dissolves her vow?

77 The husband. In the Babli, 19a, the question of the reach of the husband’s action remains unanswered. Only for the Elder, the Babli agrees, Ketubot 74b.

78 It is agreed that Num. 30 gives the husband the right to dissolve his wife’s vows. But where is it written that the husband can eliminate the sacrifices which are implied by his wife’s vow?

79 Num. 30:9: “If on the day of his hearing he stops her and dissolves her vow [and] obligations.”
It was stated: They need neither bread nor foreleg. Rebbi Abun bar Hyya asked: Do well-being sacrifices which are brought after death need bread? He turned around and said, is it not the same during his lifetime, do they not come for nothing? You say, they need bread, and here they need bread. Rebbi Yose said, it is obvious for Rebbi Abun bar Hyya that well-being sacrifices which are brought after dissolution do not need bread. What is the difference between death and dissolution? In the case of death, they already were prepared to need bread; In the case of dissolution, they never were prepared to need bread. It was stated: There is a reparation sacrifice after dissolution; there is no reparation sacrifice after death. If she died, her reparation sacrifice is not offered, since there is no reparation sacrifice after death. If he dissolved for her, her reparation sacrifice is offered since that reparation sacrifice does not come for nothing.

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80 These three words seem not to belong anywhere in this paragraph; they are not translated.

81 The sacrifices offered after a vow of nazir was dissolved. The Mishnah mentions that no bread is offered; it is a logical consequence that the officiating Cohen does not receive a foreleg from the goat offered as well-being sacrifice since Num. 6:19 makes the gift of the foreleg dependent on the gift of bread.
82 If the estate of a deceased person included animals dedicated for well-being sacrifices, the heirs have to offer these animals in the Temple.

83 A person made a vow for sacrifices and afterwards dedicated certain animals to satisfy his vow. If then these animals were lost or ran away, he dedicated other animals and offered them; when afterwards the original animals are found, they have to be sacrificed; this is "for nothing" since the vow already was fulfilled.

84 Since this is stated in our Mishnah. The question is why did R. Abun bar Ḥiyya not conclude (with the Babli, 24b) from the Mishnah that well-being sacrifices after the dedicator's death do not need bread?

85 In the case of animals dedicated to fulfill a vow of well-being offerings, they can immediately be brought to the Temple and offered. But a well-being offering for a vow of nazir cannot be brought before the period of the vow has expired; before that time the dedication is potential, rather than actual.

86 If the wife became impure before her vow was annulled, she incurred the obligation of a reparation sacrifice. If the husband then dissolves her vow, the obligation is not dissolved since his action is not retroactive (Note 77).

87 Reparation sacrifices are parallel to purification sacrifices (Lev. 7:7). Since purification sacrifices after death are impossible, so are reparation sacrifices.

There, we have stated88: "Leftovers for nezirim are for nezirim; what is left over from a nazir is for donation89." Rav Hisda said, only if his purification offering was presented last. But if his well-being offering was
presented last, what is left over is for a well-being offering\textsuperscript{90}. Rebbi Ze'ira said, even if his well-being offering was presented last, it is a general rule for a \textit{nazir} that his leftover be for donation\textsuperscript{91}. A \textit{baraita} supports one and a \textit{baraita} supports the other. A \textit{baraita} supports Rebbi Ze'ira: "The following are undesignated monies: any which contain money for purification offerings that should die. Even if he designated money for purification offerings that should die, it remains undesignated.\textsuperscript{92}" A \textit{baraita} supports Rav Hisda: "This is for my purification offering and the rest for my \textit{nezirut}\textsuperscript{93}. Then he died. One commits larceny with all of them but not with part of them\textsuperscript{94}.\textsuperscript{95} It does not say, when he died it should be given for donation.

\textsuperscript{88} Mishnah \textit{Seqalim} 2:6.
\textsuperscript{89} If moneys were collected to help indigent \textit{nezirim} with the expenses of their sacrifices but not all was used, the remainder has to be kept in trust to be used in the future for the same purpose. But if a person dedicated his own money for his sacrifices and had money left over, that should go to the account for offerings (Note 68).
\textsuperscript{90} Mishnah \textit{Seqalim} 2:6 also states that leftovers of monies for purification offerings go to the offerings account, but leftovers for well-being offerings must be used for well-being offerings.
\textsuperscript{91} Overriding the general rules of Mishnah \textit{Seqalim} 2:6. In the Babli, 25a, this rule is attributed to R. Johanan (and, therefore, declared to be practice to be followed.)
\textsuperscript{92} This refers to Mishnah \textit{Me'ilah} 3:2 which decrees that money left over from unspecified funds set aside for \textit{nazir}'s sacrifices must be given to the Temple's offering account. Such money can be used for elevation or well-being offerings only if absolutely no money of purification offerings is mixed in (since one has to avoid the danger that the value of purification offerings be totally lost if anything goes wrong with that kind of sacrifice.)
\textsuperscript{93} The required elevation and well-being offerings.
\textsuperscript{94} Since well-being offerings are not subject to larceny by its owner, misappropriation cannot be prosecuted unless one can prove that money for elevation offerings is involved.
Rav Hisda said, a *nazir*’s leftover bread shall be left to decay. Rebbi Yose said, that is correct. You cannot sacrifice it by itself since (reparation sacrifices) cannot be brought alone. You cannot sacrifice it together with another *nazir*’s since no *nazir* sacrifices without bread.

Therefore, it was necessary to say that a *nazir*’s leftover bread shall be left to decay. They wanted to say, the same rule applies to his leftover bread as to his leftover wine offering. Rebbi Yose ben Rebbi Abun said, his leftover wine offering is most holy; it should be given to donation accounts. In the opinion of Rebbi Yose ben Rebbi Abun, Samuel, Rav Hisda, and Rebbi Eleazar, all three said the same. Rav Hisda, as quoted here, Samuel, as Rebbi Yasa said, when I still was there, I heard the voice of Rav Jehudah asking our teacher Samuel: If he designated his *sheqel* and died? He said, it should be given as donation. The leftover of his tenth of an *epha*: Rebbi Johanan said, he should bring it to the Dead Sea; Rebbi Eleazar said, it should be given as donation.
Instead of דבכ "reparation sacrifice" one has to read בדכ "bread". While there are all kinds of offerings of flour and baked goods (Lev. 2), no offering of bread alone is authorized.

Also, nowhere do we find a procedure to redeem sacrificial bread. Required in Num. 6:15, following the rules of Num. 15:1-16.

Since all leftovers of sacrifices characterized as "most holy" are to be given to the donation account of the Temple (Mishnah Seqalim 2:5).

About wine offerings, in the interpretation of R. Yose ben R. Abun.

For historical reasons, one has to read רכ ל instead of רכ ל instead of רכ ל in Babylonia.

But leftover money to be used for the Temple tax of a living person is profane (Mishnah Seqalim 2:5).

To buy the required flour offering belonging to a purification offering.

Mishnah (Mishnah Seqalim 2:5).

Rebbi Abba in the name of Rav: Money can be non-designated, no animal can be non-designated. Rav Sheshet said, it was stated thus: "I might think that one could not satisfy his obligation with his father's sacrifice, with an animal which he dedicated, whether from a minor sin for a major sin, or from a major sin for a minor sin, or from a minor sin for a minor sin, or from a major sin for a major sin, since he cannot shave for his nezirut with his father's animal; but he could satisfy his obligation with his father's sacrifice, with money he dedicated, whether
from a minor sin for a major sin, or from a major sin for a minor sin, or from a minor sin for a minor sin, or from a major sin for a major sin, since he can shave on money for his *nezirut*, any time it is not designated, but not if it is designated. The verse says\(^{109}\), ‘his sacrifice’, he can only satisfy his obligation with his sacrifice, not with his father’s sacrifice.”

Talking about money, one mentions "not designated".\(^{110}\)

\(^{106}\) Money can be used to buy any animal; an animal usually defines the sacrifice for which it can be used: A female exclusively for a purification offering, a young male for an elevation offering, an older animal for a well-being offering. The same argument is in the Babli, 26b.

\(^{107}\) *Sifra* Wayyiqra II Parašah 6(2), Babli 27b, *Keritut* 27b.

\(^{108}\) A minor sin is one not punished either by divine exstirpation or by capital punishment. The latter are major sins. Since all purification offerings are the same, if it were possible to use one’s father’s designated purification offering for oneself, it would not matter for which sin his father designated the animal.

\(^{109}\) For purification offerings, *Lev.* 4:29,32. For the *nazir*, *Num.* 6:14. The mention of his sacrifice in *Lev.* 4:32 is redundant; this is given as motivation for the restrictive interpretation of all three verses.

\(^{110}\) But non-designated animals are not mentioned. This is Rav Sheshet’s support for Rebbi Abba’s statement.
An animal is not subject to the rules of the non-designated at the beginning\(^{111}\), but it is subject to the rules of the non-designated at the end\(^{112}\). Money is subject to the rules of the non-designated at the beginning, but it is not subject to the rules of the non-designated at the end\(^{113}\). Money is subject to the rules of the non-designated at the beginning, as we have stated: "If he had money not designated, it should be given as donation." An animal is subject to the rules of the non-designated at the end\(^{114}\), as we have stated: "Rabban Simeon ben Gamliel says, if he brought three animals but did not explain\(^{115}\)." They are subject to the rules of the non-designated at the beginning\(^{116}\) as we have stated\(^{117}\): "These are for my purification offering, the remainder is for the rest of my nezirut', when he died. One commits larceny about all but one cannot commit larceny about a part\(^{118}\)." It is not subject\(^{119}\) to the rules of the non-designated at the end, when he brought money and redeemed it for an animal. If he designated a donkey\(^{120}\), it is as if he designated money. If he designated an ox\(^{121}\), Rebbi Yose ben Rebbi Abun and Rebbi Hyya ben Julianus, both speak in Shammai's name. One says, he is like one who designates money; the other says, he is like one who designates an animal\(^{122}\).

\(^{111}\) Cf. Note 106.

\(^{112}\) If an animal develops a defect and can no longer be offered on the altar, it must be redeemed and the redemption money may be used for any type of offering.

\(^{113}\) Cf. Note 121.

\(^{114}\) As written, this is a non sequitur. It seems that one has to read: An animal is not subject to the rules of the non-designated at the beginning.

\(^{115}\) Mishnah 6:12. If somebody brings his three animals to the Temple without specification, the officiating priests do not have to ask him to designate the animals for specific offerings since the situation is clear, cf. Note 106.

\(^{116}\) This must read: Money is not subject to the rules of the non-
designated at the end.

117 Tosephta Me’ilah 1:10. The text there is more complete: "These are for my purification offering, the remainder is for the rest of my nezirut", when he died. The money's worth of the purification offering shall be thrown into the Dead Sea; one may not use it but there can be no larceny. The remainder may be used for either elevation or well-being offerings. One commits larceny about all but one cannot commit larceny about a part."

If the moneys were under the rules of the non-designated, any surplus would have to be used for donation, i.e., to buy elevation offerings. Since it may also be used for well-being offerings, it is not subject to these rules.

118 Since no money destined for well-being offerings can be misappropriated by its owner.

119 One has to read: "An animal is subject", cf. Note 112.

120 An animal unfit as sacrifice is simply representing its money's worth.

121 A sacrificial animal in general, but not for a nazir who is required to offer one female and one male sheep, and one male goat. The Babli rules that the animal must be treated as a sacrifice unless it be blemished, when it follows the rules of money (27b).

122 It cannot be redeemed unless it develops a blemish; Lev. 27:10.

Mishnah 5: If one of the bloods was sprinkled for her, he cannot dissolve. Rebbi Aqiba says, even if one of the animals was slaughtered for her, he cannot dissolve. When has this been said? If she shaves in purity. But if she shaves in impurity he may dissolve since he can say, I cannot stand an unseemly wife. Rebbi says, he may dissolve even if she shaves in purity, since he can say, I cannot stand a shorn wife.
123 The essence of any sacrifice is that its blood should be sprinkled on the walls of the altar. Once at least one of the sacrifices was presented, the nezirut is completed. The husband cannot dissolve a vow which no longer is active.

124 And then has to start anew.

125 Since as a nezirah she is forbidden to comb her hair, lest she tear one out.

126 While she could wear a wig after shearing off her hair, the Babli (28b) explains that the husband can object to her wearing a wig, which is difficult to keep clean. Therefore, a vow which will cause his wife to have to wear a wig is one which causes pain to the husband and is one which he may dissolve (Mishnah Nedarim 11:1).

Halakhah 5: "If one of the bloods was sprinkled for her," etc. He dissolves for her because of her hair. Rebbi Yose ben Rebbi Abun in the name of Rebbi Yose ben Hanina: It is a decision of Scripture: "He dissolved her vows," he dissolves what is on her. Rebbi Eleazar said, it follows Rebbi Simeon. Rebbi Johanan said, it is everybody's opinion, after
she was transferred from the prohibition to the positive commandment.\textsuperscript{129} The rabbis say, "afterwards, the nazir shall drink wine," after all these actions.\textsuperscript{130} Rebbi Simeon says, even after a single action.\textsuperscript{131} Hizqiah said, the Mishnah supports Rebbi (Bevai).\textsuperscript{132} "When has this been said? If she shaves in purity. But if she shaves in impurity, he may dissolve since he can say, I cannot stand an unseemly wife." Therefore, shaving in purity does not make her unseemly. Who holds that shaving does not make unseemly? Rebbi Simeon. Rebbi Yose bar Abun said, even Rebbi thinks so: "Rebbi says, he may dissolve even if she shaves [in purity], since he can say, I cannot stand a shorn wife." Should he not say, I cannot stand an unseemly and shorn wife? Rebbi Johanan said, Rebbi (Jehudah) said that only for the purification sacrifice, since a purification sacrifice would be invalid if not in her name.\textsuperscript{136} That means, as long as it is alive it is surrendered to Heaven only by slaughter.\textsuperscript{137}

\textsuperscript{127} He disagrees and holds that living with a shorn wife imposes no hardship on the husband and, therefore, the general rules of vows do not permit the husband to dissolve his wife's vow of nazir. But he finds a special dispensation which empowers the husband to dissolve his wife's vow of nazir. The verse, (Num. 30:9) is slightly misquoted; instead of זָרַע נָזִיר it should be זָרַע נָזִירת. As in most cases, the argument is from the part of the verse which is not quoted: "But if on the day on which her husband hears it, he prevents her, and dissolves her vow which is on her . . ." This gives the husband the power to dissolve any vow she makes regarding what is on her; i.e., her hair. (In Sifry Num. 153, the verse is interpreted to mean that the husband has a say only over vows which are on her, i.e., after she made them. A preemptive dissolution is invalid just as the Mishnah here states that a dissolution after the end of the period is invalid.)

\textsuperscript{128} The Mishnah, which considers the nezirut completed once the blood of a single animal was sprinkled on the altar in the final ceremony.

\textsuperscript{129} From the moment when she starts the final ceremony, she is no
longer forbidden to shave her hair but ordered to shave the hair and burn it in the fire under the well-being sacrifices. Since shaving the hair cannot be prohibited and required at the same time, the nezirut is completed according to everybody.

130 Cf. Mishnah 6:9. In their opinion, the nazir may shave only after the conclusion of the entire ceremony.

131 Mishnah 6:12; cf. Note 128.

132 Read: Eleazar.

133 Therefore "unseemly" cannot mean "shaven"; it must refer to the fact that she cannot drink wine. Since R. Simeon allows the nazir to drink wine after the offering of one animal, before he shaves, he asserts that shaving and not drinking wine are separate matters.

134 Therefore, the argument that the husband suffers if his wife does not drink wine is applicable only if her vow was not completed and she shaves in impurity.

135 Read: Aqiba; the reference is to the Mishnah.

136 If the husband were able to dissolve his wife's nezirut after the slaughter of her purification offering, that offering would become invalid and would have to be burned outside the Temple precinct. Both elevation and well-being offerings may be used if the original intent became void.

137 Even though we say (Mishnah Qiddushin 1:6) that "a promise to Heaven is like a delivery to a person", an animal dedicated as purification offering becomes Heaven's property only by its slaughter, in contrast to all other sacrifices for which the dedication also equals delivery.
Mishnah 6: A man can declare his son\textsuperscript{138} a \textit{nazir} but a woman cannot declare her son a \textit{nazir}\textsuperscript{139}. How is this? If he shaved him or relatives shaved him\textsuperscript{140}; if he protested or relatives protested\textsuperscript{141}, if he had designated animals, the purification offering shall die; the elevation offering shall be brought as elevation offering; the well-being offering shall be brought as elevation offering; it may be eaten for one day and does not need bread. If he had money not designated, it should be given as donation. If the monies were designated, the money’s worth of the purification offering shall be thrown into the Dead Sea; one may not use it but there can be no larceny. For the value of the elevation offering, he shall bring an elevation offering; it is subject to the law of larceny. For the value of the well-being offering, he shall bring a well-being offering, to be eaten on one day; it does not need bread.

\begin{verbatim}
138 His underage son. Why a father should have such power is a matter of disagreement in the Babli, 28b/29a.
139 Since rabbinic law knows no \textit{materna potestas}.
140 If either the son or some relatives provided the sacrifices required while the father already had dedicated either animals or the monies needed for them.
141 If either the son or relatives protested the father’s action, the child’s \textit{nezirut} is voided. If the father already had dedicated either animals or the monies needed for them, they have to be treated according to the rules detailed in Mishnah 4 in the case of the woman who had prepared her sacrifices when her vow was dissolved by her husband.
\end{verbatim}
Mishnah 7: A man may shave on the basis of his father’s nezirut, but a woman may not shave on the basis of her father’s nezirut. How is this? If his father was a nazir and had set aside unspecified money for his nezirut when he died, and he said, I am a nazir on condition that I may shave on my father’s money, Rebbi Yose said, the money shall be given as donation, for he cannot shave on his father’s money. Who may shave based on his father’s nezirut? If both he and his father were nezirim and his father had set aside unspecified money for his nezirut when he died; this one shaves on his father’s nezirut.

Halakhah 6: "A man can declare his son a nazir," etc. 142“A man”. This refers not only to a man; from where for a woman? The verse says, "afflicted with skin disease," whether man, woman, or minor. If it is so, why is "a man" written? For the next theme, "a man is dishevelled and has open seams, no woman is dishevelled and has open seams."

142 Since the Mishnah deals with a regarding people afflicted with skin disease. The text is from Sotah 3:9, Note 228.
A man can declare a *nazir*, and a man can shave\(^{143}\). Rebbi Johanan in the name of Rebbi Meir: \(^{144}\)In 24 matters are the House of Shammai lenient but the House of Hillel stringent, and this is one of them: The House of Shammai say, a man cannot declare his son to be a *nazir* but the House of Hillel say, a man can declare his son to be a *nazir*. It was stated about those who are *nazir* from the womb\(^{145}\). Some want to say, until he grows two pubic hairs\(^{146}\). Some want to say, until he reaches the time of vows\(^{147}\). Everybody agrees that he can no longer declare him a *nazir* once he reaches the time of vows\(^{148}\).

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143 A man can declare his son to be a *nazir*, and the son can shave on the offerings which his father brings for him.

144 Tosephta *Idiu* 2:2.

145 This sentence seems to be incomplete.

146 I. e., the father can declare his son to be a *nazir* until the latter reaches adulthood.

147 Mishnah *Niddah* 5:6: "The vows of a girl 11 years and one day of age or a boy 12 years and one day of age are checked." If they know what they are doing, their vows are valid.

148 Once a boy’s own vows are valid, his father can no longer make vows for him. In the Babli, 29b/30a, the matter remains undecided.

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gilah vo shegilahot korbitom mitah vo shemotahot korbitom bekallashonot kemim shamimah. lishv lo lefei kapos kemim shalim mitah. korbor moh shemiah. "If he shaved him or relatives shaved him; if he protested or relatives protested," in any language it is a valid protest\(^{149}\). If he sat before a barber\(^{150}\), it is not a protest; may a relative protest\(^{151}\)?

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149 No particular language is prescribed for these protests.

150 The protest must be verbal; a silent action does not count.
151 If the child sits in a barber's chair, may a relative protest for him? The question needs no answer since the relative can protest anywhere.

May his own vow of nazir and that of his father fall on him together? It happened that Rebbi Hanina ben Hanina's father made him a nazir and Rebbi Simeon ben Gamliel checked him whether he had grown two pubic hairs. He said to him, why are you checking me? If my father's nezirut is on me, I am a nazir; otherwise, I declare being a nazir. Rabban Gamliel stood up and kissed him on his head and said, I am sure that you will not die from old age before you taught instruction in Israel. Rebbi Eleazar bar Sadoq said, I saw him sitting and explaining in Jabneh.

152 If he is between childhood and adulthood and it is not clear which vow would apply. The positive answer is given by the story.

153 Parallels are in the Babli, 29b, and Tosephta Niddah 5:15.

154 In the Tosephta, Hananiah ben Hananiah. In the Babli, R. Haninah.

155 In both other sources, Rabban Gamliel. Since the story presupposes the existence of the Temple, Rabban Simeon ben Gamliel would have to be the president of the revolutionary government in the war against the Romans, Rabban Gamliel his father.

156 A Tanna of the first generation at Jabneh.

רבי סימון בר גמליאל. רבי סימון בר גמליאל would have to be the president of the revolutionary government in the war against the Romans, Rabban Gamliel his father.

The story presupposes the existence of the Temple, Rabban Simeon ben Gamliel would have to be the president of the revolutionary government in the war against the Romans, Rabban Gamliel his father.
Rebbi Aḥa: Rebbi Immi said that Rebbi Yose ben Hanina asked: May his bird be eaten when its neck was broken\(^{157}\)? Instead of asking about a bird whose neck was broken, why do you not ask about a slaughtered bird\(^{158}\)? There is one doubt, here are two doubts\(^{159}\). Rebbi Mani said, here also it is one doubt, as it was stated: One who perforates or tears out is not guilty because of profane slaughter in the Temple courtyard\(^ {160}\). The rabbis of Caesarea in the name of Rebbi Yose ben Hanina: There is not even one doubt, following him who says that slaughtering birds is not clear from the Torah\(^ {161}\): "They spread them a spread,"\(^ {162}\) they spread out slaughtered [birds].

\(^{157}\) If the child who was declared nazir by his father became impure, his father has to bring a couple of birds for him. Both birds (pigeons or turtle doves) are killed by having their necks broken by the Cohen’s thumbnail (Lev. 5:8). The meat of one of them, offered as purification sacrifice, should be eaten by the priests. If the boy’s vow is valid in biblical law, there is no problem. But if it is valid only rabbinically, then the priest who eats this meat commits two sins, since (a) he slaughters in the Temple what is not a legitimate sacrifice and (b) he eats meat forbidden outside the Temple precinct since it was not ritually slaughtered.

In the Babli, 29a, R. Johanan holds that the vow is biblically valid; there are no problems. R. Simeon ben Laqish holds that the vow is rabbinic; his position is that articulated by R. Mani in this paragraph.

\(^{158}\) Since it is forbidden to bring profane animals into the Temple precinct, one could ask not about birds, but about the animals required for the nazir who finishes his term in purity, whether his purification offering could
be eaten by the priests.

159 The sacrifices of the pure underage nazir have only the problem of the validity of his vow in biblical law. The sacrifice of the impure in addition has the problem that the consumption of meat from a bird whose neck was broken is forbidden to everybody except priests in the Temple in the line of duty.

160 It is forbidden to ritually slaughter profane animals in the Temple precinct. If the animals are killed in other ways than by slaughter, that prohibition was not violated (other prohibitions may have been violated). Cf. Babli Hulin 86a. There remains only the problem of eating the meat; the irregular slaughter in the Temple precinct is not an infraction.

161 Ritual slaughter of four-legged animals is clearly prescribed in the Torah. In the desert, all non-sacrificial slaughter was forbidden, Lev. 17:1-7. When the Israelites entered the Land, profane slaughter was permitted, Deut. 12:21. Profane slaughter has to be executed "as I commanded you", i.e., by the method of slaughter used in the Tabernacle. In all of Lev., slaughter is described by the verb השת, Arabic قتلة "to cut the throat". According to this argument, birds should be killed by breaking their neck, rather than by cutting their throat.

162 Num. 11:32, speaking of the quail. In Sifry Num. 98, the metathesis איה - מין is attributed to R. Jehudah.

So far, if they are equal. If he was nazir once, his son nazir twice? He and his son nazir once, [but] he was a pure nazir, his son an impure nazir, [or] he an impure nazir, his son a pure nazir? 

163 Here starts the discussion of Mishnah 7. As explained in the next paragraph, R. Yose requires that the son’s vow precede the father’s dedication. How would R. Yose deal with the case that the vow of the son’s second nezirut precedes the father’s dedication but the actual realization of the vow starts only after the father’s death? Both for the anonymous Tanna, who allows the son unrestricted access to his father’s dedicated money, and for R. Yose, the question arises whether the money can be used for a sacrifice
for which it was not intended (money for the offerings in purity for the reparation offering of the impure or vice versa)? The questions are not answered, neither here nor in the Babli (30b).

What is Rebbi Yose's reason? "His offering to the Eternal for his vow," that (his sacrifice precede his vow) but not (that his vow precede his sacrifice). They wanted to say that Rebbi Jehudah would agree with Rebbi Yose. It was found said that neither of them agrees with the other.

164 That the son's vow must precede the father's dedication.
165 Num. 6:21.
166 The two parentheses have to be interchanged. The correct text is copied in Num. rabba 10(42), Yalqut #709.
167 In the Tosephta, 3:18, it is explained that R. Jehudah and R. Meir hold that any unspecified money in the estate can be used by the son for a future nezirut (but specified money has to be treated by the rules of Mishnah 6.) The opinion of R. Yose is shared by R. Eleazar (ben Shamua) and R. Simeon (ben Iohai). The problems with the text of Tosephta and Babli are treated at length by S. Lieberman (Tosefta ki-Fshutah p. 537-538).

The Yerushalmi does not treat the anomaly that, by tradition, the daughter cannot use the father's dedicated money even if she is the only heir (Babli 30a/b).
Mishnah 1: The house of Shammai say, dedication in error is dedication, but the House of Hillel say, dedication in error is not dedication. How? If one said, the black ox which comes out of my house first shall be dedicated, and a white one came out; the house of Shammai say, it is dedicated, but the House of Hillel say, it is not dedicated.

Mishnah 2: The gold denar which first comes into my hand shall be dedicated, but it was a silver one; the house of Shammai say, it is dedicated, but the House of Hillel say, it is not dedicated.

Mishnah 3: The wine amphora which first comes into my hand shall be dedicated, but it was a one of oil; the house of Shammai say, it is dedicated, but the House of Hillel say, it is not dedicated.

1 We assume that he simply wanted to dedicate one of his animals as a sacrifice and since most of his animals were black, he mentioned black. If he had said explicitly, “the first ox which comes out of my house shall be dedicated if it be black,” the House of Shammai will agree that there is no dedication. Since oxen are possible as sacrifices, the dedication...
mentioned here is dedication as sacrifice.

2 Even though all three Mishnaiot illustrate the same principle, the statements imply that the positions of the Houses of Hillel and Shammai apply to all kinds of dedications. Mishnah 1 exemplifies dedications for the altar, Mishnah 2 money donations, and Mishnah 3 things which could be brought to the altar as accessories but never are sacrifices on their own. The three Mishnaiot are an introduction to the nazir vow made in error treated in Mishnah 4.

Halakhah 8: "The House of Shammai say, dedication in error is dedication." There\(^4\), we have stated: "If somebody intends to say heave but says tithe, tithe but says heave, fire offering but says well-being offering, well-being offering but says fire offering." Rebbi Jeremiah said, if he intends to say "profane" and says "fire sacrifice", he dedicated it. Rebbi Yose said, we consider only whether he intended to dedicate but erred because of something else. What is the status of this Mishnah? In the opinion of Rebbi Jeremiah it is in dispute, in the opinion of Rebbi Yose it is everybody's opinion.

3 Read רכז see the reading in Terumot.

4 Mishnah Terumot 3:8. The following two paragraphs are Halakhah Terumot 3:8, explained there in Notes 85 - 92.
"With his lips but not in his mind." I could think that I exclude him who decides in his mind; the verse says (Lev. 5:4): "To articulate". But Samuel said, he who decides in his mind is not obligated until he pronounces with his lips. But did we not state: "(Ex. 35:5) Everyone who volunteers in his mind," that is he who decides in his mind. You say, that is he who decides in his mind, but maybe that is he who pronounces with his lips? When he says (Deut. 23:24): "What comes out from your lips you have to keep," that speaks about him who pronounces with his lips. Therefore, how can I confirm "every one who volunteers in his mind?" That is he who decides in his mind. What Samuel said refers to a sacrifice.
There, we have stated: 'If somebody collects coins and says, ‘these are for my Temple tax,’ the House of Shammai say, the excess should be given as a donation, but the House of Hillel say, the excess is profane. ‘That I shall be able to pay my Temple tax,’ they agree that the excess is profane. ‘These [monies] are for my purification offering’, they agree that the excess is profane. Rebbi Yose in the name of Rebbi Eleazar: When do they disagree? If he collects little by little. But if he says "these," everybody agrees that the excess should be given as a donation. Rebbi Hizqiah, Rebbi Bevai in the name of Rebbi Eleazar: When do they disagree? If he collects little by little. But if he says "these," everybody agrees that the excess is profane. Rebbi Hizqiah said, the Mishnah supports Rebbi Bevai: 'Rebbi Simeon says, what is the difference between Temple tax and purification sacrifices? Only that the Temple tax is a fixed amount.' Where do we hold? If he says, "that I shall use it for the Temple tax," everybody agrees that the excess should be given as a donation. If he says, "that I shall use it for my purification offering," everybody agrees that the excess is profane. But we are considering one who says "these." Since the Temple tax has a fixed rate from the Torah, the excess is profane. Since purification offerings do not have a fixed rate from the Torah, the excess should be given as a donation.
Rebbi Yose handle this? He explains it if he collects little by little\textsuperscript{20}, following the House of Hillel.

5 In the Babli's version: R. Simeon. While this is a possible text, the version of Nazir is preferable.

6 Mishnah \textit{Seqalim} 2:3.

7 They hold that the entire amount was dedicated even if only part can be used for the purpose stated.

8 Explained in Mishnah 2:4; Note 13.

9 The formulation makes it clear that the amount in excess of the required tax is not dedicated.

10 The text is shortened so much as to be unintelligible. The Mishnah reads: "These are for a purification sacrifice,' they agree that the excess should be a donation (cf. Chapter 4, Note 90). 'That I shall be able to bring a purification sacrifice,' the excess is profane (Note 8)."

11 From here to the end of the next paragraph, the text is Halakhah \textit{Seqalim} 2:3. The Yerushalmi text reproduced in the Babli (\textit{editio princeps}) is too closely adapted to Babylonian spelling to be useful for variant readings.

12 He starts a cache of small coins with the declared intention of collecting money for either his future Temple tax or purification sacrifice.

13 He declares that all his coins shall be dedicated to the stated purpose. The House of Hillel will agree that everything is dedicated and if it cannot be used for the stated purpose, it should be given to the Temple's donation account.


15 Half a biblical \textit{seqel} (Ex. 30:13). While the relation of the biblical \textit{seqel} to currency in circulation may have varied from time to time, at the beginning of the tax season the amount was clearly stated and known to everybody (Mishnah \textit{Seqalim} 2:4). Therefore, nobody who mentions the Temple tax will intend to dedicate more than the stated amount. In contrast, a purification sacrifice can be a sheep or a goat (Lev. 4), in special circumstances also a couple of birds or a flour offering (Lev. 5).

16 Read with the \textit{Seqalim} text: "Is profane" (as explained in Note 13).

17 Read with the \textit{Seqalim} text: "Should be given as a donation" (as explained in Note 13).

18 The monies are already collected; he declares them dedicated for a given purpose.

19 Cf. Chapter 4, Note 90.
20 The argument of R. Simeon applies only if the stated intent is to collect money for the Temple tax, not if the declaration is made on monies already available. In the latter case, R. Simeon may agree that the excess is earmarked for donation.

If somebody put aside his Temple tax in the belief that he owed it and it turned out that he did not owe, it was not dedicated. If he put aside two in the belief that he owed twice and it turned out that he owed only once, how do you treat the second? If he believed that he owed it and it turned out that he did not owe, it was not dedicated. If he put aside a purification sacrifice in the belief that he owed it and it turned out that he did not owe, it was not dedicated. If somebody put aside a purification sacrifice in the belief that he owed it and it turned out that he did not owe, it was not dedicated. If he put aside two in the belief that he owed two and it turned out that he owed only one, how do you treat the second? As if he believed that he owed it and it turned out that he did not owe, or as if he had said "these"?
dedication was in error; it is invalid.

But in the second case, there is a valid dedication. In order to be able to speak of a second, the amounts must have been dedicated one after the other. But if two animals were dedicated simultaneously, it is clear that a choice of one over the other in this case would be an act of retroactive validation, which is not accepted in biblical law; both coins certainly remain dedicated.

24 In that case, the dedication is removed as being made in error.

25 Referring to R. Yose's opinion in the preceding paragraph, implying that the money should be donated to the Temple.

26 In Seqalim, this is introduced with a referral clause, "let us hear from the following." That clause is correctly missing in the present text since the argument from Seqalim is not presented here.

27 By contrast, in Seqalim it is stated that the dedication is not removed automatically, that the second animal has to be sent to graze until it develops a defect or becomes too old to be an acceptable sacrifice. The implied conclusion seems to be that the redemption money for that animal is a donation to the Temple.

There\textsuperscript{28}, we have stated: "If somebody says, 'I undertake [to bring] on a pan\textsuperscript{29}" and he brought in a deep vessel\textsuperscript{30}, in a deep vessel and he brought on a pan.\textsuperscript{31}" Rebbi Yose in the name of Rebbi Simeon ben Laqish: This is the House of Shammasi's\textsuperscript{32}, since the House of Shammasai say, "dedication in
error is dedication." Rebbi Ze'ira asked before Rebbi Yose\(^3\): Why do we not explain it according to everybody, if he said, "I said, on a pan"?\(^3\)\(^4\) But if he said, "I undertake [to bring] on a pan," and then he changed his mind\(^3\)\(^5\) and said, "in a deep vessel", he fulfilled his duty. Rebbi Hanina\(^3\)\(^6\) and Rebbi Yasa came in the name of Rebbi Johanan: it is everybody's opinion. Rebbi Jeremiah asked: If he said, "I undertake [to bring] on a pan or in a deep vessel," turned around\(^3\)\(^5\) and said, "on a pan", and turned around and said, "in a deep vessel"? Rebbi Jehudah bar Pazi in the name of Rebbi Aha, Rebbi Hama in the name of Rebbi Yose: He determines even orally\(^3\)\(^8\). They thought to say, even holidays determine\(^3\)\(^9\), even vessels determine\(^4\)\(^0\).

28 Mishnah Menahot 12:2.
29 A cereal offering fried in oil on a flat clay pan, Lev. 2:5-6.
30 A cereal offering cooked in boiling oil in a deep clay vessel, Lev. 2:7.
31 "What he brought is acceptable but he did not fulfill his vow."
32 Why should a flour offering be acceptable if it was not properly dedicated? Since it is forbidden to bring profane food into the Temple precinct (Deut. 12:26), the House of Hillel should hold that an offering which does not fulfill the specification of the donor's vow has to be rejected by the officiating priests. But for the House of Shammai, who hold that a dedication is always valid, even if made in error, the nonconforming offering is not profane.
33 Since R. Yose was R. Ze'ira's student's student, one has to read: R. Yasa (Assi).
34 If the person who made the vow agrees that the present offering does not satisfy his vow, there is no reason why it should not be accepted as a separate offering.
35 Immediately.
36 It seems that one has to read "R. Hinena".
37 Since he demonstrates that he did not make up his mind, do we hold him to his last statement or can he satisfy his vow with any of the kinds mentioned as possibilities?
38 This is an independent statement. From the Mishnah in Menahot it follows that the donor's
statement determines the kind of cereal sacrifice he is required to bring, even if as yet he owes no flour.
39 If he vows the sacrifice for a holiday, he cannot satisfy his vow on a workday.
40 If he vowed a cereal sacrifice without specifying its kind and then put the flour into one of the acceptable vessels without saying a word, the vessel determines the kind of offering he vowed and he cannot change it any longer.

There, we have stated: "Rebbi Yose ben Rebbi Jehudah says, He made error equal to intent for substitution, but not for sacrifices." Hizqiah said, in error: a prohibition, the one who substitutes: a prohibition. If he wants to say "profane" but said "an elevation sacrifice", it is sanctified. If he wants to say "an elevation sacrifice" but said "profane", it is not sanctified. It follows that Rebbi Johanan, interpreting Rebbi Yose ben Rebbi Jehudah, parallels Rebbi Jeremiah’s explanation regarding the House of Shammai on sacrifices. In Rebbi Johanan’s opinion, may one understand that "He made error equal to intent for substitution, but not for sacrifices," if somebody dedicates a firstling. Can it be dedicated?
Did not Rebbi Hiyya, Rebbi Aha, and Rebbi Yasa say in the name of Rebbi Johanan: If somebody dedicated a firstling and it was brought to the altar, it is not sanctified even for its money's worth. If somebody dedicated a blemished animal for the altar, even as a substitute it is not sanctified. But if somebody dedicated an animal with a temporary blemish. Is that consistent with whipping? Rebbi Yudan, Rebbi Mattaniah's father, said, explain it if he gave unblemished animals for the upkeep of the Temple.

41 Read: יסוד as explanation.
42 Mishnah Temurah 2:3.
43 God, in instituting the rules of Lev. 27:10 ff.
44 He explains the Mishnah. Once an animal has been dedicated, it cannot be exchanged for another animal as long as it did not develop a blemish (Lev. 27:10). A person who intentionally violates this prohibition is whipped. It is asserted that a person who unintentionally violates the prohibition is also whipped (see the next paragraph). But a dedication in error is not a dedication for the House of Hillel.
45 While for vows one requires that "his heart and mouth be in unison", for Temple dedications only the pronouncement counts (Deut. 23:24).
46 In the first paragraph of this Halakhah (Terumot 3:8, Note 86).
47 This is a question for Hizqiah. Without his comment, we would have read the Mishnah in Temurah to state that substitution in error is substitution, dedication in error is not dedication. But he insists that for R. Yose ben R. Jehudah, substitution in error is criminally punishable. Now everybody agrees that dedication in error is not punishable, but where do we find that intentional dedication should be punishable, to justify R. Yose ben R. Jehudah's formulation? The answer is that the dedication of a firstling (which must be given to a Cohen) for any other sacrifice is forbidden (Lev. 27:26) and, therefore, should be subject to criminal prosecution.
48 The firstling is sanctified at birth and never becomes the rancher's property. The rancher has to raise the calf or lamb for 30 days and then is obligated to deliver it to a Cohen. Since nobody can dedicate what is not his, any dedication of a firstling by the rancher is void, not only invalid. In the
case described, any Cohen can come and take the firstling from the altar and eat it (since only the blood of a firstling is given to the altar but nothing of its meat). There can be no prosecution for a nonexisting act.

49 The example of dedication of a blemished animal cannot be used as illustration of R. Yose ben Jehudah's statement. A blemished animal cannot be dedicated; therefore, it neither can become a substitute sacrifice. The rules of substitutions and dedications are identical for blemished animals.

50 (Logically) connected. This technical term appears as "חט" "whitish, clear" in the Babli, pointing to differences in the pronunciation of $b$ in Galilee and $p$ in Babylonia. Cf. H. Guggenheimer, Die Aussprache des "Bet" in talmudischer Zeit, Bulletin, Verband jüdischer Lehrer und Kantoren der Schweiz Nr. 21, 1977, pp.

51 Since a temporary blemish does not permanently disqualify the animal from the altar, the dedication cannot be a crime. Again, there is no difference between dedication and substitution; R. Yose ben R. Jehudah cannot refer to this case.

52 Donating unblemished cattle, sheep, or goats for the upkeep of the Temple clearly violates the injunction of Lev. 27:9 to reserve such animals for the altar. However, that rule is formulated as an obligation, not as a prohibition and, therefore, involves no prosecutable offense. In the next paragraph it is established that R. Jehudah and his son found a biblical source which allows one to find a prohibition in Lev. 27:9. The rule of R. Yose ben Jehudah is valid only for him and his father, not for most other Sages.
Rebbi Yose ben Rebbi Jehudah follows his father's method: If somebody dedicated unblemished animals for the upkeep of the Temple, he violates a positive commandment\(^{53}\). Why also a prohibition? The verse says: "The Eternal spoke to Moses אֵלֶיֶּھוּ\(^{54}\); a prohibition was pronounced\(^{55}\), the words of Rebbi Jehudah. Rebbi was sitting and studying the rule that "a firstling cannot be substituted" when Bar Pedaiah's father was passing by. Rebbi saw him, and said, do I know what I should say here, "the Eternal spoke to Moses אֵלֶיֶּھוּ," could one explain the words of Rebbi Jehudah? Is it written thus? \(^{56}\) It follows what Rebbi Immi said in the name of Rebbi Johanan: For interpretation, one removes from its beginning to its end. Rebbi Hanina in the name of Rebbi Jeremiah: Even a middle word\(^{57}\). "You have to pour oil on." You have to pour oil on a flour offering, to subject all flour offerings to pouring.

\(^{53}\) Lev. 27:9.

\(^{54}\) Lev. 27:1. It is assumed that this heading applies also to the paragraph Lev. 27:9-34 since v. 9 starts with a connecting \(\wedge\).

\(^{55}\) "He said 'no'." The underlying pronunciation of לאמר cannot be recovered from the indications given here.

\(^{56}\) Solah 5:1 (ס), explained there in Notes 8-10, Horaiot 1:3 (ח).

\(^{57}\) In the application here, the word is split by duplication of a letter, לאמר as לאמר.
There, we have stated:\footnote{58} “The public sale of orphans’ property\footnote{59} goes on for 30 days, the public sale of Temple property\footnote{60} goes on for 30 days, and they are publicly announced mornings and evenings.” Rebbi Mana said, Rebbi Eliezer is afraid of trickery\footnote{61}, Rebbi Joshua is not afraid of trickery. Rebbi Yose ben Rebbi Abun said, Rebbi Eliezer follows the House of Shammai and Rebbi Joshua the House of Hillel\footnote{62}. Rebbi Eliezer follows the House of Shammai, since the House of Shammai say, a person may ask about his dedication; could he say that he does not have to vow usufruct?\footnote{63} Rebbi Joshua follows the House of Hillel, since the House of Hillel say, a person may not ask about his dedication; could he say that he has to vow usufruct?\footnote{64} In any case, could not a man ask about his vow of usufruct?\footnote{65} Rebbi Joshua agrees that a guarantor must execute a vow of usufruct\footnote{66}. What does Rebbi Joshua say about a gift? Since he gives voluntarily, he does not have to vow usufruct, or since [the recipient’s] power is small and [the donor] may change his mind, does he have to vow usufruct? Let us hear from the following: The husband of a relative of Rebbi Haggai owed on a document\footnote{67}. The creditor came and foreclosed. The case\footnote{68} came before Rebbi Aha, who said, he\footnote{69} owes a vow of
usufruct. Rebbi Yose said, he does not have to vow usufruct. The
colleagues said before Rebbi Aha [and] Rebbi Yose: Does Rebbi Aha say
it correctly? Since if he takes her back, does not the creditor come and
foreclose? Rebbi Yose said to them, she turns it into jewelry or keeps it
as additions to her dowry. Rebbi Haggai said, by Moses! Rebbi Yose
says it correctly. It was executed following Rebbi Aha.

58 Mishnah 'Arakhin 6:1. The argument refers to the part of the
Mishnah which is not quoted: "The public sale of orphans' property goes
on for 30 days, the public sale of Temple property goes on for 30 days,
and one publicly announces mornings and evenings. If somebody dedicates
his property while the lien if favor of a wife's ketubah was in effect, Rebbi
Eliezer says, if he would divorce her, he has to make her vow not to have
any usufruct from him; Rebbi Joshua says, it is not necessary. Similarly,
Rabban Simeon ben Gamliel says regarding a guarantor of a woman's
ketubah whose husband divorces her, that he shall make him execute a vow
of usufruct lest he could plot against his property and take his wife back."

59 The administrator of an estate whose beneficiaries are underage can
sell real estate to satisfy claims against the estate only under supervision by
the court. There has to be a 30 day public notice of the land being up for
sale; at the end of the period the parcel is sold to the highest bidder.

60 Sale of real estate donated to
the Temple.

61 If the wife has to vow not to
have any future usufruct from her past
husband in order to collect her ketubah
from the Temple, she cannot remarry
him. R. Eliezer suspects that a husband
who donates his property to the
Temple might want to get it back by
divorcing his wife, waiting until she
has collected her ketubah, then
remarrying her and receiving the
ketubah money as dowry.

62 He disagrees with R. Mana and
holds that their differences are
systemic. This is the only opinion
quoted in the Babli, 'Arakhin 23a.

63 This text seems to be corrupt.
Since in our Mishnah, the House of
Shammai hold that dedication in error
is valid, it is clear that they must hold
that a vow of dedication cannot be
abrogated by an Elder (cf. Nedarim,
Introduction p. 422, Chapter 9).
Therefore, the text must read:  

Rebbi Eliezer follows the House of Shammai, since the House of Shammai say, a person may not ask about his dedication; could he say that he does not have to vow usufruct?  Rebbi Joshua follows the House of Hillel, since the House of Hillel say, a person may ask about his dedication; could he say that he has to vow usufruct?" The "vow of usufruct" is a vow never to have any usufruct from the person designated in the vow.

64 Since he could ask an Elder about his vow, he does not need any tricks.

65 R. Eliezer should agree that a man who cannot have his dedication annulled may try to have his vow of usufruct annulled.

66 R. Joshua will agree that the husband of a woman whose ketubah is collected from a third party has to promise never to take her back. It is not that the guarantor has to vow; he has to ask the divorcing couple for their vows.

67 Greek χάρτης, Latin charta, "papyrus, roll of papyrus".

68 After the foreclosure, the husband divorced his wife and she went to court to foreclose on the foreclosed parcel since the lien of her ketubah preceded the creditor's loan document.

69 The husband owes a vow of usufruct which will forbid him to remarry his wife in order to permit the wife to collect her ketubah.

70 If the husband should remarry his divorcée, would not her property become the husband's property as dowry, and could not the creditor then foreclose it for his claim? It seems that the creditor loses nothing if there is no vow.

71 Cf. Ketubot 5:10, Note 218. Before the marriage, they sign a stipulation that the husband shall have no rights to the property. Then the creditor would be left without recourse.

72 In this and similar cases, the husband has to deliver a vow which forbids him any future usufruct from his divorcée.
There, you say: "It shall leave and graze with the herd." And here, you say so? Rebbi Yose ben Rebbi Abun said, there he asked about his vow of nazir. Because of the vow of nazir did his sacrifices become profane.

Mishnah 4. If a person makes a vow of nazir, designates an animal as his sacrifice at completion, and then asks about his vow and has it annulled, the animal becomes profane.

Should not the House of Shammai hold that the animal must remain dedicated if it was designated even in error?

There never was a direct dedication of the animal, only a designation as nazir sacrifice. If there is no nazir, there is no sacrifice. The Babli rejects this argument and holds (9a) either that for the House of Shammai there can be no dissolution of a vow of nazir because there can be no dissolution of a dedication, or (32a) for the House of Hillel substitutions can be revoked.

Rebbi Jeremiah in the name of Rebbi Huna; Rebbi Hizqiah, Rebbi Aha, in the name of Rebbi Johanan: Everybody agrees that nobody can ask about his substitution. Where do they disagree? About his dedication; for the House of Shammai say, since a person cannot ask about his substitution, he cannot ask about his dedication, but the House of Hillel say, a person can ask about his dedication but not about his substitution.

No Elder has the power to annul a (forbidden) substitution.

It is difficult to read Lev. 27:10 according to the House of Hillel but the interpretation is confirmed by the Babli, 31a.
Rebbi Simeon ben Laqish in the name of Bar Qappara: You catch him at the mention of "ox", at the mention of "first". "The black ox which comes out of my house first," if a white one came out and the black followed him, you catch him because he is the leader of the black ones. "The white ox which comes out of my house first," if a black one came out and the white followed him, you catch him because he is the leader of the white ones. "The ox which stands at the manger" and it was lying down, "lying down" and it was standing, should be like what Rebbi Abbahu said in the name of Rebbi Johanan: If he wanted to give heave from wheat and he gave from barley, during nighttime he did not do anything, during daytime, what he did is done. Brown grain and it turned out to be white, even during daytime he did not do anything. "A ram" is nothing. "A calf" yes, since it is written: "A calf of cattle as purification offering." "A sheep" is nothing. "Tetradrachmas" is nothing. "Change" is nothing. "A gold denar" was sanctified.

78 He denies that the reason of the House of Shammai be a comparison with the rules of substitutions but holds that they interpret any statement of dedication for the maximum benefit of the Temple (similar to the position of Rav Papa in the Babli, 32a).

79 Since at night he could not see...
what he did, we have to take his word as expressing his intent. Therefore, the heave designated during nighttime is not sanctified. But during daytime, his action overrides his words and the heave from barley is sanctified. Similarly, the House of Shammai will sanctify the ox if the dedication was made under circumstances in which his action can override his words.

80 For the spelling and definition of these words, cf. Peah 2:5, Notes 85-86. שמותיה is human food, ובריה usually is animal feed.

81 If he dedicated some kind of cattle but the animal coming out of his house was a goat or sheep, even the House of Shammai will agree that there was no dedication.

83 This refers to Mishnah 2. If he dedicated the first "denar" which he takes out of his wallet, the House of Shammai will agree that if he takes out only small change, none of which carries the denomination "denar", it is not dedicated. Also tetradrachmas are never called "denar". [Denar might mean "money" or "coin" in general. Denominations in late provincial usage may not correspond to standard values.]

84 Even though an unspecified "denar" in normal speech means "silver denar", the House of Hillel might agree that in a dedication it does apply to an aureus, a gold denar (in honest coin worth 25 silver denars) even though it is always referred to as "gold denar", not simply "denar".
Mishnah 4: A person who made a vow of nazir, asked the Sages and they forbade, counts from the moment of his vow. If he asked the Sages and they permitted, if he had an animal designated, it leaves and grazes with the herd. The house of Hillel said to the House of Shammai: Do you not agree that this is dedication in error, it leaves and grazes in the herd? The House of Shammai anwered, do you not agree that if somebody erred and designated the ninth as the tenth, or the tenth as ninth, or the eleventh as tenth, it is sanctified? The House of Hillel anwered, not the staff sanctified it, for if he erred and put his staff on the eighth or the twelth, did he do anything? But the verse which sanctified the tenth sanctified the ninth and the eleventh.

85 He regretted his vow. When the vow was confirmed, the time of his regret is also counted.

86 Therefore, the principle announced in Mishnah 1 does not always apply.

87 Mishnah Bekhorot 9:8. Every tenth newborn animal of cattle, sheep, and goats has to be brought as sacrifice (Lev. 27:31). The sacrifice is eaten by the rancher and his family; the priests have no part in it. The verse requires that the animals be counted with a staff and the tenth be designated. If the rancher erred between 9, 10, 11, all animals involved are sanctified. But if the error was by a count of more than one, there is no dedication and the animals remain profane.

88 Lev. 27:31, interpreted in the Halakhah, the Babli Bekhorot 61a, and Sifra Behuqqotay Pereq 13(2).
Halakha 4: "A person who made a vow of nazir," etc. It was stated\(^{89}\): The House of Shammai say, from the moment he asked; but the House of Hillel say, from the moment he vowed. Where do we hold? If he scoffed\(^{90}\) at his vow, everybody agrees from the moment he asked\(^{91}\). If he did not scoff at his vow, everybody agrees from the moment he vowed. But we have to deal with one who is going to ask. The House of Shammai say, since he decided to ask, he is now scoffing. But the House of Hillel say, if he were scoffing, he would not ask. If he made a vow of nazir and scoffed at his vow, one does not let him ask about it unless he kept its prohibitions for the number of days he did not keep the prohibitions, the words of Rebbi Jehudah. Rebbi Yasa said, when has this been said? If he vowed a lengthy period\(^{92}\). But if he vowed a short period, thirty days are sufficient for him. What is the difference between a lengthy and a short period\(^{93}\)? But it must be: When has this been said? If he scoffed at his vow for a lengthy period. But if he scoffed at his vow for a short period, thirty days are sufficient for him\(^{94}\). Where are we holding? If he scoffed in impurity, everybody agrees that he invalidated everything\(^{95}\). If he scoffed in shaving, everybody agrees that he invalidated only 30 days\(^{96}\). But we must deal with the case that he scoffed with wine\(^{97}\). That is, if he is still within his period of nazir. But after his period of nazir, he invalidated everything\(^{98}\).
Tosephta 3:19, referring to the first sentence of the Mishnah.

For =  

If he did not keep his vow, the time elapsed cannot be counted. The questions to be raised here are treated at the end of the paragraph.

More than 30 days.

In any case, one requires that he keep his vow the number of days for which he vowed.

The minimum of a nazir vow.

Since the impurity of the dead invalidates a vow of nazir by biblical decree.

Since the nazir for many periods

shaves every thirty days, Mishnah 1:4.

This is forbidden for the nazir; he is whipped if his transgression is observed by two witnesses after due warning. Biblical law contains no instructions which would require him to continue his vow for additional days. R. Jehudah’s rule which requires him to continue for an additional time, equal to that in which he disregarded the prohibition of wine, is purely rabbinical.

It follows from R. Jehudah’s rule that he has to start anew if he disregarded the prohibition of wine during the entire prior period of his vow.

There, we have stated: "If he called the ninth tenth, and the tenth ninth, and the eleventh tenth, all three are sanctified. The ninth may be eaten when it develops a defect, the tenth is tithe, the eleventh is brought as well-being sacrifice." "It shall be holy," this teaches that holiness falls on the ninth and the eleventh.
them should be sacrificed, the verse says "cattle"\textsuperscript{104}, "cattle" to include the eleventh. "From the cattle"\textsuperscript{105}, to exclude the ninth. What reason do you have to include the eleventh and to exclude the ninth? After the verse included, it excluded. You can argue, when are sanctified [animals] subject to substitution\textsuperscript{106}? Before\textsuperscript{107} or after? One has to say, afterwards. I am including the eleventh which is after sanctification and I am excluding the ninth which is before sanctification.

99 Mishnah Bekhorot 9:8. This starts the discussion of the rules of animal tithes (Note 87).
100 As explained later in this paragraph, the ninth is holy but is not dedicated as a sacrifice. Therefore, it is barred from becoming a sacrifice. The owner has to wait until it develops a blemish (which will be automatic with age); then it can be redeemed and eaten under the rules of profane slaughter.
101 It is holy and a sacrifice, but not tithe. Therefore, the priest's parts are due from it.
102 Lev. 27:32: "About tithes of cattle and flocks, anything which passes under the staff, the tenth shall be holy for the Eternal." Since the determination of which animal is the tenth is not automatic, any which either is the tenth or is designated as the tenth by the rancher's staff is holy.

103 Babli Bekhorot 61a, Sifra Wayyiqa Parsheta 16(4).
104 Lev. 3:1, speaking of well-being sacrifices.
105 In all situations, the expression "from" is interpreted to mean: "Not all." It is then a problem of rabbinic interpretation to determine which kinds are excluded. Since the expression "from the cattle" mentioned in Lev. 1:3 was used to exclude animals used for sinful purposes [Sifra Wayyiqa Parsheta 2(7)], the expression used here can be taken to apply to other situations.
106 Substitutions of tithe animals are mentioned in Lev. 27:33.
107 There can be no substitution for an animal which has not yet been designated as sacrifice since that would be a purely profane operation.
So far, if he thought that it was the tenth which he called "tenth". If he knew that it was the ninth and called it "tenth"? The colleagues say, it is sanctified. Rebbi Yudan said, it is not sanctified. The Mishnah supports the colleagues: "The House of Hillel said to the House of Shammai: Do you not agree that it leaves and grazes with the herd? The House of Shammai answered them, do you not agree that if somebody erred and designated the ninth as the tenth, or the tenth as ninth, or the eleventh as tenth, it is sanctified." And they do not accept it! Otherwise, they could have answered: Why do you answer us from something which is sanctified only if not in [willful] error about something which will be sanctified both in error and not in error! As Rebbi Immi said, they were rich in answer, or as Rebbi Nasa said, like somebody who has two reasons and he responds by giving one of them.

108 In the Babli, 32a, the different opinions are quoted in the name of Babylonian authorities.

109 The Talmudim never exhaust all possible arguments but quote only one. The text is better in Pesahim 6:2 (32b):
Mishnah 5: A person vowed to be a nazir and went to bring his animal\(^{110}\) when he found that it was stolen; if he vowed before the animal was stolen he is a nazir, after the animal was stolen he is not a nazir\(^{111}\). This error was made by Nahum from Media: When nezirim came from the Diaspora\(^{112}\) and found that the Temple had been destroyed, Nahum from Media asked them: If you had known that the Temple would be destroyed, would you have made a vow of nazir\(^{113}\)? They said to him, no, and Nahum from Media permitted them. When the case came before the Sages they said, anyone who made his vow before the Temple was destroyed is a nazir, after the Temple was destroyed he is not a nazir.

110 And from the start it was his intention to use this animal as his sacrifice at the end of the period of neziru.

111 Since the vow was made in error.

112 The Parthian empire, which was not touched by the Jewish revolt.

113 The question was legitimate for R. Eliczer (Mishnah Nedarim 9:2) who admits that people may ask to annul a vow because of unforeseeable circumstances, but the anonymous majority forbid this kind of question.
Halakhah 5: "If a person vowed to be a nazir and went to bring his animal," etc. Where do we hold? If he saw an animal passing on the market and said, I am a nazir on that animal which passed by, he is a nazir even if the animal was stolen. If he thought that he had one and it turned out that he did not, would we say if he was rich and became poor, the nezirut would be invalidated? But we must hold that he said, I am a nazir on the animal I have at home, then went and found it stolen. If he vowed before the animal was stolen he is a nazir, after the animal was stolen he is not a nazir. The students of Rebbi Hyya bar Julianus say: Rebbi Jehudah asked: If the thieves returned it in the night, did his nezirut return to him retroactively or for the future?

114 Since the animal was not his and he could not be sure that the owners would sell it to him, his vow was not dependent on that animal (unless he would spell out that he would not be a nazir unless the animal was sold to him).

115 From the moment of his vow.

116 He has to start anew from the moment the animal was returned. No answer is given.
"That was the error of Nahum from Media." What was his error?

That he found for them an opening due to changed circumstances.

"Nahum from Media said to them: 'Would you have made a vow to become *nezirim* if you had known that the Temple would be destroyed at some future time?" Rebbi Ze'ira said, the following he should have said to them: Did you not know that the prophets already had prophesied that eventually the Temple would be destroyed? Then there are no changed circumstances. Rebbi Hila said, still it is changed circumstances. They could have said to him, we knew it, but it seemed to us that this referred to the distant future: "The vision he sees is for many years."

It has been stated: 300 nezirim came in the days of Rebbi Simeon ben Shetah. For 150 of them he found an opening, for 150 of them he did not find an opening. He came to king Yannai and said to him: There are here 300 nezirim who need 900 sacrifices. You should give half of them from your side, I shall give half from my side. The king sent him 450 animals. An informer went around and said that the other one had not
given anything from his own money. King Yannai heard about it and got angry. Simeon ben Shetah heard and fled. After some time, important people from the Persian empire came to king Yannai. They said to him: We remember that there was an old man who gave us a rabbinic discourse. They said to him, send and bring him! He sent and gave him his word; he came and sat between king and queen. He said to him, why did you trick me? He said, I did not trick you; you with your money and I with my learning, as it is written (Eccl. 7:12) “In the shadow of wisdom, in the shadow of money.” He said to him, why did you disappear? He said to him, I heard that my lord was angry with me and I wanted to fulfill the verse (Is. 26:20) "Hide a little bit until the rage passes;" he used about himself (Eccl. 7:12): "Knowledge is an advantage, wisdom lets its possessor live." He said to him, why did you sit between king and queen? He said to him, it is written in the book of Ben Sirach: "Esteem it and it will raise you and seat you among princes." He said, bring him a cup that he may recite Grace. They brought him a cup and he said: "Let us give praise for the food that Yannai and his company ate." He said to him, what should I say, "for the food that we did not eat?" He said, bring him something that he may eat. They brought, he ate and recited: "For the food that we ate."

Rebbi Yohanan said, his colleagues disagree with Simeon ben Shetah. Rebbi Jeremiah said, about the first action; Rebbi Abba said, about the second action. Rebbi Jeremiah seems to contradict himself! There he wondered about it and here it is obvious for him! He wondered following the Sages; it is obvious to him following Rabban Simeon ben Gamliel. We have stated about this: If one came, was lying on a couch, and dipped with them, even if he did not eat grain the volume of an olive one 'invites' with him, the words of the Sages. Rebbi Jacob bar Aha in the name of
Rebbi Yohanan: One never ‘invites’ anyone unless he has eaten grain the volume of an olive. But did we not formulate, "two [eating] bread and one [eating] vegetable, then one ‘invites’?" This *bara'ita* follows Rabban Simeon ben Gamliel.

118 *Berakhot* 7:2, Notes 79-90. here, it refers to the discussion in
119 This paragraph has no place *Berakhot*.

Mishnah 6: If they were walking on the road and a person came towards them when one said, "I am a *nazir* unless he is Mr. X", and another said, "I am a *nazir* if it is not he"; "I am a *nazir* unless one of you is a *nazir*, "unless both of you are *nezirim*, "unless all of you are *nezirim". The House of Shammai say, they are all *nezirim*120, but the House of Hillel say, only those whose assertions prove wrong are *nezirim*. Rebbi Tarphon said, none of them is a *nazir*121.
Mishnah 7: If he suddenly returned, no one is a nazir122. Rebbi Simeon says, one123 should say: If it was as I said, I am a nazir by obligation, otherwise I am a nazir voluntarily.

If one saw a koy124 and said, "I am a nazir if this is a wild animal", "I am a nazir if this is not a wild animal"125, "I am a nazir if this is a domestic animal", "I am a nazir if this is not a domestic animal", "I am a nazir if this is a wild and domestic animal", "I am a nazir if this is neither a wild nor a domestic animal", "I am a nazir if one of you is a nazir", "if one of you is not a nazir", "if both of you are nezirim", then all of them are nezirim.

120 By their rule, anybody who said "I am a nazir" is a nazir, even if his condition was not satisfied.

121 Since Num. 6:2 requires that a vow of nazir be clearly expressed, but these people did mention nazir only to emphasize their statements, there is no valid vow.

122 This is a continuation of the previous Mishnah. The object of the disagreement of the travelers suddenly disappears and it is not possible to determine who is right and who is wrong, who should be a nazir and who should not.

123 Everyone whose vow is in doubt. On the one hand, not to fulfill one's vow is a grave sin; on the other hand, the sacrifices at the end of the period of nezirut can be offered only if they are due, otherwise the animals would be sinful profane offerings in the Temple. Therefore, it is necessary to offer a new vow which takes care of all possibilities.

124 An animal neither wild nor domesticated, which partially follows the rules of both kinds (Mishnah Bikkurim 2:9 ff., Note 154).

125 These are statements by different people walking together. Since all assertions are more or less true, all persons involved are nezirim.
Halakhah 6: "If they were walking on the road," etc. Should the Mishnah not read: "whose assertions are correct"?\(^{126}\) It is language of opposites, "that she did not bury her son."\(^{127}\)

126 If Mishnah 6 is translated strictly literally, it reads: "I am a nazir if he is Mr. X", and another said, "I am a nazir if he is not"; "I am a nazir if one of you is a nazir", "if both of you are nezirim", "if all of you are nezirim". In that case, the House of Hillel should state that the ones whose statements are correct are nezirim.

127 One does not want to express anything negative. A woman who is afraid for the life of her son will assert that she will not bury her son. A different explanation of the paragraph is given by J. N. Epstein, που pp. 332-335, more in accordance with the Babli (32b-33a).

It was stated: "Rebbi Jehudah said in the name of Rebbi Tarphon: None of them is a nazir since nezirut exists only by warning."\(^{128}\) That is what Rebbi Jehudah said, "doubtful nezirut is permitted."\(^{129}\)

128 In the Babylonian sources, Babli 34a, Tosephta 3:19, "nezirut exists only by the Walton 'clear statement'". The meaning is the same here; a legal warning for a breach of the vow could only be issued if the vow was clearly stated.

129 Mishnah Tahorot 4:12.

Where do we hold? If one says, Reuben, and the other says, Simeon, as you take it, if he is Reuben, one is a nazir, if he is Simeon, one is a
nazir. But we must hold that one says, Reuben, and the other says, Simeon. He suddenly disappeared, he was neither Reuben nor Simeon; nobody is a nazir.

That is what Rebbi Simeon said, he cannot bring a sacrifice unless it exists.131

Here starts the discussion of Mishnah 7.130 The statement of R. Simeon parallels his own in Mishnah 2:8.

It was stated: "All of them count nine neziriot". Are they not ten?133 It is impossible that the words of any of them should not be correct. Rebbi Yasa said, this is the House of Shammai’s, since the House of Shammai say, dedication in error is dedication.134

In the Tosephta, 3:19, this refers to people who meet a hermaphrodite and quarrel whether or not he is a man, a woman, or a man and a woman. In the Babli, 34a, there is a question whether to read "9 neziriot", or "9 nezirim". The formulation of the Mishnah in the Yerushalmi clearly speaks of only two people who dispute and pile vow onto vow. The questioner has a slightly different reading in the Mishnah which exhausts all logical possibilities: Wild animal or not, domestic or not, wild and domestic or not, neither wild nor domestic, one or none or both nezirim.134

The Tosephta which counts 9 possibilities.
Mishnah 1: Three kinds are forbidden for the nazir: Impurity, shaving, and anything coming from the vine. Everything coming from the vine is added together\(^1\). He is only guilty when he eats grapes in the volume of an olive; according to the early Mishnah if he drinks a quartarius of wine\(^2\). Rebbi Aqiba says, even if he dipped his bread in wine for a total volume\(^3\) of an olive, he is guilty.

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1 The verse prohibiting "anything coming from the vine" to the nazir makes it clear that the most minute amount is forbidden. But a nazir cannot cleanse himself by a purification sacrifice (or, if duly warned by two witnesses, cannot be criminally prosecuted for desecrating his holy status) unless he consumed more than the legal minimum. For most matters of food, the legal minimum is the size of an average olive used for the production of oil (cf. H. Guggenheimer, *The Scholar's Haggadah*, Northvale 1995, pp. 326-328). For beverages, the standard is the revi'it, defined by the Mishnah (*Kelim* 17:11) as Roman quartarius, 133 ml (*loc. cit.* pp. 212-213).

2 Or eats an amount of grapes from which a quartarius of juice could be extracted.

3 The bread plus the wine absorbed in it.
Halakhah 1: "Three kinds are forbidden for the nazir," etc. Impurity, as it is written: "During all the days he vowed to the Eternal he shall not come close to a human corpse." Shaving, as it is written: "During all the days of his nazir vow, a shaving knife shall not come onto his head." Anything from the vine, as it is written: "During all the days of his vow, of anything coming from the wine-vine [he shall not eat]."

4 Lev. 6:6. 5 Lev. 6:5. 6 Lev. 6:4.
Rav Zakkai stated before Rebbi Johanan: If somebody sacrificed, burned incense, and poured a libation in one forgetting, he is guilty for each action separately. Rebbi Johanan told him, Babylonian! You crossed three rivers with your hands and were broken. He is guilty only once!

Before he broke in his hand there is "one" but not "those"; after he broke in his hand there are "those" but not "one".

Rebbi Abba bar Mamal asked before Rebbi Ze'ira: Should he not be guilty for each action separately? As you say for the Sabbath: "Do not perform any work," a principle. "Do not light fire in any of your dwelling places," a detail. Was not lighting fire subsumed under the principle, but it is mentioned separately from this principle! Since lighting fire is special in that it is the work of a single individual and one would be guilty for it alone, so everything for which alone one is guilty. Also here: "Do not worship them," a principle. "Do not prostrate yourself," a detail. Was not prostrating itself included in the principle and why was it mentioned separately? To infer, to tell you that prostrating oneself is special in that it is the work of a single individual and one would be guilty for it alone,
so everything for which alone one is guilty. He answered: For the Sabbath, he mentioned the principle at one place and the details at another place. For idol worship, the principle is found close to the detail. He retorted: Is it not written: "Do not prostrate yourself before another power"? He did not state the principle and the detail at the same spot! He said, since you do not infer anything from it close up, you cannot infer anything from afar. The colleagues say, it makes no difference; whether He gave the principle at one place and the detail at another, or gave principle and detail at the same place, it is a matter of principle and detail. For the Sabbath, He first gave the principle and then the detail. For idolatry, He gave the detail and only later the principle. Rebbi Yose said, it makes no difference whether He first gave the principle and then the detail or He gave the detail and only later the principle, or He gave principle, detail, and principle; it is a matter of principle and detail. For the Sabbath, He gave a general prohibition of work, followed by details; for idolatry, He was indeterminate regarding its worship but detailed the worship of Heaven.

7 This paragraph and the next are from Šabbat 7:2 (9e, l. 11 ff.), as will be seen in the commentary. The variant readings refer to that text. The introductory section is from Šabbat 7:1 (9a, l. 20-24), the one variant in spelling there is noted by .

Mishnah Šabbat 7:2 states that on the Sabbath, 39 different activities are forbidden. This means that a person who violates the Sabbath unintentionally may be liable for up to 39 purification sacrifices. The question then appears whether in other cases multiple sacrifices also are necessary.

8 He committed idolatry but forgot that sacrificing, burning incense, and pouring libations are forbidden as idolatrous actions, or he was conscious that these acts are part of idolatry but forgot that idolatry was forbidden.

9 In the Babli, Šabbat 72a, Sanhedrin 62a, the positions of R. Johanan and R. Zakkai are switched.
10 Tigris, Euphrates, and Jordan.

11 The sentences in braces are unintelligible here; they refer to and are quoted from a discussion in Sabbat 7:1 (fol. 9a) which deals with the introductory sentence to the chapter of purification offerings, Lev. 4:2: "Speak to the Children of Israel, saying: If a person sins unintentionally against any commandments of the Eternal that are not to be broken, and did from any one, from those." This implies that sometimes a purification offering is due for violating one prohibition, and sometimes one sacrifice is valid for a number of those. In general, the answer depends on what was unintentional. If a person does not know that today is Sabbath, for all he does wrong he owes one sacrifice. If he knows that it is Sabbath but forgot what is forbidden, he owes one sacrifice for each category of forbidden work. The problem is first whether this principle also applies to idolatry, the sacrifice for which is not described in Lev. 4 but in Num. 15:22-26, and second what is the status of the details enumerated in the Second Commandment, in particular why a detail, "do not prostrate yourself before them" is mentioned before the principle "do not serve them".

12 The reference to "breaking" here is a continuation of R. Johanan's criticism of Rav Zakkai (who in the Babli is Rebbi Zakkai): If the Second Commandment is considered a unit, there are no "those" to be applied to idolatry. If all activities mentioned are separate rules, how can one bring only one sacrifice?

13 Ex. 20:10.

14 Ex. 35:3.

15 A forbidden action on the Sabbath which is executed only by the common effort of several people is not prosecutable.

16 Needs a separate sacrifice. This is an application of the 9th hermeneutical principle of R. Ismael: Any detail which was subsumed under a principle but is mentioned separately in order to instruct, was not mentioned for itself but to explain the entire principle [Sifra Introduction 2; Pereq (11)]. In the text this is called "principle and detail", which in the technical language of the Babli refers to the completely different rule No. 5 [Sifra Introduction 1,7]. In Mekhilta dR. Ismael p. 347 the argument is attributed to R. Jonathan (who in the Babli, Sabbat 70a, appears as R. Nathan.)

Whether there is a connection between rules 5 and 9 is left open in the Babli, Baba qama 85a, decided in the
negative in *Menahot* 55b. Menahem Cahana, in an exhaustive study of the problem (כריסו לודיתת ההמשתהฯ של רימית כלאו תרט תכמסה התנאים p. 173-216 in: Studies in Talmudic and Midrashic Literature in Memory of Tirzah Lifshitz) holds that the original Tannaitic theory knew only of two principles, one which corresponded to the later (Babli, Sifra, Sifry) rules entitled "principle and detail", "detail and principle", "principle and detail and principle"; the other one referring to all rules which in Babylonian formulation start with "any detail which was subsumed under a principle". His arguments support the thesis of the present commentary that Mekhilta, Sifra, Sifry (and Tosephta) in our hands are essentially Babylonian editions.

17 Regarding idolatry.
18 Ex. 20:5.
19 R. Ze'ira, answering R. Abba bar Mamal. The translation follows the text in *Sabbat*.

20 In the same sentence. If "prostrating" had been mentioned after "serving", the 5th hermeneutical principle would imply that the two notions are identical in intent. As the verse stands, it cannot be interpreted as "principle and detail".

21 Ex. 34:14.
22 Since 34:14 does not teach anything not contained in Ex. 20:5.
23 Therefore, the 9th principle does not apply to idolatry since the detail does not follow after the principle.

24 Text from *Sabbat*.
25 This really is the case for the Second Commandment.
26 The prohibition refers to performing for idolatry any ceremony commanded for the worship of Heaven.

The case of R. Zakkai really has no connection with the argument about the status of the mention of prostrating oneself in the Second Commandment.
Rebbi Mana said, lighting fire was mentioned unnecessarily; prostrating oneself was mentioned by necessity to explain about itself since it is not work. This follows what Hizqiah stated: "He who sacrifices to powers shall be banned." Sacrificing was mentioned separately to teach about everything, prostrating oneself to explain about itself since it is not work. Rebbi Jeremiah said, lighting fire was mentioned by necessity, to teach that courts should not sit on the Sabbath. What is the reason? It says here, "in all your settlements" and it says there, "these should be rules of law for your generations, in all your settlements." Since "settlements" mentioned there refers to courts, "settlements" referred to here also refers to courts. Rebbi Samuel bar Eudaimon said, even if you say that it was mentioned by necessity, it is as if it were mentioned unnecessarily, and anything mentioned unnecessarily teaches.

27 The sentence about Hizqiah's statement was added by the corrector of the Venice edition. בהליכא is Babli style for Yerushalmi ההלכה only a relatively modern author would think of using the form אקיפא (to avoid profane use of God's name) for pagan deities.

28 Since the prohibition of making fire is implied in the Fourth Commandment in any reasonable interpretation. Therefore, making fire is a detail which can be used to characterize all work forbidden on the Sabbath.

29 Nothing is changed or produced by prostrating oneself; it is not obvious that it should be forbidden under any
circumstances.

30 *Ex. 22:19.* This explains the punishment for idolatrous acts forbidden in the Second Commandment. This is the interpretation in all of talmudic literature (Babli *Sanhedrin* 60b, *Mekhilta dR. Ismael* p. 310, *dR. Simeon ben Johai* p. 210.) (Nowhere in rabbinic literature does one find the more obvious explanation of *Ex. 22:19*: "Anyone sacrificing to the *Elohim* (God as Creator, Ruler of the physical world) shall be banned, only to YHWH (God the Merciful and Dispenser of Grace) alone." In all of *Lev.* and *Num.*, there is never any mention of a sacrifice to *Elohim.*)

31 Since punishment for sacrificing is spelled out separately, any punishment for an act of idolatry must be given separately by the 9th rule, supporting R. Zakkai against R. Johanan.

32 In the Babli, *Yebamot* 6b, this is a Tanna'itic statement from the school of R. Ismael, appended to an argument also quoted in *Mekhilta dR. Ismael*, *Yebamot* 6b.

33 *Num. 35:29.* The quote is correct in *Sabbat.*

34 Since the argument is based on *Num. 35:29*, not on *Ex. 22:19*, the latter verse can be used in an application of the 9th rule.

But here, skins and seeds were understood in the principle, and were listed separately. Should they not be separate rather than common? But there, the principle is at one place and the details are at another place. But did not the colleagues say: It makes no difference: Whether he stated
the principle and then a detail or the detail and after that the principle. And here, he stated the principle and then a detail. But did not Rebbi Yose say, there is no difference whether He gave principle, detail, and principle, it is the principle and then a detail, it is counted as the principle and then a detail. There, the detail was not necessary. Why were they detailed? To exclude leaves and twigs. But was it not stated in the name of Rebbi Eliezer: "From anything coming from the wine-vine, from skins to seeds, he shall not eat;" leaves and twigs are also understood. There, they are mentioned for a need, but here, they are mentioned without need. Why? For additions.

35 In Num. 6:4, it is started that a nazir is forbidden "everything coming from the vine", followed by "skins and seeds". Since skins and seeds of grapes come from the vine, this is "principle and detail" and the question arises why the Mishnah prescribes that all that comes from the vine be counted together; should not every kind be counted separately?

36 The rules of the Sabbath.

37 Which may not be directly edible. But vine leaves are used in cooking, supporting R. Eliezer.

38 Babli 34b, Sifry Num. #24; rejected in the Babli.

39 While this paragraph is not found in Sabbath, it seems to have originated there since "there" is here, the discussion of the rules of nazir, but "here" is Sabbath, the discussion of the mention of making fire. In the case of the nazir, everything that comes from the vine is added together (one minimum quantity, one sacrifice) since everything mentioned (including in v. 3 wine, liquor, vinegar, grapes and raisins) is necessary as explained in Sifry Num. #23-24.

40 Reading •psiT'iV for τοιτ’ϊ'? of the text.
Warning\(^{41}\) for one who eats carcass meat, from where? "You shall not eat any carcass meat.\(^{42}\)" That covers carcass meat; from a "torn"\(^ {43}\) animal from where? Rebbi Johanan said, "carcass meat" and "any carcass meat", to include the "torn" animal\(^ {44}\). If somebody eats flesh from a living animal which is "torn", Rebbi Yasa said, Rebbi Johanan and Rebbi Simeon ben Laqish disagree. Rebbi Johanan said, he is guilty twice. Rebbi Simeon ben Laqish said, he is guilty only once. What is the reason of Rebbi Johanan? "You shall not eat any carcass meat\(^ {42}\);" "you shall not eat of life with the flesh\(^ {45,46}\)." What is the reason of Rebbi Simeon ben Laqish? The colleagues said before Rebbi Yose: The assertion of Rebbi Simeon ben Laqish parallels what Rebbi Eliezer ben Jacob stated: "Flesh torn on the field you shall not eat\(^ {47}\), you shall not tear from an animal and eat in the way you tear from the ground\(^ {48}\) and eat." What is the reason of Rebbi
Simeon ben Laqish? The colleagues before Rebbi Yose: Rebbi Simeon ben Laqish does not hold with Rebbi Johanan about the "torn" animal; if he did hold with him, one should be twice guilty. He said to them, even if he held with him, one should be guilty only once. There is a difference, because He repeated it and combined it. They objected: "Suet you shall not eat," and blood you shall not eat," and it is written: "Any suet and any blood you shall not eat." Then because He repeated it and combined it, one should be guilty only once! He said to them, if it were written "suet and blood", you would be correct. But it is written "any suet and any blood," to declare him guilty for each case separately. But it is not written: "Anything soaked with grapes he shall not drink," and it is written, "from skins to seeds he shall not eat." Then because He repeated it and combined it, one should be guilty only once! He said to them, if it were written "skins and seeds", you would be correct. But it is written "skins unto seeds," to declare him guilty for each case separately.

41 An infraction of a biblical law is prosecutable only if the prohibition is mentioned at least twice in the text, once as "warning" to spell out the prohibition and once to specify the punishment for infraction. If no punishment is specified, whipping is intended; nevertheless, the second mention is necessary. Cf. Yeabmot 11:1, Note 47.


43 Terephah is a technical term, originally meaning an animal which cannot survive an attack by a predator. The meaning has been extended to include all animals who cannot survive for any length of time, including dangerously sick animals and those born with severe birth defects. (As a practical matter, slaughtered animals have to be inspected for signs of tuberculosis, which would prohibit the meat for human consumption.)

44 The verse must forbid more than carcass meat, otherwise the mention of "all" was superfluous. The argument is reported as tannaitic in Sifry Deut. 104.

45 Deut. 12:23. It is forbidden to eat limbs torn from a living animal. (In
rabbinic interpretation, this is the prohibition imposed on all mankind by 
*Gen.* 9:4: "But meat in whose blood is life you shall not eat", meat taken when 
life is still carried by the blood.)

46 The argument is that in one act one may transgress two prohibitions 
referring to two distinct verses as warnings and, therefore, be subject to 
distinct punishments. In the Babil, *Hulin* 102b/103a, the difference 
between the interpretations of R. Johanan and R. Simeon ben Laqish boils 
down to the question whether "flesh from a living animal" and "limbs from a 
living animal" are different 
prohibitions following distinct rules. 
(For the problems raised by the 
competition of laws, cf. *Terumot* 7:1, 
Notes 6 ff.)

47 *Ex.* 22:30. In this interpretation, 
the verse forbids flesh or limbs torn 
from an animal (and also supports R. 
Johanan's interpretation of *Deut.* 14:21.) 
A similar formulation, also in the name 
of R. Eliezer ben Jacob, is in *Mekhilta 
dR. Simeon ben Hofai*, p. 214.

48 Vegetables.

49 It is impossible to say that *Ex.* 
22:30 does not contain a prohibition of 
meat from "torn" animals, since this is 
the obvious meaning of the text. But 
since following R. Eliezer ben Jacob, 
the verse also prohibits flesh torn from 
living animals, there is no separate 
"warning" for eating meat from "torn" 
animals. The offender can be 
prosecuted either on basis of *Deut.* 
14:21 or of *Ex.* 22:30, but not of both 
together. (Since in the desert, 
consumption of any non-sacrificial 
meat of domesticated animals was 
forbidden, *Lev.* 17:4, the mention of 
carcase meat would have been out of 
place in *Ex.* 22.)

50 *Lev.* 7:24.


52 *Lev.* 3:17.

53 *Num.* 6:3.

54 *Num.* 6:4.

55 But Mishnah 6:2 will state that 
the *nazir* can be punished separately 
for each item on the list.

56 A redundant word, not really 
required by the context.
Rebbi [Yose]\textsuperscript{57} said to the colleagues: You should know that Rebbi Johanan and Rebbi Simeon ben Laqish disagree: If somebody split a limb from a living animal and ate it, everybody agrees that he is free from prosecution\textsuperscript{58}. Where do they disagree? If he split it in his mouth before he ate it. Rebbi Johanan considers his mouth as inside, Rebbi Simeon ben Laqish considers his mouth as outside\textsuperscript{59}. They asked him, what do you say? He answered them, I informed you that mighty mountains disagree, and you ask this? If it is so, even if he split it outside and then ate, he should be guilty! Why? That is how one eats\textsuperscript{60}. If somebody split an ant in his mouth\textsuperscript{61} and ate it, that is the disagreement of Rebbi Johanan and Rebbi Simeon ben Laqish\textsuperscript{62}. Rebbi Maisha asked Rebbi Ze'ira: If he\textsuperscript{63} split a grape in his mouth and ate it, that is the disagreement of Rebbi Johanan and Rebbi Simeon ben Laqish? He answered, there\textsuperscript{64} it is something for which there is a prohibition and impurity. In a circumstance in which its impurity disappeard, its prohibition disappeared. But here is a prohibition and no impurity\textsuperscript{65}. Rebbi Abba ben Rebbi
Mamal asked: If he split an olive-sized bit of *mazzah* in his mouth and ate it, is that the disagreement of Rebbi Johanan and Rebbi Simeon ben Laqish? Rebbi Yose ben Rebbi Abun said, in the other cases, his palate did not enjoy an olive sized bit. The rabbis of Caesarea said that Rebbi Nisa asked: If he split in his mouth pomegranate berries which are *'orlah* and ate them, is that the disagreement of Rebbi Johanan and Rebbi Simeon ben Laqish? Where do we hold? If because of fluids, we already did state: "Nothing makes impure as a drink except what comes from olives and grapes." The rabbis of Caesarea said, explain it if he swallowed them.

57 Missing in ms. and *editio princeps*; needed by the context and historical considerations.

58 He has an olive-sized piece of flesh taken from a living animal and splits it in two. Neither piece has the minimum size that would make prosecution possible. He eats both pieces in one meal. As Rashi explains in *Hulin* 103b (s.v. מזח): "In general, undersized parts of forbidden food consumed in the same meal are added together (Babli *Yoma* 80b). But the prohibition of limbs from a living animal is particular since in general inedible sinews and bones (of carcass and "torn" meat) are not forbidden food. By contrast, here one would be guilty since there is no limb without sinews and bones. One may say that its rules are separate and if one eats it in one piece one is guilty, since this is the normal way of eating, but not in minute pieces."

59 In the interpretation of the Babli, for R. Johanan the prohibition is triggered by the palate's enjoyment, for R. Simeon ben Laqish by the act of swallowing.

60 In the Babli, *Hulin* 103b, this is R. Eleazar's opinion. The configuration of the food is irrelevant.

61 Since an ant is a complete creature, it is forbidden food (*Lev. 11:41*) irrespective of size (cf. *Berakhot* 6:1, Note 17). In the Babli, *Makkot* 16b, eating an ant is counted as violating up to five prohibitions simultaneously.

62 According to R. Simeon ben Laqish, what he did is forbidden but not prosecutable.

63 A *nazir*, who can be criminally
prosecuted for eating an olive's volume of grapes.
64 A limb taken from a living animal causes impurity (Ahilut 2:1); similarly, crawling animals are called "impure". An entire crawling animal is always impure. But all parts of such an animal cut into pieces smaller than lentils are pure.
65 R. Simeon ben Laqish will agree that for the nazir only the total amount consumed is relevant.
66 In the first night of Passover, when there is a biblical commandment to eat mazzah (in the minimal amount of one olive's size); Ex. 12:18.
67 Here also, R. Simeon ben Laqish will agree with R. Johanan.
68 The berries of the pomegranate, each containing a single seed. Such a berry is a creature (cf. Berakhot 6:1, Note 18).
69 Harvested before the tree is three years old, when all usufruct is forbidden.
70 Mishnah Terumot 11:3. Therefore, the pomegranate berries are food and follow the rules of food.
71 A pomegranate berry is much smaller than an olive. It is agreed that eating a whole berry of 'orlah can be prosecuted since it means eating a complete creature. But if the berry is eaten after being split into two parts, one might assume that R. Johanan will agree with R. Simeon ben Laqish that one cannot be prosecuted.
A "torn" [creature] that was turned into a carcass. Rebbi Yasa, the son of Rebbi Yasa’s daughter, in the name of Rebbi Jeremiah: Rebbi Johanan and Rebbi Simeon ben Laqish disagree. Rebbi Johanan says, he is guilty twice; Rebbi Simeon ben Laqish said, he is guilty only once. Rebbi Eleazar ben Rebbi Yose said before Rebbi Yose, the following supports Rebbi Johanan: “Any person who would eat any carcass meat,” why does the verse say ‘and torn’? If a ‘torn’ animal can survive, was ‘carcass meat’ mentioned before? If a ‘torn’ animal must die, is it not included in ‘carcass meat’? Should he not say, it is carcass meat? Rebbi Abbahu in the name of Rebbi Yose ben Hanina: The reason of Rebbi Yose: “Do not defile yourself by animals and birds,” but only the Eight Reptiles impart impurity! But the measure of their impurities is the measure of their uses as food. Rebbi Eleazar objected: May not the limbs of pure animals impart impurity in the most minute amount but as food only in the volume of an olive? He accepted it. What is meant by "he accepted it"? Like a person who said, the opponent accepted it. Hiyya bar Abba said: "You shall not [eat] any carcass meat." The Torah identified all eating together. Rebbi Hanina objected: Is not the impurity of the Eight Reptiles in the size of a lentil, but as food in the volume of an olive, whether for blood or for meat?

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72 If a "torn" animal was not slaughtered according to the rules, is the meat forbidden under one or two statutes?
73 Sifra Ahare Pereq 11(8).
74 Lev. 17:15.
75 No animal is ritually impure while alive. [Even the "impure" animals forbidden as food (Lev. 11:26, Deut. 14:9) are ritually pure while alive.] If a "torn" animal can survive and was ritually slaughtered, it does
not become impure.

76 If a "torn" animal must die in the short run, it simply becomes impure as a carcass. The mention of "torn" in the verse seems superfluous; it can only be justified as adding another prohibition. (In Sifra, the argument is inverted to prove that a "torn" animal, if ritually slaughtered, is not impure even as it is forbidden food.)

77 Who seems to accept his son's argument.

78 The argument refers to the part of the verse, Lev. 20:25, which is not quoted: "Do not defile yourself by animals and birds, and anything which crawls on the ground, which I separated for you as impure." Now anything crawling on the ground (and in the water) is forbidden as food, but impurity caused by dead bodies is restricted to mammals, birds, and the Eight Reptiles enumerated in Lev. 11:29-30.

79 Since even in biblical usage, mammals and birds acceptable as food are called "pure" (Gen. 8:20). By inference, non-kosher animals are called "impure" even while alive and technically pure.

80 To R. Abbahu.

81 Mishnah Ahilut 1:7.

82 In the Babli, Me'ilah 15b, R. Yose ben R. Hanina states, as explanation of his inference (Note 78) that eating parts of any of the Eight Reptiles is prosecutable in amounts the size of a lentil (Maimonides Ma'akhalot asurot 2:7). The identity of the rules for blood and flesh of these reptiles is Mishnah Me'ilah 4:3, for the rules of impurity Sifra Šemini Parašah 5(2), Pereq 7(6).
Rebbi Samuel bar Sosarti asked: Then one who eats a limb from a kosher living animal should be guilty on two counts, because of "you shall not eat any carcass meat;" and because of "you shall not eat of life with the flesh." Does one argue from kosher about non-kosher animals? But did not Rebbi Eleazar argue from kosher about non-kosher animals? Then one who eats a limb from a non-kosher living animal should be guilty on three counts, because of "you shall not eat any carcass meat;" and because of "you shall not eat of life with the flesh;" and because of "you shall not eat from their flesh." Rebbi Abbahu in the name of Rebbi Yose ben Hanina: If somebody ate five ants together, in one forgetting, he is guilty for each one separately because of "creature." If he fragmented and ate them, he is guilty only once, if together they amount to the volume of an olive. If he ate of the fragments in the volume of an olive, he is guilty; if he ate of the fragments in the volume of an olive and an ant, he is guilty twice. If this is correct, then if he ate of the fragments less than the volume of an olive and an ant completed the volume of an olive, is he guilty twice? If this is correct, if the ate an ant the size of an olive, is he guilty twice? The same rule applies to combinations of a nazir. If he ate of the combinations in the volume of an olive, he is guilty. If he ate of the combinations in the volume of an olive and a grape berry, is he guilty twice? If this is correct, then if he ate a grape berry for the volume of
an olive, is he guilty twice? Rebbi Abbahu in the name of Rebbi Johanan: All [food] prohibitions combine together\(^91\) to be whipped for the volume of an olive, but for an ant one is guilty twice. Then if he ate prohibited food and an ant completed the volume of an olive, he is guilty twice. Then if he ate an ant the volume of an olive, he is guilty twice.

83 He argues against R. Johanan who stated that one who eats a limb from a "torn" animal violates two laws at the same time. Why should the verses quoted not apply to a completely healthy kosher animal?

84 Since the impurity of limbs from a living animal is identical with the impurity of carcasses, and by the argument of R. Yose ben Hanina food prohibitions follow impurity.

85 *Lev.* 11:8. The verse also connects food prohibition and impurity: "you shall not eat from their flesh nor touch their carcasses". The prohibition of touching applies to people intending to enter the holy precinct.

86 Even though all sins of the same kind incurred while one was oblivious of the prohibition can be atoned for by one purification sacrifice, each creature is in a category by itself.

87 The same argument, applied to the Babli’s opinion (Note 62), is in the Babli *Makkot* 16b.

88 Since the ant it counted for itself, can it be counted with the volume filled by the forbidden pieces?

89 As enumerated in Mishnah 2, combining wine, vinegar, leaves, husks, pomace, etc.

90 For eating the volume of an olive from the produce of the vine he violates *Num.* 6:4; for the single intact grape berry he violates *Num.* 6:3.

91 In the Babli, *Avodah zarah* 66a, this is a tannaitic statement derived from *Deut.* 14:3.
Rebbi Abbahu said in the name of Rebbi Yose ben Hanina: If carcass meat disappeared among slaughtered meat\(^93\), its [impurity by] touch has disappeared by biblical law.


\(^{93}\) A piece of carcass meat is mixed up with slaughtered meat, and if the volume of the carcass meat were filled by onions and leeks one could not taste the onions after cooking, then the impurity of carcass meat also has disappeared (in the opinion of the Babli, *Bekhorot* 23a, only the impurity transmitted by touch has disappeared, not the impurity transmitted by carrying without touching, *Lev*. 11:40.)

94 Rebbi Abbahu in the name of Rebbi Johanan: One does not whip for anything imparting taste until he tasted the forbidden thing itself. Rebbi Hiya bar Yosef objected before Rebbi Johanan: Take, for example, meat in milk, where he did not taste the forbidden thing itself and you say that he is whipped! He accepted that. What is meant by: he accepted that? Rebbi Hiya bar Abun said before Rebbi Ze'ira: Like a person who listens to the argument of the opposing party he accepted it.

\(^{94}\) This and the next paragraph are from *Orah* 2:6 (Notes 136-152).
Rebbi Abbahu in the name of Rebbi Johanan: One does not whip for anything imparting taste except imparting taste for the *nazir*. [Rebbi Ze'ira said, one does not whip for anything imparting taste until he tasted the forbidden thing itself][5] except the *nazir* even if he did not taste the forbidden thing itself. Rebbi Abba bar Mamal said, for food imparting taste what is forbidden and what is permitted is not combined, but for the
nazir forbidden and permitted do combine. A baraita supports one and a baraita supports the other. A baraita supports Rebbi Ze'ira: If wine in the volume of an olive fell into a dish and he ate from it, he cannot be prosecuted unless he ate the entire dish. In the opinion of Rebbi Abba bar Mamal, if he ate the volume of an olive from it he is guilty. A baraita supports Rebbi Abba bar Mamal: "What do we understand when it is said (Num. 6:3): 'Anything in which grapes were soaked he shall not eat, and fresh or dried grape berries he shall not eat'? What did the verse leave out that was not said? But since it was said (Num. 6:4): 'anything made from the wine-vine, from grape skins to seeds he should not eat;' (Num. 6:3) 'from wine and liquor he shall abstain.' Why does the verse say 'anything in which grapes were soaked he should not eat'? It means that if he soaked grapes and then soaked his bread in that, if it adds up to the volume of an olive, he is guilty. From here you argue about all prohibitions of the Torah. Since for all that comes from the vine, whose prohibition is neither permanent, nor a prohibition of usufruct, and whose prohibition can be lifted, He made taste like the thing itself; it is logical that for every prohibition of the Torah which is permanent, is a prohibition of usufruct, whose prohibition cannot be lifted, taste is treated like the thing itself. From here, the Sages inferred that everything imparting taste is forbidden." This is difficult for Rebbi Ze'ira: you say everywhere "unless he tasted\textsuperscript{152}, and here you say, "even if he did not taste."

\textsuperscript{95} Missing here, added from the following text. text in Orlah since it is required by the
"According to the early Mishnah if he drinks a *quartarius* of wine."

They did explain "liquor". Since "liquor" mentioned there means a *quartarius*, so "liquor" mentioned here also means a *quartarius*. They changed to say "he shall not eat, he shall not drink." Since eating is defined by an olive’s size so drinking is by an olive’s size.

96 *Lev.* 10:9, the prohibition for a priest to enter the holy precinct after he drank "wine or liquor"; *Sifra Šemini Parašah* 1(1). In the Babli, *Keritut* 13a, the rules of priests are deduced from those of the nazir.

97 *Num.* 6:3. Since both expressions appear in the same verse, they should conform to the same standard. Since the volume of an average olive is much smaller than a *quartarius*, the smaller standard in applicable in both cases.

Rebbi Aqiba says, even if he dipped his bread in wine for a total volume of an olive, he is guilty." Rebbi Hanania said, only if he dipped in an olive-sized volume of wine. Rebbi Immi in the name of Rebbi
Johanan: For a mixed cup\(^98\) one whips because of soaking. That is, if they did (not)\(^99\) warn because of soaking. But if they warned because of soaking, this does not apply. It is written: "He shall not drink anything soaked in grapes\(^100\)." Not only soaking grapes, from where soaking grape skins? The verse says "soaked, anything soaked," that all kinds of soaking are counted\(^101\). Mixed wine combines with pure wine\(^102\). Soaking water of grapes combines with grapes. Do soaked grapes and wine combine? If one ate half an olive's volume of wine and half an olive's volume of soaking water, is he not guilty\(^103\). Separately\(^104\), he is not prosecutable. Because he combined, he is guilty. If he ate (sic!) an olive's volume of wine and an olive's volume of soaking water, he is guilty only once. Separately, he is guilty twice. Because he combined, he should be guilty only once\(^105\).

\(^{98}\) One third wine mixed with two thirds water.

\(^{99}\) This word seems to be an error. It seems that R. Immi stated that if the nazir drank wine mixed with water when was he warned not to drink wine, he is whipped for drinking wine, but if he was warned not to drink anything soaked with the fruit of the vine, he is whipped for that. The next sentence then should read בְּרֵיהֶנָּה זְרֵעָה "did not warn" instead of בְּרֵיהֶנָּה "warned".

\(^{100}\) Num. 6:3.

\(^{101}\) Cf. Note 44.

\(^{102}\) Half an olive's volume pure wine and half an olive mixed wine result in an olive of forbidden drink for the nazir.

\(^{103}\) The context shows that this sentence is interrogatory.

\(^{104}\) Drinking the two parts at different times.

\(^{105}\) This is quite obvious; it is stated only as contrast to the preceding case, in which combining made things worse.
Mishnah 2: One is guilty for wine separately, for grapes separately, for grape skins separately, for seeds separately\(^{106}\). Rebbi Eleazar ben Azariah says, he is guilty only if he eats two onnn and their D\(\ell\)T\(^{107}\). What are B\'inn and what on\? are the outer skins, and what onr are the inner (seeds), the words of Rebbi Jehudah. Rebbi Yose said, that you should make no mistake\(^{109}\), like an animal’s bell, the outer shell is just, the inner the clapper.

\(^{106}\) All types of produce of the vine enumerated in the verses represent separate prohibitions; cf. Note 35.

\(^{107}\) Since a plural implies a minimum of 2.

\(^{108}\) Both expressions are unexplained hapax legomena.

\(^{109}\) He disagrees with R. Jehudah and defines \(\ell\) as seed, \(\ell\) as skin (cf. Arabic خ; "to be transparent"). The interpretation of R. Yose is accepted in the Babli (39a) and Targum Onkelos. Targum Yerushalmi follows R. Jehudah.
Halakhah 2: "One is guilty for wine separately, for grapes separately," etc. It is written\textsuperscript{110}: "Also grapes, fresh or dried, he shall not eat." One understands, since it said "grapes", do we not know that they are fresh\textsuperscript{111}? Why does the verse say, "grapes, fresh or dried"? To declare guilty for either one separately. This parallels what Hizqiah stated: Since at a place where He did not treat the waste of fruits like fruits\textsuperscript{112}, He treated fresh and dried equally, here, where He treated the waste of fruits like fruits, would it not be logical that we treat fresh and dried equally? The verse said, "fresh or dried", to declare guilty for either one separately. This parallels what Rebbi Hila said: "One may not impound the movable and the fixed part of a flour-mill.\textsuperscript{113}" One understands, since it said "the fixed part", do we not know that the entire mill is understood? Why does the verse say, "the movable and the fixed part"? To declare guilty for either part separately\textsuperscript{114}.

\textsuperscript{110} Num. 6:3.
\textsuperscript{111} Since raisins are called דְּפִּיסָּה .
\textsuperscript{112} The biblical rules of 'orlah, the prohibition of fruits for the first three years of a fruit tree, do not extend to branches, leaves, or flowers (Mishnah Orlah 1:7).
\textsuperscript{113} Deut. 24:6.
\textsuperscript{114} In Sifry Deut. 272, the conclusion arrived at here is taken as the obvious meaning of the verse.

"Fresh", to include unripe berries.\textsuperscript{115} "Fresh", to include the flower. The \textit{baraita} follows Rebbi Yose, since Rebbi Yose said, the flower is forbidden for the \textit{nazir} because it is a fruit.\textsuperscript{116} It is possible to eat a bunch of grapes...
and to be guilty in reference to "grapes, fresh or dried, he shall not eat." If he soaked it for soaking, pressed it for wine, and they warned him about "anything that comes from the wine-vine" etc.

115 Sifry Num. 23. 6:4. If the nazir took a bunch of grapes some of which where dried up, soaked it in water to fill the raisins with water as one does to prepare raisin wine, and then presses the bunch for its juice, and drinks after being duly warned, he can be convicted of four simultaneous crimes.

116 Cf. Mishnah ‘Orlah 1:6, Note 182 (Babli Berakhot 36b). Probably the reference is to the bottom of the flower, from which the fruit develops.

117 If some grapes in the bunch dried on the stem.

118 Jud. 13:14, as substitute of Num.

Rebbi Abba bar Aha said: The reason of Rebbi Eleazar ben Azariah is because of a creature. But it was stated: "Skins and seeds," to include the third [kind] between them. But was it not stated in the name of Rebbi Eliezer: "From anything made from the wine-vine", leaves and twigs are also understood? Rebbi Eliezer parallels Rebbi Ismael, since Rebbi Ismael said, [if you have] a principle and a detail, everything is included in the principle. And more than that, since Rebbi Ismael said, with a principle and a detail, everything is included in the principle; why are "skins and seeds" said? To include the third [kind] in between.
119 Even if skin and the seed inside do not fill the volume of an olive, the nazir who eats them is guilty for eating a complete creature.

120 The flesh of the fruit. Since one speaks of skins and seeds as separate from the grape berry, one speaks of the husks left after pressing. Therefore, the "third" is what is left of the flesh after all juice has been squeezed out.

121 In the Babylonian sources (35a; Sifra Introduction 7), R. Ismael's hermeneutical rule 5 is stated as: If the detail precedes the general statement, the general statement receives the maximal extension. If the general statement precedes the detail, the extension of the general statement is defined by the detail. This interpretation must be rejected by the Yerushalmi since Num. 6:4 contains first a general statement (all that comes from the vine) and then a detail (skins and seeds). The discussion disregards that v. 3 contains a list of details only.

122 Previously (Note 56), the expression "from skins unto seeds" was meant to imply that the nazir is guilty separately for skins and for seeds. This was derived from the additional word unto. Here, the argument refers to the mention of skins and seeds themselves, which does not seem to add anything to "everything coming from the vine." For a different formulation, cf. Sifry Num. 24.

What is Rebbi Yose's reason? If one ate half the volume of an olive of seeds and peels from one grape berry, in Rebbi Eleazar ben Azariah's opinion he is guilty, in the rabbis' opinion he is not prosecutable. What is Rebbi Jehudah's reason? If he ate the volume of an olive of peels and seeds from two grape berries, in Rebbi Eleazar ben Azariah's opinion he is guilty only once, in the rabbis' opinion he is guilty twice. Rebbi Abun
said, it turns out that Rebbi Eleazar ben Azariah holds with Rebbi Jehudah, if he ate the volume of an olive of two ד', and their ד'?

123 R. Yose clearly must think that his interpretation of the words is linguistically correct. The question is, what are the legal implications of his definition; how would he rule differently from R. Jehudah?

124 If a single berry was squeezed dry but two seeds and the skin were left, for R. Eleazar ben Azariah this would represent a creature and the nazir who eats them would be guilty. For the rabbis, anything less than the volume of an olive cannot lead to a conviction. But for R. Jehudah, two ד' means skins from two berries; there is no creature and the nazir is not punishable.

125 According to R. Jehudah, R. Eleazar ben Azariah's requirement that the nazir must eat two ד' to be guilty means that even if each grape berry has the size of an olive, he must eat two of them to become guilty. For the rabbis, eating a single berry the size of an olive is a punishable offense.

126 He holds that the statement of R. Eleazar ben Azariah cannot be reconciled with the opinion of R. Jehudah since then he should have switched the mention of ד' and ד', as explained in Note 124.

Mishnah 3: An unspecified nezirut is thirty days. If he shaved, or robbers shaved him, he starts again for thirty. A nazir who shaved any [hair], whether with scissors or razor knife, or cropped, is guilty. A nazir may wash his head and separate his hair but may not comb. Rebbi Ismael says, he cannot wash his hair with powder because that removes hair.
127 Repeated from Mishnah 1:3.
128 Forcibly.
129 He counts a minimum of 30 days after his shaving before he can bring his sacrifices since no nazir can shave after less than 30 days.
130 *Arukh*: "tearing off part of the hair, cropping," with the root remaining in the scalp, contrasting ייש "tearing or falling out completely". (Compare Arabic ضي"ف "to sift"). The commentary from the school of Rashi and Maimonides explain: "tore out.

Halakhah 3: "An unspecified nezirut is thirty days," etc. It is written: "A shaving knife shall not pass over his head;" therefore, if it did pass, he is guilty. "His head's hair grows wildly;" how much means growing hair? 30 days. (That refers to an impure nazir. A pure nazir "He has to shave his head on the day he becomes pure." Why does the verse say: "On the seventh day he shall shave all his hair"? That shows that he shaves a second time. "He shaves," all, not in part. From here that if he left two hairs, he [did] nothing. "A shaving knife shall not pass over his head." Not only a shaving knife, from where to treat a cropper and scissors like a shaving knife? The verse says, "shall not pass over his head." That means not only a shaving knife; all methods of removal are understood. From here that he starts again only for a [shaving knife].
131 Clearly, this should read ירח "did" instead of ותפקי "said".
132 A word is missing, which can be conjectured to be ותפקי see the commentary to this sentence.
133 The text of the first two paragraphs of this Halakhah is in rather bad shape.
134 Num. 6:5.
135 He is guilty if it passed: even if the nazir is passive. (In the Babli, 44a, and Sifry Num. 25, the sentence is interpreted to make the shaver equally guilty with the shaved.)
136 Chapter 1, Notes 99,100.
137 The text in braces is corrupt as it stands. The proposals for emendations create a new text; it seems better to try to understand the text as it is.

The verses quoted up to this point do not mention an impure nazir; it is possible to read with the classical commentaries: "That refers to a pure nazir. An impure nazir? 'He has to shave his head on the day he becomes pure' (Num. 6:9)." This presupposes that a pure nazir who shaves has to start anew; why does an impure nazir, who anyhow has to start anew for a minimum of 30 days, add to his period of nezirut if he tears out a hair?

The following quote, Lev. 14:9, and its accompanying text have nothing to do with the nazir but refer to the convalescent sufferer from skin disease. He has to shave a second time, 7 days after the shaving ordered in v. 8.
138 Num. 6:9 (the impure nazir), 6:18 (the pure nazir).
139 This is a non sequitur. In all other sources, the rule for the nazir is determined in comparison with the recovered sufferer from skin disease (Note 137) and the Levites when inducted into the service of the Tabernacle (Num. 8:7). In both cases, the verse emphasizes the necessity to shave all hair, meaning that no two hairs can be left standing [Babli 32a; Mishnah Nega'im 14:4; Sifra Mesora' Pereq 2(6)].
140 Part of the last sentence is missing here but can be recovered from the Babli, 39b, and Sifry Num. 25, where a text parallel to that extending the prohibition from a shaving knife to anything that shaves is attributed to R. Joshia; but R. Jonathan states that "the verse speaks of a shaving knife. Therefore, if he tore out, cropped, or went to the barber, he cannot be whipped."

Since the wording of R. Joshia's text in the Yerushalmi differs from the Babli/Sifry text, for R. Jonathan's opinion only the meaning, but not the text, can be recovered.
Rebbi Abba bar Mamal and Rebbi Ila asked before Rebbi Yasa: They should not start again for thirty, but should start again for seven\textsuperscript{141}! No, should they restart neither for seven nor for thirty\textsuperscript{142}? If you say, they should not start again for thirty, what is the difference between a pure and an impure nazir\textsuperscript{143}? "One has stated a leniency and a restriction for a pure nazir; one has stated a leniency and a restriction for an impure nazir. A leniency for a pure nazir that he restart only for thirty; a restriction that he restart for seven\textsuperscript{144}. If you say, he should restart for thirty, what is the difference between a pure and an impure nazir?\textsuperscript{145} A leniency for an impure nazir that all cases make him restart; a restriction that he restarts for seven\textsuperscript{146}." Should he not restart for thirty? If you say, he should restart for thirty, what is the difference between a pure and an impure nazir?\textsuperscript{147} Some want to say, what is the difference between scissors and a shaving knife for a pure nazir following Rebbi Eliezer\textsuperscript{148}? 

\textsuperscript{141} Since the person healed of skin disease shaves both after the initial ceremony (Lev. 14:8) and seven days afterwards (v. 9), it follows that seven days are sufficient to justify another shaving. Since shaving by means other than a knife is forbidden for the nazir only by implication, it seems reasonable to require only a 7 days' growth for a nazir who removed hair
not by a knife.

142 According to R. Jonathan (Note 140), shaving other than by a knife should not have any consequence.

143 The *baraita* to be quoted states that the exact duration of the period to restart the growth of hair is different for a pure *nazir* who shaves and an impure *nazir* who is forced to shave.

144 This text makes no sense. It seems that it must read with Tosephta 4:3: "He restarts only if shaved by a knife (most of his head); a restriction that he restart for 30 days."

145 This sentence has to be deleted; it belongs to the discussion after the *baraita* is quoted in its entirety.

146 In this sentence, "leniency" and "restriction" have to be switched. At the required shaving of the impure *nazir*, "knife" is not mentioned; everybody agrees that all methods of shaving are equally valid.

147 And the *baraita* clearly stated that the time lost is different for the two kinds of *nazir*.

148 Who in Mishnah 3:4 requires the *nazir* who fulfilled his time but shaved before he brought his sacrifice only to wait another seven days. He certainly must agree with R. Jonathan that if the *nazir* did not use a knife he does not have to wait at all.

149 There, we have stated: "Three categories of people shave and their shaving is a commandment: the *nazir*, the sufferer from skin disease, and the Levites. All these, if they shaved not with a knife or left two hairs,
did not do anything." Rebbi Eleazar said: The Mishnah [speaks] about an impure nazir. But a pure nazir, once he shaved most of his head, even if not with a knife, has acquitted himself [of his obligation]. Rebbi Immi, following Rebbi Eleazar (ben Azariah)¹⁵⁰, asked: The only place where a knife is mentioned is about a pure nazir: "A shaving knife shall not pass over his head until the days are fulfilled."¹⁵¹ Therefore, after he fulfilled them he needs a knife! Perhaps it was said only about an impure nazir with regard to two hairs¹⁵². Rebbi Yose¹⁵³ said to Rebbi Jacob bar Aha: Do you remember when we were studying Nazir, we said that there was no difference between scissors and a knife, and Rebbi Eleazar said: The Mishnah [speaks] about an impure nazir! Why not about a pure nazir? The pure nazir shaves after the blood was sprinkled¹⁵⁴. When that was sanctified, his vow was completed. But it¹⁵⁵ is as if fallen out.

¹⁴⁹ Mishnah Nega'im 14:4; quoted Babli 40a; cf. Note 139.
¹⁵⁰ Since the author of the remark is R. Eleazar ben Pada, the words in parenthesis have to be deleted.
¹⁵¹ Num. 6:5.
¹⁵² The impure nazir cannot restart his vow if he left two hairs uncut. But the requirement of a knife also applies to a pure nazir.
¹⁵³ In the Babli, 42a, the remark is attributed to R. Yose ben Hanina. Since R. Jacob bar Aḥa was a colleague of R. Yasa and a teacher of R. Yose, it seems that one has to read "Yasa" instead of "Yose"; the attribution of the Babli is impossible.
¹⁵⁴ For all sacrifices, the sprinkling of the blood on the walls of the altar fulfills the purpose of the sacrifice; nothing that happens afterwards can invalidate the sacrifice.
¹⁵⁵ The hair of the nazir’s head.
You say about a pure *nazir* that most of his hair hinders him\(^\text{156}\). If he shaved a third but did not manage to finish until everything grew again: Is it sufficient that he shave the remainder or does he have to shave everything?\(^\text{157}\) You say about an impure *nazir* that two hairs hinder\(^\text{152}\) or two hairs make him start again. Similarly, for a pure *nazir*, do two hairs hinder him or two hairs make him start again? Rebbi Yose ben Rebbi Abun said, so it is, and it was stated\(^\text{158}\): "Rebbi Simeon ben Jehudah said in the name of Rebbi Simeon, just as two hairs hinder him, so two hairs cause him to start again."

\(^{156}\) If he shaved less than 50% of his head's hair, he has not lived up to the conditions of his vow.

\(^{157}\) The question is not answered, being unrealistic.

\(^{158}\) Tosephta 4:3; Babli 40a.

Rebbi Jeremiah asked: If he shaved everything but left two hairs which were long enough each to bend its end to its root\(^\text{159}\) twice; he shaved to reduce it to one\(^\text{160}\). Since he cut the required length, has he fulfilled his obligation, or because he omitted what was required, did he not fulfill his obligation?

\(^{159}\) A hair is considered cut if it cannot be bent so that its head touches its root.

\(^{160}\) He cut all hairs to below the limit except two which he cut exactly to the limit. R. Jeremiah in general holds that the rules only state that the condition is fulfilled if the limit is not reached and violated if the limit is exceeded but at the exact limit nothing has been decided; cf. Babli *Baba batra* 22b, a position rejected in general.
Rebbi Ila said before Rebbi Yose: For whipping one, for hindering two, to start again three. A baraita disagrees with Rebbi Yose: "If he cropped any, he is guilty." Rebbi Abba bar Mamal said, Rebbi Yasa explains it by a little bit from each one. A baraita disagrees with Samuel: A person may tear out two hairs and have violated four prohibitions: As a nazir, as a sufferer from skin disease, on a holiday, because of jaw stripping. We have enumerated the prohibitions; but with regard to whippings, one even whips for one.

161 Here also one has to read: Yasa.

162 A nazir who cut one hair can be whipped. If he was impure and failed to cut two hairs, he cannot re-start his nezirut; if he was pure and failed to cut two hairs, he did not fulfill his vow. If he is pure and cut three hairs, he has to keep a minimum of 30 days of nezirut after that.

163 He did not even cut one entire hair.

164 Cropping many hairs is not comparable to cutting one hair.

165 The mention of Samuel instead of R. Hila seems to be a scribal error.

166 The scribe did not quite understand his text. He wrote "for the Levites" instead of "prohibitions", literally "no's".

167 If a person who is both a nazir and a sufferer from skin disease (who has to grow his hair, Lev. 13:45) shaves his sideburns on a holiday, he violates 4 prohibitions with one act. Since shaving on a holiday is prosecutable only if he shaves a minimum of two hairs, R. Hila's assertion that one can be whipped for shaving a single hair is put into question.

168 Things may be prohibited even if they cannot be prosecuted.
Some Tannaim state: "One separates matted hair." Some Tannaim state: "One does not separate." Rav Hisda said, the one who states that one separates, for healthy [hair]; the one who states that one does not separate, for weak [hair].

κύπιν is usually explained as κυλίκιον, τό "coarse cloth (of Cilician goat’s hair); covering used by soldiers and seamen", but in this case (and the related one in Mishnah Miqwa’ot 9:2) one might refer to Latin culcita, culcitra, "sack filled with feathers, wool, or hair; cushion, mattress" (E. G.).

Mishnah 4: A nazir who was drinking wine all day long is guilty only once. If he was told "do not drink, do not drink" and he did drink, he is guilty for each single infraction.

Mishnah 5: One who shaved all day long is guilty only once. If he was told "do not shave, do not shave" and he did shave, he is guilty for each single infraction.
Mishnah 6: One who defiled himself for the dead all day long is guilty only once. If he was told "do not defile yourself, do not defile yourself" and he did defile himself, he is guilty for each single infraction.

If he was duly warned once by two witnesses, he can be prosecuted and punished for one offense. If he was repeatedly warned and flouted each warning, he can be prosecuted for disregarding each warning separately. The same rules apply for all three prohibitions imposed on a nazir.

Halakhah 4: "A nazir who drank wine," etc. A nazir while he was in a cemetery: Rebbi Johanan said, one warns him about wine and shaving. Rebbi Simeon ben Laqish said, since one cannot warn him because of impurity, one does not warn him about wine and shaving. One reads all this in the Third Chapter.

171 Halakhah 3:5, Notes 58 ff.
Halakhah 5: If before him were two bottles, one of water and one of wine. He took and emptied the water bottle. They said to him, you should know that after you drank the water, if you then drink the wine, since its volume corresponds to ten olives you will be subject to ten whippings; he does not accept warning in this way\textsuperscript{172}. But if it was a wine bottle and he started drinking from it when they said to him, you should know that if you then drink it all, since its volume corresponds to ten olives you will be subject to ten whippings; he accepts warning in this way.

\textsuperscript{172} Since he did not touch the wine bottle yet and gave no indication that he would take it, the warning is purely preventive. In order to be used in criminal prosecution, the warning must be given when the person to whom it is directed seems likely to violate the law.

Halakhah 6: If before him were two roasting spits, one with slaughtered meat and one with carcass meat. He took and ate the slaughtered meat. They said to him, you should know that after you ate the slaughtered meat, if you then ate the carcass meat, since its volume corresponds to ten olives you will be subject to ten whippings; he does not accept warning in this way\textsuperscript{172}. But if there was a roasting spit of carcass meat and he started eating from it when they said to him, you should know that if you then ate it all, since its volume corresponds to ten olives you will be subject to ten whippings; he accepts warning in this way.
Mishnah 7: Three kinds are forbidden for the nazir: Impurity, shaving, and consuming produce of the vine. Impurity and shaving are more severe than the prohibition of produce of the vine since impurity and shaving require him to start again, but produce of the vine does not require him to start again. The prohibition of produce of the vine is more severe than impurity and shaving since produce of the vine is never permitted but impurity and shaving are permitted for a commanded shaving and a corpse of obligation. Impurity is more severe than shaving since for impurity he has to start again from the beginning and is obligated for a sacrifice, but for shaving he has to start again for at most 30 days and is not obligated for a sacrifice.

173 Repeated from Mishnah 6:1.
174 If a sufferer from skin disease is a nazir when he is healed, his vow does not preclude the required shavings for his rehabilitation.
175 Any person, even a nazir or a High Priest, who comes upon an unattended corpse, has to defile himself and bring the dead to burial. The rules of the commanded burial are detailed in the next Chapter.
Halakhah 7: Impurity, as it is written: "During all the days he vowed to the Eternal he shall not come close to a human corpse." Shaving, as it is written: "During all the days of his nazir vow, a shaving knife shall not come onto his head." Anything from the vine, as it is written: "During all the days of his vow, of anything coming from the wine-vine [he shall not eat]."

Halakhah 6:1, Notes 4-6.

Impurity, as it is written: "During all the days he vowed to the Eternal he shall not come close to a human corpse." Shaving, as it is written: "During all the days of his nazir vow, a shaving knife shall not come onto his head." Anything from the vine, as it is written: "During all the days of his vow, of anything coming from the wine-vine [he shall not eat]."

176 Halakhah 6:1, Notes 4-6.

177 Cf. Halakhah 3:5, Note 57.

178 This verse proves that the impure nazir has to start again from the beginning. One is tempted, with the classical commentators, to move this verse to the previous sentence and find an appropriate verse for shaving. The problem is that no biblical verse requires the shaved nazir to start counting anew, as explained in Halakhah 3. The reference is to an argument, reproduced in extenso in the Babli 44a and Sifry Num. 31, shortened in Num. rabba 10(34), on exactly the quoted verse, Num. 6:12: "For his vow is impure", impurity requires him to start from the beginning, shaving does not require him to start from the beginning, but he has to repeat 30 days."
"The produce of the vine is more severe than impurity and shaving."

They wanted to say, for the Four Cups (of water or) wine. But if he said, "a vow that I shall drink and be a nazir", "that I shall drink" comes to say that he will not drink.

This clearly is a scribal error. The 4 cups of wine one is required to drink in the Seder night (cf. H. Guggenheimer, The Scholar's Haggadah, pp. 185-191.) Since this is a rabbinic (or in any case, post-biblical) requirement, it cannot eliminate a biblical prohibition. (In the opinion of the Babli, 3b/4a, the nazir may drink wine for the Sabbath qiddus since the Fourth Commandment to sanctify the Sabbath cannot be pushed aside by the vow of the nazir. This fact is irrelevant here since impurity and shaving can be imposed on the nazir after his vow, but the Sabbath wine is his duty before the vow. The Yerushalmi clearly holds that qiddus can be recited over bread; wine is not absolutely necessary.)

Since in an oath formula, the positive stands for the negative.

He is permitted commanded shavings. Not only to signify his skin disease but also to signify his scall, to know whether it spread or did not spread. "And a corpse of obligation." That is what we have stated: "If they were walking and came upon a corpse of obligation."

The healing of his skin disease, diagnostic purposes, Lev. 13:33
Lev. 14:8,9.
Mishnah 7:1.

The shavings needed for
"Impurity is more severe than shaving." Impurity, as it is written: "The earlier days fall away," "and he shall bring a yearling sheep as a reparation offering." Shaving is more severe because He made the shaver equal to the shaved, but in impurity He did not make the defiler equal to the defiled.

184 Num. 6:12. 186 A person who causes a nazir to be defiled by the impurity of the dead cannot be prosecuted. Babli 44a, Sifry Num. 25, Tosephta 4:4.

Mishnah 8: What is shaving in impurity? He was sprinkled on the third and seventh [days], shaves on the seventh, and brings his sacrifices on the eighth. If he shaved on the eighth, he may bring his sacrifices on the same day, the words of Rebbi Aqiba. Rebbi Tarphon asked him, what is the difference between this one and the sufferer from skin disease? He told him, the purification of this one is bound to his days, but the purification of the sufferer from skin disease is bound to his shaving. He cannot bring his sacrifices unless the sun had set for him.
187 Since the only impurity which defiles the nazir is the impurity of the dead, he must have water with ashes from the Red Cow sprinkled on him on the 3rd and 7th days of his impurity (Num. 19).

188 As prescribed in Num. 6:9,10.

189 Two birds (Num. 6:10) and a sheep (Num. 6:12).

190 Mishnah Nega'im 14:3 states that the person healed from skin disease can bring his sacrifices only after the sundown following his immersion in a miqweh. According to R. Aqiba [readings of Tosaphot, 44b s.v. מַעְחֵשֶׁר Kappara 4:2]; see the readings in Sifra Mesora' Pereq 2(7); another reading in the Commentary attributed to Rashî this implies that he has to bring his sacrifices on the 9th if he shaved on the 8th.

191 Lev. 14:9 prescribes the immersion of the sufferer from skin disease after his shaving but Num. 6:9 requires the impure nazir to shave "on the day of his purity", i.e., after the second sprinkling and his immersion.

192 It is a general principle that immersion in water makes ritually pure only for profane places or food; for sancta only the following sundown brings purity, Lev. 22:7; cf. Sotah 5:2; Note 42.
Halakhah 8: It is written: "He has to vow to the Eternal the days of his nezirut," from the day he brings his sacrifices, the words of Rabbi. Rabbi Yose ben Rabbi Jehudah says, from the time of his shaving. Rabbi Ze’ira in the name of Rav Hoshia, Rabbi Hiyya in the name of Rabbi Joḥanan: Where do they disagree? If he shaved on the seventh and brought his sacrifices on the eighth. But if he shaved on the eighth and brought his sacrifices on the same day, everybody agrees on the day he brings his sacrifices. Rabbi Yose said, that is, if he immersed himself on the seventh. But if he immersed himself on the eighth, the eighth takes the place of the seventh and the seventh of the eighth; he counts only from that "seventh." If he became impure and impure again, he brings a sacrifice for each occurrence. Rabbi Ze’ira said, that statement follows Rabbi Yose ben Rabbi Jehudah, but following Rabbi this person still stays in impure nezirut. Rabbi Hila said, where do they disagree? To count nezirut in purity. "He has to vow to the Eternal the days of his nezirut and bring." Rabbi said, until he actually brought. Rabbi Yose ben Rabbi Jehudah says, even if he was enabled to bring the sacrifice for impurity. Everybody agrees that he brings a sacrifice for impurity. It was stated thus: If he became impure on the seventh, and again impure on the eighth, he brings a sacrifice for each occurrence. In Rabbi Ze’ira’s opinion, following Rabbi the first sacrifice is superseded and he brings the second; following Rabbi Yose ben Rabbi Jehudah it was not superseded. In Rabbi Hila’s opinion, everybody agrees that nothing is superseded and he brings another.
Num. 6:12. The requirement to renew his vow is written between the mention of the sacrifice of two birds and that of the sheep. The verse seems to refer to the eighth day, the day of his sacrifices.

194 I. e., after he immersed himself and is pure for profane purposes. Since he is no longer impure, there is no reason for him not to be a fully functioning nazir.

In the Babli, 18b/19a, the verse quoted is brought as support for the majority opinion, that a resumption of the status of nazir only depends on his shaving, here attributed to R. Yose ben R. Jehudah, while the opinion of Rebbi, that a resumption of the status of nazir depends of his reparation offering, is quoted there in the name of R. Johanan ben Baroqa. This implies that the Yerushalmi prefers the opinion of Rebbi, the Babli that of R. Yose ben R. Yehudah.

Since he cannot enter the holy precinct before sundown.

196 I. e., the eighth is not different in status from the seventh.

197 For Rebbi from the 9th, for R. Yose ben R. Yehudah from the 8th.

198 He became impure after he went to the miqweh on the 7th day but before he brought his sacrifices on the 8th; cf. Tosephta 4:8; Babli 18b.

199 In the Babli, 18b, 52a, "R. Eliezer". Rebbi’s opinion is referred to as that "of the rabbis" in the Babli.

Since only the reparation offering eliminates his disability as nazir.

Only for the count. Rebbi will agree that if he immersed himself on the 7th, any impurity he incurs after that is a new impurity even if he could not yet start counting the days of his nezirut.

Mishnah 9: What is shaving in purity? He brings three animals, a purification sacrifice, an elevation sacrifice, and a well-being sacrifice. He
slaughters the well-being sacrifice and shaves for it\textsuperscript{203}, the words of Rebbi Jehudah. Rebbi Eleazar\textsuperscript{204} says, he only should shave for the purification sacrifice since that has precedence everywhere\textsuperscript{205}, but if he shaved for any of the three, he satisfied his obligation.

\textsuperscript{202} 
\textit{Num. 6:14.} 
\textsuperscript{203} Since shaving is mentioned in v. 18, after the slaughter of the well-being offering in v. 17. 
\textsuperscript{204} In some Mishnah mss., "R. Eleazar." 
\textsuperscript{205} In the case of the \textit{nazir}, v. 16; in other cases of a common offering of purification and elevation offerings, \textit{Lev. 5:8.}

\textbf{Halakhah 9:} Rebbi Joshua ben Levi said: "The ram he shall offer, etc.\textsuperscript{206} Why does the verse say, "he shall offer"? Start the procedure with it\textsuperscript{207}. Rebbi Hinena objected before Rebbi Mana\textsuperscript{208}: But is it not written: "He shall offer his flour offering and his libation\textsuperscript{206}"? Should he not start with them? How is that? Rebbi Hinena in the name of Rebbi Joshua ben Levi: If he shaved for any of the three, he satisfied his obligation\textsuperscript{209}. Rebbi Ze'ira asked before Rebbi Mana: Who is the Tanna of: "All purification offerings in the Torah precede the reparation offerings"? Rebbi Eleazar said, it is everybody's opinion, "all purification offerings in the Torah precede the reparation offerings.\textsuperscript{210}"
In Sifry zuta 17, this argument is tannaitic and attributed to R. Jehudah. It seems that he contrasts the imperfect used for sacrificing the well-being offering with the perfect used for the other offerings, to indicate beginning of an action. In the Babli and Sifry Num. 35, the preferred treatment of the well-being offering is deduced from v. 18.

The R. Mana quoted in this Halakhah is neither R. Mana I, of the first, nor R. Mana II, of the fifth generation. Either there exists a third, otherwise unknown, Amora of this name or "Mana" is erroneous for "Yasa", or "Ze'ira" is erroneous for "Ezra".

Flour offerings and libations are mentioned last in v. 17. They accompany both the well-being offering (v. 17) and the elevation offering, mentioned in v. 16 together with the purification offering which needs neither flour nor wine. It is inferred that the order of the sacrifices is irrelevant.

Mishnah Zebahim 10:5. No reparation offering is due from the pure nazir.

Mishnah 10: Rabban Simeon ben Gamliel says, if he brought three animals but did not specify, the one proper for the purification offering shall be brought as purification offering, for the elevation offering shall be brought as elevation offering, for the well-being offering shall be brought as well-being offering. He took the hair shorn from his nazir head and sent it under the cooking pot; even if he shaved in the countryside.
he sent it under the cooking pot. When has this been said? If he shaved in purity. But if he shaved in impurity, he does not send it under the cooking pot\textsuperscript{214}. Rebbi Meir says, all send under the cooking pot except the impure in the countryside.

211 No sacrifice can be offered unless it was sanctified by dedication. In general, the dedication must specify for which sacrifice the animal will be used. But for a nazir, dedication "for the nazir's sacrifices" is sufficient since the purification offering requires a female sheep, the elevation offering a male sheep, and the well-being offering a male goat.

212 In general, any sacrificial meat permitted for human consumption can be eaten as desired, cooked, roasted, or scalded. Only for the well-being offering of the nazir does the verse prescribe cooking; Num. 6:19. The hair is "sent" since the nazir shaves outside the holy precinct but the well-being offering must be cooked inside (vv. 19-20).

213 If he sends money so that the sacrifices should be offered on his behalf while he remains outside of Jerusalem, his hair has to be burned.

214 His hair has to be buried; Mishnah Temurah 7:4.

Halakhah 10: They wanted to say, if he did not specify, but in his house he did specify\textsuperscript{215}. They said, even in his house he need not specify. Why? The animal which at the start has the rules of the indeterminate\textsuperscript{216}.

215 He did not dedicate specifically but when he selected the animals he specified.

216 An animal has to be dedicated specifically only if there can be a doubt for what it will be used. For a nazir, no doubt is possible.
Rebbi Yose ben Rebbi Abun in the name of Rav: He puts it into the sauce\textsuperscript{217}. What is the reason? "He puts it into the fire,\textsuperscript{218}" the sacrifice also into the fire.

\textit{Babli} 45b [\textit{Num. rabba} 6(39), as tannaitic text. One takes from the sauce in which the well-being offering is cooked, wets the hair with it, and puts it into the fire. \textit{Num.} 6:18.

It was stated\textsuperscript{219}: "All send under the cooking pot except the impure in the countryside. The pure\textsuperscript{220} in the Temple brings it under the cooking-pot of the reparation sacrifice, the words of Rebbi Meir. Rebbi Jehudah says, the pure brings in any case, the impure does not bring in any case. But the Sages say, neither the impure in the Temple nor the pure in the countryside bring. Nobody sends under the cooking-pot except the one who shaves in purity." "Outside the door of the Tent of Meeting,\textsuperscript{218}" Rebbi Meir\textsuperscript{221} says, only if he is proper and near; but the rabbis\textsuperscript{221} say, proper even if not near, near even if not proper.

\textsuperscript{217} Babli 45b [\textit{Num. rabba} 6(39), as tannaitic text. One takes from the sauce in which the well-being offering is cooked, wets the hair with it, and puts it into the fire. \textit{Num.} 6:18.

\textsuperscript{218} Babli, 45b, Tosephta 4:6.

\textsuperscript{219} Slightly different text in the Babli, 45b, Tosephta 4:6.

\textsuperscript{220} This "pure" refers to a \textit{nazir} who was impure, had to bring a reparation offering for his impurity, but now is pure after having been sprinkled with the ashes of the Red Cow and been immersed in a \textit{miqweh}.
Obviously, the attributions have to be switched. The rabbis allow burning only if the nazir is pure at the Temple gate; Rebbi Meir allows it if either he is pure or at the Temple gate.

Mishnah 11: He cooked the well-being offering or scalded it. A Cohen takes the cooked fore-leg of the ram, one unleavened loaf from the basket, and one unleavened thin bread, places it on the nazir's hands and waves it. Afterwards the nazir is permitted to drink wine and to defile himself with the dead. Rebbi Simeon says, when one of the bloods was sprinkled, the nazir is permitted to drink wine and to defile himself with the dead.

222 Cf. Nedarim 6:1, Note 1.
223 Num. 6:19-20.
224 In v. 20, the note that the nazir is now permitted to drink wine is an appendix to the text which deals exclusively with the Cohen, not the nazir. Therefore, it remains unclear whether the nazir is permitted only after all ceremonies or after the start of the ceremonies, when one of the sacrifices was validated by having its blood sprinkled on the walls of the altar [Num. rabba 6(41)].
Halakhah 11: A Mishnah states that scalding is called cooking, as we have stated: "If he cooked the well-being offering or scalded it." A verse [states] that "roasted" is called "cooked": "They cooked the pesah", etc. If you say, against the rules, Rebbi Jonah from Bostra said, "as is the rule". A Mishnah states that scalded is called cooked: "Is one who makes a vow to abstain from cooked food permitted roasted and scalded food"? Rebbi Johanan said, in matters of vows one follows common usage. Rebbi Joshia said, in matters of vows one follows biblical usage. What is the difference between them? 'A qônâm that I shall not taste wine on Tabernacles.' In the opinion of Rebbi Johanan he is forbidden on the last day of the holiday. In the opinion of Rebbi Joshia, is he permitted? Rebbi Joshia also agrees that he is prohibited. Rebbi Joshia said it only for restrictions.
Rebbi Hiyya bar Abba said, Rebbi Johanan ate bake-meats and said, I did not taste food on that day. But did we not state: "He who made a vow not to eat food is permitted water and salt"? Explain it following Rebbi Joshia, who said, in matters of vows one follows biblical usage. And from where that everything is called food? Rebbi Aha bar Ulla said: "And ten female donkeys carrying grain, bread, and food, etc." Why does the verse say, "and food"? From here that everything is called food.

The following two paragraphs are from Nedarim 6:1, Notes 6-14.

It is written: "The Cohen takes the cooked fore-leg of the ram." If cooked, I could think separately. The verse says, "from the ram". How is this? He cuts it off so that only a barley grain’s width remains. Does not the sanctified absorb from the profane, or the profane from the sanctified?

Since the fore-leg becomes the property of the Cohen and will be forbidden to lay people, its holiness is greater than the remainder of the well-being offering which is consumed by the nazir and his family. The obvious question is whether it is permissible to cook meat of different degrees of holiness together, which is answered in the following paragraphs.

The question is answered in the following paragraphs which are paralleled in 'Orlah 1:4, Notes 137-154. The readings from there are noted V.
Hilfa' asked Rebbi Johanan and Rebbi Simeon ben Laqish, do condiments forbid with more than 200? They said to him, condiments are not in more than 200. But did we not state: "Anything which sours, flavors, or creates dema'?" If you say about 100 or 200, even if it does not sour, flavor, or create dema'! But we deal with grapes. Rebbi Assi in the name of Rebbi Johanan, if they were not raisins, but if they were raisins they are condiments in more than 200. Rebbi Hiyya in the name of Rebbi Johanan, if they were not cooked, but if they were cooked they are condiments in more than 200.
Rebbi Yasa in the name of Rebbi Joshua ben Levi in the name of Bar Pedaiah: All sources of flavor one in a hundred. Rebbi Hyya in the name of Rebbi Joshua ben Levi in the name of Bar Pedaiah: All sources of flavor one in sixty. Rebbi Samuel ben Rav Isaac said to Rebbi Hyya bar Abba: Rebbi Yasa disagrees with you and the Mishnah disagrees with both of you: "Anything which sours, flavors, or creates dema'? If you say about 100 or 200, even if it does not sour, flavor, or create dema'! Therefore, we hold even more. Rebbi Jeremiah said, explain it for meat in meat. Rebbi Yose said, meat in meat is the same as all other prohibitions since Rebbi Abbahu said in the name of Rebbi Johanan, one estimates as if they were onion or leeks92.

229 The missing text is in the Rome ms. of 'Orlah.
230 Translation of the text in 'Orlah. Here: "Make leavened".
How is this? One says, all sources of flavor by one in 100; the other says, all sources of flavor by one in 60. For him who says all sources of taste by one in 100, you take the foreleg as one in 100 of the ram. For him who says all sources of taste by one in 60, you take the foreleg as one in 60 of the ram. For him who says one in 100, you remove the bones from the foreleg. But if you remove the bones from the foreleg, remove them from the ram! This you cannot do, as it was stated: 230 "The waste of heave does not combine with heave to forbid the profane, but the waste of profane combines with the profane to lift the heave." Rebbi Vivian asked: Does the waste of heave combine with profane to lift the heave? Since Rav Huna said, the husks of what is forbidden combine to permit; that means waste of heave combines with profane to lift the heave.

230 This text is also from Terumot 5:9, Notes 103-108. The readings from there are noted נ. 231 The translation follows Terumot and 'Orlah; the text here, "to lift", makes no sense.

Rebbi Hizqiah 232 stated: All I forbade to you at other places I permitted to you here. Since everywhere 100 is a prohibition, more than 100 is permitted, but here even 100 is permitted.
The reading "Hiyya" probably is baraitot and son of R. Hiyya (the Elder) correct since Hizqiah, the collector of torah has no title.

Rav said, waving stops the nazir\textsuperscript{233}. But did we not state: "The teachings for the nazir,\textsuperscript{234}" whether or not he has wings\textsuperscript{235}? What Rav says, if he does, as it was stated thus: For somebody able to wave, waving stops him; for somebody unable to wave, waving does not stop him. Samuel says, measure\textsuperscript{236} stops a nazir, as for the waves and thumbs of a sufferer from skin disease\textsuperscript{237}. But did we not state: "The teachings for the sufferer from skin disease,\textsuperscript{238}" whether or not he has thumbs? He explains it following Rebbi Eliezer who said, he puts it on their place\textsuperscript{239}.

\textsuperscript{233} The nazir is not permitted to drink wine or become impure unless he performed the waving of his well-being sacrifice. This is also quoted in the Babli, 46a/b, but is rejected there as practice.

\textsuperscript{234} Num. 6:21.

\textsuperscript{235} Tosephta 1:5, Babli 46b. "The teaching of the nazir" must be applicable to everybody, whether he has arms and hands ("wings") or not. But since the wavings have to be given "on the nazir's hands", how can they be absolutely required if the nazir has no hands?

\textsuperscript{236} It is unclear what this means. Most authors emend "measure" to "waving".

\textsuperscript{237} The poor sufferer from skin disease must wave his reparation offering (Lev. 14:24); every healed sufferer from skin disease must receive blood and oil on his right thumb and great toe (Lev. 14:14,17,25,28).

\textsuperscript{238} Lev. 14:2.

\textsuperscript{239} Mishnah Negaim 14:9; Sifra
Mesora' Pereq 3(11); quoted similarly in the Babli Yoma 61b (cf. Diqduqe Soferim Yoma p. 171 Note n). In Babli Nazir, 47b, (with a different editorial history) R. Eliezer holds that he cannot ever be purified; R. Simeon is quoted parallel to R. Eliezer in the other sources.

Mishnah 12: If he shaved for one of the sacrifices and it turned out to be invalid, his shaving is invalid\(^\text{240}\) and his sacrifices are not counted for him. If he shaved for the purification offering not in its name\(^\text{241}\) but brought the other sacrifices in their names, his shaving is invalid and his sacrifices are not counted for him\(^\text{242}\). If he shaved for the elevation or well-being offerings not in their names\(^\text{243}\) but then brought his sacrifices\(^\text{244}\) in their names, his shaving is invalid and his sacrifices are not counted for him. Rebbi Simeon says, that sacrifice is not counted for him but the others are counted for him\(^\text{245}\). But if he shaved for all three\(^\text{246}\) and one of them is valid, his shaving is valid and he has to repeat the other sacrifices.

\(^\text{240}\) And he has to wait another 30 days to regrow his hair.

\(^\text{241}\) A purification offering must be slaughtered explicitly for that purpose;

\(^\text{242}\) Elevation and well-being offerings are valid and can be brought to the altar. But since the nazir is
required to bring all three sacrifices together, this Tanna holds that they cannot be counted as fulfilling his obligation.

243 These are valid sacrifices even if slaughtered for the wrong purpose "but are not counted for their owners to relieve them of their obligations" (Mishnah Zebahim 1:1).

244 The remaining two.

245 Except for the purification offering not slaughtered for its purpose which is disqualified by biblical law.

246 Without specifying for which one he shaved; cf. Mishnah 9.

247 Sprinkling its blood on the walls of the altar makes any sacrifice irrevocably valid.

248 Not the nezirut, but all his sacrifices since he holds, against the Sages, that the sacrifices cannot be brought separately (cf. Mishnah 8:4).

249 And can enter the Temple precinct.

250 And defiled herself for her daughter.

251 Tosephta 4:10.

משנה י: מִמַּשַׁיָּר עֲלוֹיָא אֲחָדָא מִכְּהֵמי מִנֵּכְּפַּא רְבֵי אַלְמָרָא אֵוָרָא (Mishnah Zebahim 1:1).

_feed.אֵוָרָא לַכְּפֵר קְרָנְטְלוּיָא וַלּוּקְטְלוּיָא .אֵוָרָא לַכְּפֵר

משה בָּמְמֶרָה מְפְדּוּמֶרָה שְׁתוּקָר עֲלוֹיָא אֲחָדָא מִכְּהֵמי אַמְרָא לַכְּפֵר שְׁתוּקָר לַכְּמָה שְׁתוּקָר

משה בָּמְמֶרָה מְפְדּוּמֶרָה שְׁתוּקָר אַמְרָא אַמְרָא מְפְדּוּמֶרָה שְׁתוּקָר שְׁתוּקָר מְפָדַר אַמְרָא מְפָדַר מְפָדַר מְפָדַר

Mişnah 13: If one of the bloods had been sprinkled for him when he became impure, Rebbi Eliezer says, he has to repeat everything. But the Sages say, he shall bring his remaining sacrifices once he became pure again. They told him, it happened with Miriam the Palmyrene, that one of the bloods had been sprinkled for her when she was informed that her daughter was dying; she went and found her dead; then the Sages said, she shall bring her remaining sacrifices once she becomes pure again.

247 Sprinkling its blood on the walls of the altar makes any sacrifice irrevocably valid.

248 Not the nezirut, but all his sacrifices since he holds, against the Sages, that the sacrifices cannot be brought separately (cf. Mishnah 8:4).

249 And can enter the Temple precinct.

250 And defiled herself for her daughter.

251 Tosephta 4:10.
Halakhah 12: Is it counted for him and his shaving? If you would say that it is not counted for him and his shaving, then his sacrifices count for nothing. Rebbi Johanan asked: Following Rebbi Simeon, may he shave for his holiday well-being offerings? Is that not the Mishnah? "Rebbi Simeon says, that sacrifice is not counted for him but the others are counted for him." When he slaughtered them are they not like voluntary well-being offerings? This means that he may shave for voluntary well-being offerings following Rebbi Simeon. Rebbi Yose bar Abun said, Rav Ada bar Ahawa and Rebbi Johanan. For Rav Ada bar Ahawa it is problematic, but for Rebbi Johanan it is obvious.

If a nazir shaved for an improper sacrifice when afterwards he brought two proper sacrifices, R. Simeon said that the two proper sacrifices are counted for him. But if the shaving were improper, he would have to wait another 30 days and bring a new set of sacrifices, and there would be no way in which the earlier sacrifices could be counted for him. It is proved that for R. Simeon, shaving is valid as long as one sacrifice was valid.

He shaves on a holiday and brings with him not only the three obligatory sacrifices of a nazir but additional sacrifices for the holiday.

The well-being or elevation offerings which are acceptable as gifts to the altar if slaughtered without indicating the kind of sacrifices they should be.

In rabbinic terminology, a sacrifice corresponds to a vow if a person engages himself for a certain kind of sacrifice. Then if the animal chosen to satisfy the vow becomes unusable for any reason, the vower has to provide a replacement animal. A voluntary gift is an animal dedicated as sacrifice. If it becomes unusable for any reason, the owner does not have to provide a replacement. Well-being and elevation sacrifices slaughtered for the wrong
purpose or no purpose fall under the category of voluntary gifts. 
256 He corrects the tradition: the person who asks is R. Ada bar Aḥawa, not R. Johanan. 
257 But in the Babli, 46b, he is quoted as proving the statement attributed here to R. Johanan.

The argument of Rebbi Eliezer seems inverted. There, he says: "he has to repeat only for 30," and here, he says so? Rebbi Johanan says, he has to repeat all his sacrifices. It is obvious, if it would have been valid without him becoming impure, then why is it not valid if later he becomes impure? Rebbi Hinena said, is that not Rebbi Eliezer’s? And Rebbi Eliezer follows the Shammaites, as it was stated: Concerning a nazir who lost all his hair, the House of Shammai say, he has to move a shaving knife over his head; the House of Hillel say, he does not need to move a shaving knife over his head.

258 Mishnah 3:4.
259 If he becomes incapacitated, he has to repeat only for 30 days. If his sacrifice becomes invalid, why should he have to start everything anew?
260 Why should R. Eliezer not agree that once part of the ceremony was performed correctly, he can replace any missing part?
261 Babli 46b (in different formulation), Yoma 61b; Tosephta 1:6.

As the Babli explains, the House of Shammai require him to shave, but since he cannot shave he never can terminate his nezirut.
So is the Mishnah\textsuperscript{262}: He shall become pure again and then bring his remaining sacrifices. So is the Mishnah: She shall become pure again and then bring her remaining sacrifices.

\textsuperscript{262} The Mishnah is formulated with a temporal inversion. The action to become pure must precede the offering of his or her sacrifices.
Mishnah 1: The High Priest and the nazir do not defile themselves for their relatives. If they were walking on a road and found a corpse of obligation, Rebbi Eliezer says, the High Priest shall defile himself but the nazir shall not defile himself. But the Sages say, the nazir shall defile himself but the High Priest shall not defile himself. Rebbi Eliezer said to them, the Priest shall defile himself, who does not bring a sacrifice for his defilement, but the nazir shall not defile himself, who has to bring a sacrifice for his defilement. They told him, the nazir shall defile himself, whose holiness is temporary, but the Priest shall not defile himself, whose holiness is permanent.

1 The High Priest is forbidden to defile himself even for father or mother, Lev. 21:11; the same holds for the nazir, Num. 6:7. In the Babli and many Mishnah mss. (but not in Maimonides's autograph) there is an additional clause: "but they have to defile themselves for a corpse of obligation", i.e., an abandoned corpse of whose burial nobody is taking care. The first person finding the body has to bury him.

2 Even the High Priest, and certainly a common priest. Similarly,
the Sages require that the nazir defile himself but not a common priest if they stumble on the corpse together. 

Halakhah 1: "The High Priest and the nazir," etc. It is written: "He shall not go close to a dead body." Where do we hold? If to forbid non-relatives, is he not also under the rules of a simple priest? If it cannot refer to non-relatives, refer it to relatives. It is written: "Not to go close to a dead body," and you say so? Rebbi Hiyya bar Gamda said, from here repeated prohibitions in the Torah. But it is to permit the corpse of obligation. Some understand it from the following: "The man shall not defile himself, in the midst of his people" he may not defile himself. But he defiles himself for a corpse of obligation. Some understand it from the following: "To profane himself." He may not defile himself to profane himself; he defiles himself for a corpse of obligation.


4 A common priest is forbidden to defile himself for any dead person other than close relatives, Lev. 21:1-3.

5 In his opinion, the High Priest who defiles himself for a corpse violates two identical prohibitions.

6 This follows the rule that "an exclusion on top of an exclusion means an inclusion." Since in general a Cohen is forbidden to defile himself for the dead, the repetition of the prohibition for the High Priest indicates an obligation to defile himself in some
cases. Since father and mother, for whom defilement is commanded to the common priest, are forbidden to the High Priest, the corpse for whom the High Priest (and by implication, any priest) has to defile himself is a non-relative, the corpse of obligation.

7 Lev. 21:4.
8 If other Jews are present who may bury the dead, he may not defile himself. By implication, if he is alone, he must defile himself.

Some want to derive it from the following: "For a hanged person is blasphemy." Anybody warned about blasphemy is warned about a corpse of obligation. Anybody not warned about blasphemy is not warned about a corpse of obligation. They objected, are there not Gentiles? Those executed by hanging, this excludes those executed by the sword. "Bury!" A positive commandment. From where do you add the sword he was killed with, the gallows on which he was hanged, the towel with which he was strangled? Why does the verse say, "you shall bury him"? I could think he alone is buried; the verse says "bury, you shall bury him", a burial for him, and his gallows, and his stone. How does one do it? One digs down three [handbreadths], so the plough shall not unearth him. "You shall bury him", whole and not partially. "You shall bury him", from here that if he left anything [unburied], he did not do anything, for it is said...
"bury, you shall bury him". From here that it is not a corpse of obligation unless it consists of his head with most of the body.

9 Deut. 21:23: "You may not leave his corpse on the gallows overnight, but bury, you shall bury him on that day, for a hanged person is blasphemy..."

10 This means that the details of the rules for burials apply only to Jews to whom the details of the rules of blasphemy apply.

11 The prohibition of blasphemy is part of the "natural law" given to Adam and Noah (Tosephta 'Avodah zarah 9:4, Babli Sanhedrin 56a/b).

12 The only method of execution recognized for Gentiles, Babli Sanhedrin 57a.

13 This is a shortened version of the explanation in Sifry Deut. 220: "You may not leave his corpse on the gallows overnight," a prohibition, "but bury!", a positive commandment. A biblical commandment which is both positive and negative is the strongest of all commandments and will supersede opposing simple positive or simple negative commandments (Babli Yom Tob 8b, severely restricted in Yebamot 3b/4a) if written in the same verse (Yerushalmi Yom Tob 1:3, Hallah 2:1, Note 10, unrestricted).

14 Quoted in the Babli, Sanhedrin 45b.
Rebbi Yasa stated before Rebbi Johanan: Just as one defiles himself for a corpse of obligation, so one defiles himself for a limb of a corpse of obligation\textsuperscript{15}. Rebbi Johanan answered him: Is that so? Rebbi Jacob bar Aha in the name of Rebbi Ze'ira: Explain it if he returns\textsuperscript{16}. It was stated: Rebbi Yose said, nobody has to defile himself for a limb from his living father, but one has to defile himself for bone the size of a barley corn from his father. Rebbi Jehudah says, just as one has to defile himself for bone the size of a barley corn from his father, so one has to defile himself for a limb from his living father\textsuperscript{17}. \textsuperscript{18}It happened that Yose ben Paxas developed a growth\textsuperscript{19} on his foot. When the surgeon came to remove it, he told him to inform him when only a hair's breadth was left\textsuperscript{20}. He\textsuperscript{21} cut until only a hair's breadth was left, and informed him. He\textsuperscript{22} addressed his son Onias and told him, Onias my son, up to now you had to care for me, but leave now since nobody has to defile himself for a limb from his living father\textsuperscript{23}. When this came before the Sages, they said, about him it was said: "It happens that a just man is lost in his merit\textsuperscript{24};" the just is lost and his merit accompanies him.

\textsuperscript{15} This contradicts the preceding statement.
\textsuperscript{16} If a Cohen was burying a corpse of obligation and later found another limb of the same corpse, he may bury the limb since he already is impure and the prohibition of Lev. 21:1 refers only to him becoming impure, not to what he does once he is impure. In the Babli, 43b, this is a tannaitic statement ascribed to R. Jehudah.
\textsuperscript{17} \textit{Semahot} 4:27. In the Babylonian sources, Babli 43b, \textit{Sifra Emor Introduction} 13, R. Jehudah represents the opinion ascribed here to R. Yose, while R. Yose denies that a Cohen defiles himself for a piece of his father's bone. The reason given is Lev. 21:3 (speaking of the Cohen's unmarried sister): "For her he has to defile himself," interpreted as "for her body, but not for her body parts."
\textsuperscript{18} \textit{Sifra Emor Introduction} 14. \textit{Semahot} 4:28 (οὐκ ἐστιν), \textit{Yalqut Qohelet}
It is clear from the story that one speaks of a priestly family.

19 Greek νομή "cancerous growth".
20 Connecting the growth to his body.
21 The surgeon.
22 Yose ben Paxas.
23 Since the growth, once separated from his body, is impure in the impurity of the dead (Mishnah Ahilut 2:1).
24 Eccl. 7:15. The implication is that practice follows R. Yose.

What is a corpse of obligation? Anyone for whom he shouts and nobody comes. If the villagers come, he refrains. How many? For the carriers of the bier, their replacements, and the replacements of their replacements. If he is not needed; but if he is needed, it is different. If the deceased is not recognized; if he is recognized the nazir or Cohen is precluded from defiling himself.

If it is not according to his honor; but if it is according to his honor, it is different. For the Patriarch it is his honor.

25 In the Babli (43b, Yebamot 89b, Erubin 17b): "Anyone who has nobody to bury him; if he calls and others answer him it is not a corpse of obligation." The Yerushalmi version is in Semahot 4:29.
26 Cohen or nazir refrain from defiling themselves.
27 In Semahot 4:30: Carriers of the bier and grave diggers.
28 If the dead cannot have a decent burial without the help of nazir or Cohen, the latter have to defile themselves.
29 If the deceased is not recognized by the locals; if he is recognized the nazir or Cohen is precluded from defiling himself.
30 This is the introduction to the following paragraphs. If the prestige of the deceased is so great that priests have to defile themselves for his burial,
it is obvious that the nazir or Cohen defile himself. who stumbles on his body also has to

May a Cohen defile himself for the Patriarch? When Rebbi Judah the Prince died, Rebbi Yannai proclaimed and said: "There is no priesthood today." When Rebbi Judah the Prince, grandson of Rebbi Judah the Prince, died, Rebbi Hiyya bar Abba did push Rebbi Zeira in the Gufna synagogue of Sepphoris and defiled him. When Yehudinai, the sister of Rebbi Judah the Prince, died, Rebbi Hanina sent for Rebbi Mana but the latter did not come. He said to him, if one does not defile himself for them during their lifetime, so much less in their death. Rebbi Nassa said, in their death they treated them like a corpse of obligation.

The same text is in Berakhot 3:1, the same source, Notes 64-120. The following paragraphs (to 56a, line 68) are from correct one.
May a Cohen defile himself for the honor of his teacher? The father-in-law of Rebbi Yannai the Younger died. He was both his father-in-law and his teacher. He asked Rebbi Yose who forbade it. Rebbi Hama (?) heard it and said: His students should defile themselves for him. The students [of Rebbi Yose]\textsuperscript{33} defiled themselves for him but ate meat and drank wine. Rebbi Mana told them: One of two things you cannot escape. If you are mourners, why did you eat meat and drink wine; if you are not mourners, why did you defile yourselves?

\textsuperscript{33} From the text in Berakhot, required by the context.

May a Cohen defile himself for the study of Torah? Rebbi Yose was sitting and teaching when a dead body was brought in. He did not say anything either to those who remained sitting or to those who left.

\textsuperscript{34} The Rome ms. parallels the text in Nazir.
Rebbi Nihumi the son of Rebbi Hiyya bar Abba said: My father did not walk under the arch of Caesarea. Rebbi Ammi walked. Rebbi Hizqiah, Rebbi Cohen and Rebbi Jacob bar Aha went walking in the streets of Caesarea. They came to the arch and Rebbi Cohen left. They reached a place of purity and he returned to them. He asked them: "What were you discussing?" Rebbi Hizqiah said to Rebbi Jacob bar Aha: "Do not tell him anything!" We do not know whether it was because he was angry that he left since one defiles oneself for words of Torah or whether it was because he was haughty.

It is stated: A Cohen may defile himself by leaving the Land for civil and criminal suits, for the consecration of the New Moon and intercalation.
of a year, to redeem a field from a Gentile, to study Torah, and to marry a wife. Rebbi Judah says, if he has a place to study, he should not defile himself. Rebbi Yose says, even if he has a place to study, he may defile himself, since a man may not have the luck to learn from every teacher. They said about Joseph the Cohen that he followed his teacher and defiled himself following his teacher to Sidon. In truth, they said a priest should not go abroad unless one promised him a wife.

May a (High) Priest defile himself for the lifting of hands? Gabilah, the brother of Rebbi Abba bar Cohen said before Rebbi Yose in the name of Rebbi Aḥa: A Cohen defiles himself for the lifting of hands. Rebbi Aḥa heard it and said: I never told him anything. On second thoughts he said, maybe he heard from me what Rebbi Jehudah ben Pazi said in the name of Rebbi Eleazar: Every Cohen who stays in the synagogue and does not lift his hands transgresses a positive commandment, and he wanted to say that a positive commandment supersedes a negative commandment. I never told him anything. Bring him in and I will flog him!
Rebbi Abbahu was sitting teaching in the fortified synagogue in Caesarea; there was a coffin there. There came the time for lifting the hands and they did not ask him. There came the time for eating and they asked him. He said to them: For the lifting of hands you did not ask me, for eating you are asking me? When they heard this, each one was taking himself away and fled.

Rebbi Yannai said: A Cohen defiles himself in order to see the King. When King Diocletian visited here, Rebbi Hiyya bar Abba was seen stepping over graves at Tyre in order to see him. Rebbi Hizqiah and Rebbi Jeremiah in the name of Rebbi Johanan: There is an obligation to see great persons of government, so that when the kingdom of the dynasty of David will return one will know how to distinguish one government from the other.
May [a Cohen] defile himself in honor of his father and mother? Rebbi Yasa heard that his mother had come to Bostra. He went and asked Rebbi Yohanan, may I leave? He said to him, if it is because of danger on the road, leave. If it is in order to honor your mother, I do not know. Rebbi Samuel bar Rav Isaac said, Rebbi Yohanan still needs to answer. He importuned him, so he said: Since you decided to go, return in peace. Rebbi Eleazar heard this and said: there is no greater permission than that.

May a (person) [Cohen] defile himself in honor of the public? It is stated: When there are two acceptable roads, one long and pure, the other one short and impure: If the public was walking on the long one, he goes...
on the long one; otherwise, he goes on the short one in honor of the public. That refers to impurity by their words; also for impurity that is from the words of the Torah? From what Rebbi Zeira said, so great is the honor of the public that it temporarily pushes aside a prohibition, that means even impurity that is from the words of the Torah.

Rebbi Jonah, Rebbi Yose the Galilean, in the name of Rebbi Yose ben Hanina: One does not ask rulings on practice before the bier of a deceased. But Rebbi Yohanan asked Rebbi Yannai before the bier of Rebbi Simeon ben Yozadaq about him who dedicated his elevation sacrifice for the upkeep of the Sanctuary, and he answered him! Let us say when they were bringing him to the study hall. But Rebbi Jeremiah asked Rebbi Zeira before the bier of (Rebbi Simeon and) Rebbi Samuel bar Rav Isaac! Let us say that he answered him when he was far away; when he was close he did not answer him.
It is stated: The carriers may not wear sandals lest a shoelace of one of them break so he would be prevented from performing a good deed.

Rebbi Zeïra bent down during a eulogy. They wanted to straighten him up and found that he tarried. They said to him, what is this? He said to them, because we will go there, following (Eccl. 7:2): "Let the one who is alive take it to heart."

If somebody finds a corpse of obligation, he has to take care of it and bury it at its place. When is that? If he finds it outside the town limits. But if he found it inside the town limits, he brings it to the cemetery to bury it.

35 The definition of "its place" is built-up domain of a village, or the city walls.
36 Outside of 2000 cubits from the

אמור רבי עקיבא. כל הנחתה התחלתי שלושה לפנים תכמים. פסוע (56a line 70)
המע国家重点 בברך ומשאותי מעון יוניסלאטיי בו גיאברות מיל עד
שהיבנותו עלמות קברות קבורה עשב. המבנהאי אפור רבי אילואר ואפור
יוושם אפורות קומים שהגדיר. אפור ר.על כל-になってしまう משה שקימה פגש
מעילו עילך כלדיщий פעמים. אפורות. אם בשעה שלاقتصות العامة
Rebbi Aqiba said, the start of my practice before the Sages was the following. Once I was on the road when I found a corpse of obligation; I carried it about four mil to a cemetery and buried it. When I came to Rebbi Eliezer and Rebbi Joshua and told them, they said to me that every step that you walked is counted against you as if you were shedding blood. I said, if I became guilty when I intended to acquire merit, how much worse is it if I do not intend to acquire merit. From that time on I did not interrupt practicing before Sages. He used to say, anybody who did not practice before Sages deserves the death penalty.

37 Šemahot 4:34; Derekh Eres zuta. 38 Since the corpse was removed from its natural place of burial.

Megillah 29a, s.v. בונטילם

The corpse of obligation acquired its place, four cubits even in a field of saffron, for on this condition did Joshua distribute the Land to Israel. When is this? If he found it in the field. But if he found it on the road, he
buries it either to the right or to the left of the road. A fallow and a ploughed field, he buries it in the fallow field. A ploughed and a sown field, he buries it in the ploughed field. A vineyard and a sown field, he buries it in the sown field. A vineyard and an orchard, some Tannaim state, he buries it in the vineyard; some Tannaim state, he buries it in the orchard. He who says, he buries it in the vineyard but not in the orchard, because of a tent over the corpse. He who says, he buries it in the orchard but not in the vineyard because of the preparation of the grape harvest. If he switched, Rebbi Immi said in the name of Rebbi Simeon ben Laqish: He transgressed "do not defile your land." If both were fallow, or ploughed, or sown, he buries in the one he chooses.

39 A square of land, four cubits in each direction, can be taken to dig the grave without requesting permission from the owner, who has no claim to compensation.

40 Therefore, these rules do not apply outside the Land. The list of reservations for public use attributed to Joshua is in Baba batra 5:1, Babli Baba qama 80b-82a; cf. Kilaim 2:5, Note 73.

41 Use of the road is public use; use of land for burial of a corpse of obligation is public use. The later use cannot displace the prior. The Babli, Eruvin 17b, explains this baraita away, assuming that the corpse was lying across the narrow roadway and encroaching on the fields on either side. According to Rashi, the corpse may be moved to protect passing Cohanim from the impurity of the dead.

42 If the corpse was found on the road between two fields.

43 If a grave is in the shade of a tree, the entire canopy of the tree forms a "tent" over the grave; any person passing under the tree becomes impure by the impurity of the dead (Num. 19:14).

44 Since wine-grapes collected in a basket at harvest time will be wet from the juice of some squashed grapes, they are "prepared" for impurity (cf. Demay 2:3, Note 141), and a grave in a vineyard makes its entire harvest irreparably impure.

45 Deut. 21:23.
A Cohen and a Levite, the Levite shall defile himself\(^46\). A Levite and an Israel, the Israel shall defile himself. No, is not the Levite like the Israel\(^47\)? Rebbi Abin said, it was taught in the time of the platform\(^48\). The Sages agree with Rebbi Eliezer that between a High Priest and a nazir, the nazir shall defile himself but not the High Priest\(^49\). Rebbi Eliezer agrees with the Sages that between a High Priest and a nazir, the nazir shall defile himself but not the High Priest\(^50\). Think of it, if his father sanctified him from birth\(^51\). The one\(^52\) is from the Torah, the other is not from the Torah\(^53\). Rebbi Huna in the name of Rav Joseph: Rebbi Eliezer parallels the House of Shammai. As the House of Shammai say, between holy and frequent the holy has precedence\(^54\), so Rebbi Eliezer says, between holy and frequent the holy has precedence\(^55\). A nazir for 30 days and a nazir for 100, the nazir for 30 days shall defile himself. A nazir for 100 days and a nazir forever, the nazir for 100 days shall defile himself. A nazir forever\(^56\), and a nazir of neziriot\(^57\), some Tanna'im state,
the nazir forever shall defile himself; but some Tannaim state, the nazir of neziriot shall defile himself. He who says, the nazir forever shall defile himself but not the nazir of neziriot, since he\textsuperscript{58} shaves more frequently. He who says, the nazir of neziriot shall defile himself but not the nazir forever, since he brings more sacrifices\textsuperscript{59}. If he switched, it should be as Rebbi Immi said in the name of Rebbi Simeon ben Laqish: He transgressed "do not defile your land\textsuperscript{45.}" Here it is the same.

46 Since a Levite is not forbidden to defile himself.
47 In matters of impurity, the Levite has no more obligations than the Israel.
48 The platform in the Temple for the levitic singers. If the Levite was engaged in the Temple service, he must be careful not to become disabled by impurity.
49 This is the position of the Sages in the Mishnah.
50 R. Eliezer holds to his position in the Mishnah only for a common priest, not the High Priest.
51 Like Samson or Samuel. The reference is to the argument of the Sages that the nazir has to defile himself because his holiness is temporary. If the nazir is nazir from birth, that argument does not hold but the formulation of the Sages in the first sentence of the Mishnah does not admit of any exception.
52 The holiness of the Cohen.
53 The possibility of a nazir from birth is only given in the Prophets.
54 In Mishnah Berakhot 8:1, the House of Shammai require that on Friday nights, the benediction for the Sanctification of the Sabbath (the holy) precede the benediction for the wine (the frequent).
55 For him, the nazir who must bring a sacrifice for his defilement is holier than the Cohen who brings no sacrifice.
56 He cuts his hair (but does not shave it off) once a year and brings three sacrifices; Halakhah 1:2.
57 Similar to one described in Mishnah 1:4; from the argument it seems that the nazir referred to here has vowed many periods of more than one year.
58 The nazir forever shall defile himself since he never shaves.
59 If the basic period of the nazir of neziriot is more than one year, the nazir forever brings more sacrifices.
Mishnah 2: The nazir shaves for the following impurities: For a corpse, for flesh in the volume of an olive of a corpse, and for the volume of an olive of decayed matter from a corpse\textsuperscript{60}, and for a spoonful of decay, for the spine and for the skull\textsuperscript{61}, for a limb from a corpse or a limb from the living on which there is sufficient flesh\textsuperscript{62}, for half a qab\textsuperscript{63} of bones, and for half a log\textsuperscript{63} of blood, if they are touched, or carried\textsuperscript{64}, or under a tent\textsuperscript{43}. Also for a bone in the volume of a barley grain if it is touched, or carried, (or under a tent.)\textsuperscript{65} For these, the nazir shaves, he sprinkles on the third and seventh [days], he disregards the preceding days and starts to count only after he purifies himself and brings all his sacrifices.

\textsuperscript{60} Either decaying flesh or fluid from the corpse. If it is decayed so that it looks like dust it is counted as decay and follows the standard of the spoonful (under certain conditions). It is implied that all impurities enumerated in the Mishnah are biblical in nature.

\textsuperscript{61} Even if no flesh is left.

\textsuperscript{62} "Sufficient flesh" is enough left on a limb connected to a living body that it could heal.

\textsuperscript{63} A qab is 4 log or 2.13 liter.

\textsuperscript{64} Even if the carrier does not touch the cause of impurity.

\textsuperscript{65} The last clause, which originally was also in Babli mss., is a scribal error since only half a qab of bones transmits impurity in a tent but less than that transmits impurity only by touch or carrying, not in a tent (Tosaphot 49b, s. v. מַשְׁאָר).
Halakhah 2: "The nazir shaves for the following impurities," etc. An old man asked Rebbi Johanan: If the volume of an olive from a corpse makes impure, then certainly all of it also? He said to him, to include the stillbirth which did not reach the volume of an olive. He continued to ask: If a limb of a corpse makes impure, then certainly all of it also? He said to him, to include the stillbirth whose limbs did not yet jell. Rebbi Yose said, was that old man wise? His questions were not wise since after he asked the first question, it was not necessary to ask the second. If he wanted to ask both, he should have asked the second and after that the first. The students of Rebbi Yose ben Halaphta asked the second but did not ask the first because it was obvious for them that if he did not reach the volume of an olive it is certain that his limbs did not yet jell. Rebbi Mana bar Hizqiah said, do you remember when Rebbi Jacob bar Aha was here, were not both questions by that old man [asked] about Ahilut that the nazir shaves for them? In addition, from what Rebbi Johanan said, I thought that the stillbirths were not Torah. But
since he makes his mother sit days of purity\textsuperscript{76}, it is implied that [the rules of] stillbirths are Torah.

\textsuperscript{66} In the Babli, 49b/50b, the entire discussion is tannaitic: Symmachos, a student of R. Meir, asked R. Jehudah.

\textsuperscript{67} The formulation of the Mishnah is redundant. If one \textit{kezayit} of a corpse induces the impurity of the dead, why is it necessary to say that a complete corpse induces the impurity?

\textsuperscript{68} As explained in Mishnaiot \textit{Niddah} 3:3 ff.

\textsuperscript{69} No limb has a recognizable shape.

\textsuperscript{70} If the fetus does not fill the volume of an olive, it is to be assumed that its limbs are not recognizable. If its limbs are not recognizable, the body still might be larger than the volume of an olive.

\textsuperscript{71} He is "R. Yose" the Tanna; in the Babli, he gives the explanations ascribed in the Yerushalmi to R. Johanan.

\textsuperscript{72} There is no "R. Mana bar Hizqiah" mentioned otherwise in the entire talmudic/midrashic literature. Moreover, it is not mentioned who his partner was. Therefore, it is reasonable to follow all commentators and emend \textit{ד"ה} to \textit{ד"ה} and read: "R. Mana (II) said to R. Hizqiah."

\textsuperscript{73} The parallel Mishnah \textit{Ahilut} 2:1, to which both questions also apply.

\textsuperscript{74} R. Yose's criticism of the old man is unjustified since it would not be inconsistent with either Mishnah to hold that a corpse induces biblical impurity but a small part of the corpse only rabbinic impurity. In that case, the double mention in the Mishnah would be justified and, as noted in the sequel, R. Johanan once held this opinion.

\textsuperscript{75} It is generally accepted that a termination of pregnancy within 40 days of conception is simply a failed conception, not an abortion, since there is no human fetus (\textit{Niddah} 3:5, Note 135). The status of the fetus between the 41\textsuperscript{st} day and delivery is never defined in the biblical text.

\textsuperscript{76} Mishnaiot \textit{Niddah} 3:3-5 state that if there was a miscarriage and the sex of the fetus cannot be determined, the mother has to observe 14 days of impurity (for a girl) but the next 26 days are days of purity during which no genital discharge will make her impure (\textit{Niddah} 3:2, Note 14). Since normally any genital discharge induces the seven-day impurity of menstruation in a woman, the rules of Tractate \textit{Niddah} imply that the impurity of a
stillbirth is biblical. If the impurity immunity (by necessity biblical) from were rabbinic, it could not imply impurity.

It was stated: Rebbi Simeon bar Iohai says, why did they say that a crawling animal\textsuperscript{77} the size of a lentil makes impure? Because the start of the creation of a crawling animal is the size of a lentil\textsuperscript{78}. Rebbi Yudan asked: Should not a corpse bring impurity even if it is less than the volume of an olive, for did not Rebbi Johanan say, "to include the stillbirth which did not reach the volume of an olive"\textsuperscript{79}? And a carcass\textsuperscript{80} the size of a pea should cause impurity\textsuperscript{81}, for Rebbi Hanina said, I saw a calf the size of a pea in a placenta! How is that? I say, [these are] sermons. Preach and receive reward\textsuperscript{82}.

\textsuperscript{77} Enumerated in Lev. 11:29-30.
\textsuperscript{78} In the Babli, 52a and Niddah 56a, the parallel is an anonymous tannaitic statement, deriving the power of tradition to determine the amount which induces impurity from the change in wording from שֶׁמַעְתָּן in Lev. 11:31 to שֶׁמַעְתָּן in 11:32. Since that change is required by the meaning of the verses, the Babli's source is the school of R. Aqiba.
\textsuperscript{79} This in itself is an irrelevant question since R. Johanan makes it clear, here and elsewhere, that the minimal size requirements do not apply to fully formed creatures (cf. Berakhot 6:1, Note17; Babli Nazir 51b).
\textsuperscript{80} From an otherwise kosher animal but which dies without being slaughtered.
\textsuperscript{81} When in fact the unchallenged tradition is that a minimum volume of an olive is required.
\textsuperscript{82} But rules of practice should never be derived from sermons.
What is decayed matter? Flesh of the corpse which was separated and fluid that coagulated. Therefore not when it is still mashed? Did not Rebbi Hanina say in the name of Rebbi: Fat from a corpse which was melted remains impure; if he cut it and then melted it, it is pure. Rebbi Yudan and Rebbi Yose, one says to exclude the fluid in the flesh; the other says that if it will fill the volume of an olive when congealed, it will be impure when still mashed.

This text does not make much sense. The parallel in the Babli, 50a, reads "Flesh of the corpse that coagulated and fluid that was heated." A gloss in the Arukh (s. v. נער) explains: "A stillbirth whose flesh coagulated but did not firm." The quote from the Yerushalmi reads in the Arukh: "Flesh of the corpse and fluid that coagulated," which can also be translated as: "Flesh of the corpse which was separated and fluid that coagulated", the difference being that means "to separate" in an abstract sense, as in Gen. 31:16 where Rachel and Leah congratulate themselves that God had separated Laban's property from him and transferred it to them, while means bodily separation, "tearing apart." The suggestion by M. Margalit and J. Sussman to read instead of נער has no basis. It is remarkable that Tosephta Ahilut (2:3, quoted later in our text) goes into the details of the rules of decay but except for a fleeting reference to our Mishnah (Ahilut 4:5) never mentions נער. If the text is taken as it stands, one might define נשל as "fibers from the corpse and fluid that coagulated."

The text in an intermediate state between fluidity and coagulation. It is unreasonable to assume that the blood should be impure as fluid and as fully coagulated matter, but not in an intermediate state.

The text is paralleled in the Babli, 50a, and Tosephta Ahilut 4:3. In the latter, a Babylonian scribe or compiler systematically wrote כֵּשֶׁר for...
86 The text is a contamination of two versions. "The fat of a corpse" may either be nsri aVn or nan ia^n. The fat was cut in pieces smaller than olive size. Either this was done outside a "tent" (because all body parts of a corpse under one "tent" are joined together by the "tent"; Tosephta Ahilut 4:4), or small pieces of fat from two different corpses are fused together by heating. The resulting olive-sized piece is not impure since "connection by a human is not counted" (Tosephta Ahilut 4:3).

88 Then the question is, if the state of the material does not matter, why should the mashed state matter?

89 Any fluid which is not blood but oozes from a corpse is impure only if it became solid in an olive-sized piece.

90 An exactly olive-sized piece of colloidal material will be pure since in solid form it will have shrunk.

We have stated91: "Rebbi Yose said, dried flesh from a corpse which even if soaked92 will not return to its former status is pure93. What is Rebbi Yose's reason? Did he not infer this from a carcass? From a carcass, since a dried carcass is pure94, so also a dried corpse should be pure. Rebbi Immi asked: Since a foul-smelling carcass is pure95, would a foul-smelling corpse also be pure? Then there can be no decayed matter for Rebbi Yose! It was found stated in Rebbi Yose's name that there
was decayed matter\(^{93}\). The colleagues asked before Rebbi Yose: Since a
carcass has no decay\(^{96}\), so a corpse should have no decay! He told them
that he inferred from an animal only for the flesh, not for the bones.
There is no decay from flesh\(^{97}\), there is decay from bones, as Bar Qappara
stated, "decay of bones is jealousy\(^{98}\." Rebbi Yannai said, "or a grave\(^{99}\)",
even if one touched the first Adam’s grave. The colleagues say, he\(^{100}\)
transposes the verse: "or a grave \(qbr\)" means "or decay \(rqb\). Bar Qappara
stated, "or a grave \(qbr\)", "or decay \(rqb\)."

91 Mishnah Niddah 7:1.
92 The Babli, Niddah 56a, explains
soaking 24 hours in lukewarm water.
93 In the Babli, Niddah 56a, this is
qualified to mean that there is no
impurity of flesh, but there is impurity
of decay (requiring a spoonful for
impurity.)
94 Babli, Niddah 56a.
95 Babli, Bekhorot 23b. The
argument is based on Deut. 14:21 which
requires the animal carcass to be given
to the non-Jewish resident or sold to
the stranger. It is inferred that once a
carcass can no longer be given away or
sold, it has lost its legal standing as
carcass. This corresponds to the rule,
expounded at length in Tractate Kelim,
that impure objects become pure once
they have lost any commercial value.
96 By the argument of Note 95, a
decaying animal carcass has no
commercial value and, therefore, is
pure. "No decay" means "no impurity
classified under the heading of 'decay'".
97 The argument of the colleagues
is well taken; R. Yose accepts the
impurity of human decay only for
decaying bone material, not for
decayed flesh.
98 Prov. 14:30.
99 Num. 19:20. This is a new
statement. Touching a grave induces
the impurity of the dead irrespective
of the age of the grave and the person
buried while in the opinion of R.
Simeon ben Iohai only a Jewish corpse
induces the impurity of a "tent" (Babli
Yebamot 61a.) The Babli concurs (loc.
cit.). R. Yannai's statement is attributed
in the Babli, 54a, to his student R.
Simeon ben Laqish.
100 As confirmed by a fragment of
baraita, Bar Qappara holds that any
root may represent all 6 permutations
of its letters. This cannot be classified
as a derivation; it is a hint.)
Rebbi Jehudah ben Pazi said, the Holy One, praise to Him, took a spoonful from the place of the altar and created Adam from it. He said, he shall have been created from the place of the altar so that he should be able to stand up\textsuperscript{101}. That is what is written: "The Eternal Omnipotent formed Adam the first of dust from the earth\textsuperscript{102}," and it is written: "You shall build for me an altar of earth\textsuperscript{103}." Since "earth" there means an altar, here also [it means] an altar. "His days should be a hundred and twenty years.\textsuperscript{104}

Adam the first lived close to a thousand years and you say, "his days should be a hundred and twenty years! But after 120 years he returns to be a spoonful of decay. That is difficult. For Og, the king of Bashan, 120 years, and for a newborn baby 120 years? Og [becomes] a spoonful of decay, and a newborn baby becomes a spoonful of decay. "\textsuperscript{105}The spoonful of decay which they mentioned is from his finger joints and upwards, the words of Rebbi Meir, but the Sages say, from a fully developed hand." Rebbi Ze'ira, Rebbi Hiyya in the name of Rebbi was illustrating that of Rebbi Meir one way, that of the rabbis in another way.
and R. Helbo in the name of R. Samuel ben Nahman. The altar, with definite article, is the altar in the Temple courtyard in Jerusalem which by tradition [Gen. rabba 34(8)] is the altar used by Adam, Noah, and Abraham. 

102 Gen. 2:7.

103 Ex. 20:24.

104 Gen. 6:3.

105 Tosephta Ahilut 2:2; Kelim Baba Mesi'a 7:1, as legal principle independent of the story of 120 years. Quoted in the Babli, 50b, but there the rabbis derive the decay from the body of the hand, without the fingers.

Which corpse has decay106? One who was buried naked in a marble coffin, or on a stone floor, or on a marble table. But if he was buried in a wooden casket or on a wooden plank; that is not decay but graves' dust and needs somewhat more than a spoonful."107 Rebbi Johanan said, if even the smallest attachment was buried with him, there is no decay108. Rebbi Yasa in the name of Rebbi Johanan: Of two corpses which were buried together, each one becomes an attachment for the other109. This110 is automatic; could one alone be an attachment to another? Abba bar Nathan111 objected: Think of it, that somebody brought half a spoonful from one and half a spoonful from the other! He112 was considering it
when he was seen laughing; he was offended by him and he died. Rebbi Yose said, there this man is gone and we did hear nothing about it. What about it? There, neither of them will produce a spoonful of decayed matter, but here, each of them can generate a spoonful of decay.

106 Obviously, every corpse will eventually produce decayed matter. What is meant here is, under which circumstances does one apply the rules of "decay" which induces impurity by the spoonful, and when the rules of "grave dust" which requires more than a spoonful (Ahilut Mishnah 2:2, Tosephta 2:3.)

107 Tosephta Ahilut 2:3; quoted in the Babli Nazir 51a, Niddah 27b.

108 But graves' dust. In the Babli, 51a, this is implied by a statement of Ulla.

109 Babli 51a.

107 Two generations later. 108 That there is symmetry between both corpses. 109 In the Babli, 51a, a Rav Nathan states that decay combined from two corpses induces impurity.

110 Obviously, every corpse will eventually produce decayed matter. What is meant here is, under which circumstances does one apply the rules of "decay" which induces impurity by the spoonful, and when the rules of "grave dust" which requires more than a spoonful (Ahilut Mishnah 2:2, Tosephta 2:3.)

111 In the Babli, 51a, a Rav Nathan states that decay combined from two corpses induces impurity.

112 R. Yasa.

113 Abba bar Nathan.

114 Two generations later.

115 Whether decay from two corpses combines to induce impurity.

116 If two corpses are buried in a common grave, neither of them can produce decay by R. Johanan’s definition. But pure decay from two distinct corpses can be combined.
If his foot was cut off, from above the joint there is no "decay"; from below the joint there is "decay". If it was buried together with him, from below the joint it becomes an attachment to him, from above the joint it does not become an attachment to him. The colleagues asked before Rebbi Samuel ben Eudaimon: If he bound from below the joint as attachment? He said to them, if it were so, even if it was not cut I should consider it as if cut and it should be an attachment! Since it is connected to him, it forms one body. If there is something missing, can it have "decay"? Let us hear from the following: If it is incomplete, there is no "decay", it does not require the surrounding earth, and it is not part of a row of graves. Rebbi Johanan asked, how much must be missing that it have no "decay"? Might it follow what we have stated there:

"That he will die if it was removed." Is it the same here? Think of it, if the esophagus was perforated, nothing was missing but he could not survive. You have only the following: If his foot was cut off, from below the joint there is "decay", from above the joint there is no "decay". If it was buried together with him, from below the joint it becomes an attachment to him, from above the joint it does not become an attachment to him.

117 Since there is no Yerushalmi extant to Tractate Hulin, it is impossible to know exactly what is meant. Mishnah Hulin 6:4 states that an animal, one of whose legs was cut above the ḥarakot is unfit for consumption since it could not survive. There is no unanimity as to which leg joint is meant, the knee or the ankle. In the language of the Babli, both are called אַרְבּוּנְה (root 331 by metathesis from biblical יָדוּכְנָה) and are distinguished.
by appropriate adjectives. It is reasonable to identify קצב here as the ankle, but this is far from certain.

118 The corpse is missing a limb; the rules of "decay" do not apply.

119 The amputated limb.

120 Since he could have survived the amputation, the part taken becomes an attachment. But if the part amputated is so large that by the medical standards of the day the patient could not have survived, the amputated leg is part of the corpse if buried together with it.

121 If the amputated limb was sewn back to the corpse, if it were considered a separate part then any limb could be considered separate and there never would be a complete corpse. The Babli, 63b, does not require sewing but holds that a grave makes a complete corpse whole even if it was brought to the grave in pieces.

122 This is also quoted in the Babli, 51b.

It is stated in Mishnah 9:3 that a person who finds an unattended corpse must bury it together with all surrounding earth which might have soaked up his blood. This is now qualified to apply only to complete corpses.

If one finds three graves next to one another they form a cemetery which may not be disturbed. The rules governing possible removal of graves are detailed in Halakhah 9:3. The rules are restricted here to graves containing complete corpses.

123 Mishnah Ahilut 2:3. In the list of body parts of a corpse which cause impurity by touch and carrying but not in a "tent" appears an incomplete skull. The skull is considered incomplete by the House of Shammai if it exhibits a hole made by a surgeon's drill, but by the House of Hillel only if the missing piece was large enough so "that he would die if it was removed."
Do stillbirths generate "decay"? For him who says that their blood induces impurity by a quartarius, they generate "decay"; for him who says that their blood does not induce impurity by a quartarius, do they generate "decay"? Let us hear from the following: Why is the dust from small heaps impure? Because women bury there their stillbirths. Rebbi Yudan, the father of Rebbi Mattaniah, said: Would it not be reasonable otherwise, that lepers bury their limbs there? You must say that it is because of "decay", not because a bone the size of a lentil, since it was stated: If he took some dust from it and replaced it, [the small heap] is pure. Explain it following Tannaim, as it was stated: If one removed it, it remains impure; Rabban Simeon ben Gamliel declares it pure.

124 For him a fetus is human; a stillbirth follows all rules of human corpses.
125 Tosephta Ahilut 16:1: "Small heaps close to a town or to a road, whether new or old, are impure since women bury there their stillbirths and lepers their limbs. Far away, new ones are pure, old ones impure; I am saying that there had been a road nearby."
126 Obviously, the Tosephta in this formulation was unknown to the editors of the Yerushalmi. The full Tosephta text is paraphrased in the Babli, Ketubot 20b.
127 If some decay is replaced by pure dust from another place, the latter becomes an attachment and by the rules of the previous paragraph, the earth lost its character of "decay". But if the impurity were caused by a human bone, its impurity would be original biblical impurity; the new dust would have become impure immediately as a "tent" over the bone. Therefore, the second opinion expressed in the first part of the Tosephta is inconsistent with the rule stated at the end.
128 If the entire little heap was levelled (without there appearing any bones in it), it remains impure if one assumes that some bone is buried below the levelled surface; it is pure if one assumes that it consisted only of "decay".
Rebbi Simeon ben Eleazar said, it was formulated following Rebbi Simeon, as it was stated: The spine and the skull are impure even if crushed, even disconnected, because the grave unites them as "a human in a tent".

This name attribution cannot be correct since R. Simeon ben Eleazar was a Tanna, student of R. Meïr. A statement of his appears in Tosephta Ahilut 2:6, denying that people with a trepanned skull can survive a winter. Probably one has to read: R. Eleazar said.

This refers to the Mishnah and explains why spine and skull were mentioned separately when "half a qab of bones" is also mentioned and both a skull and a spine fill the required volume of about 1 liter. A similar (anonymous) text is in Tosephta Ahilut 2:5: "A spine of which bones were removed is pure even if its outline still exists; But in a grave it is impure, even if broken, even if crushed, since the grave unites them."

The Mishnah follows Rebbi Eleazar ben Azariah, as it was stated: "Rebbi Simeon ben Eleazar said, earlier the courts were divided; some said, a quartarius of blood, a quarter bones; some said, half a log of blood, a half a log of bones, for nezirut and the impurity of the Sanctuary and its sacred offerings." Rebbi Jacob bar Idi in the name of Rebbi Simeon:
They said this\textsuperscript{135} as explanation from the mouths of Haggai, Zachariah, and Malachi.

132 Probably both "Eleazar ben Azariah" and "Simeon ben Eleazar" should read simply "Eleazar".

133 Tosephta \textit{Ahilut} 4:13: "Rebbi Eleazar said, earlier the Elders were divided; some said, a \textit{quartarius} of blood, a quarter (\textit{qab}) of bones; some said, half a \textit{qab} of bones and half a log of blood. The later court said: a \textit{quartarius} of blood, a quarter (\textit{qab}) of bones for heave and sacrifices, a half a \textit{qab} of bones and half a log of blood for the \textit{nazir} and the Temple." It is difficult to correct the Yerushalmi text by the Tosephta since our text clearly puts Temple and sacrifices in the same category. In a parallel text to the Tosephta in the Babli, 53a, the speaker is R. Eliezer. Instead of "Temple" (meaning "access to the Temple"), he formulates the equivalent, "people who come for the Passover sacrifice".

134 R. Simeon ben Laqish.

135 The determination of the minimum amounts inducing impurity was the result of prophetic inspiration, rather than of logical derivation. In the Babli, \textit{loc. cit.}, this is a statement of R. Jacob bar Idi himself.

\begin{quote}
משנה ב: בן הכסף והקרעת ובית הקרב אין קאמר (ולא קאמר) הכנמלים חלמים בקדמה וימין ספורים
קרובים על אוליך שני קסירים מוליכי Blackburn ושביעי רחובים יאדו סותר את
הקדמונים התחליהם ממקס וקרוביםapia ל. אםאמר כי שני קסירי והם 헨דה

\end{quote}

\textit{Mishnah 3}: But for overhanging branches\textsuperscript{136}, or protuberances\textsuperscript{137}, or broken fields\textsuperscript{138}, or Gentile territory\textsuperscript{139}, or the cave door, or its frame\textsuperscript{140}, or a \textit{quartarius} of blood\textsuperscript{141}, or a tent\textsuperscript{142}, or a quarter (\textit{qab}) of bones\textsuperscript{141}, or objects that touched the corpse\textsuperscript{143}, or the days of his counting or his being absolute\textsuperscript{144}, the \textit{nazir} does not shave\textsuperscript{145} but sprinkles on the third
and seventh days\textsuperscript{146}, does not disregard the preceding\textsuperscript{147}, starts counting immediately, and has no sacrifice. In truth\textsuperscript{148}, the days of a male or female sufferer from flux\textsuperscript{149} and the days of quarantine of the sufferer from skin disease are counted for him.

136 If the nazir walks under a tree under which a grave is suspected.

137 Standing out from a building or a fence and it is suspected that a grave may be buried underneath.

138 "The house of the broken-off piece" is a field which contained a grave ploughed under. Not only is the suspected place of the grave impure by biblical standards but the entire field is rabbinically impure since the plough might have caught a bone and transported it to another part of the field.

139 Which is rabbinically impure even in the Holy Land.

140 רוחב "the roller" is a large circular stone which closes the entrance to a burial cave. בֵּית דִּשָּׁה "the knocker" is the frame which keeps the roller in place. The expressions were later transferred to burial in the earth, where "the roller" became the stone plate covering the grave and "the knocker" the stone frame on which it rests. Cf. Note 142.

141 One-half of the amount which induces biblical impurity.

142 Everything inside a tent in which there is a corpse is impure (\textit{Num.} 19:14). The tent confines the impurity; outside of the tent everything is pure. The impurity of a person touching a tent (or a "roller" or a "knocker") from the outside is purely rabbinical. But cf. Note 164.

143 An object inside a tent in which there is a corpse is a source of original impurity. But an object touching a corpse under the open sky becomes impure in a derivative way. Anybody touching such an object becomes impure in a secondary way which in most cases is only rabbinical; cf. \textit{Demay} 2:3, Note 137.

144 This refers to the sufferer from skin disease. The nazir is enjoined from becoming impure by the impurity of the dead; in general, impurity generated by the nazir's own body has no influence on his status as nazir. "The days of his counting" are the eight days which the healed sufferer from skin disease has to observe between the preliminary and the final expiation ceremonies. These days do not
interfere with his status as nazir but they cannot count since he has to shave all his hair on the first and seventh days. "The days of his being absolute" is the time in which the sufferer is declared to be certainly impure. Then he is required not to shave his hair (Lev. 13:45); nevertheless, these days do not count towards the fulfillment of his vow.

145 If his impurity is caused by a corpse and either is rabbinical or questionable.

146 Num. 19:12.

147 The time he is in any state of impurity caused by the dead, whether rabbinical or questionable, cannot be counted towards fulfillment of his vow of nazir. But the preceding and following days count and after purification he simply completes the count; he does not start anew.

148 This expression is a label for an old, pre-Mishnaic, rule.

149 Lev. 15. As explained in Note 144, this impurity generated by the nazir's own body has no influence on his state of nezirut. "The days of quarantine" are those in which the possible sufferer from skin disease is put under observation before his final status is determined (Lev. 13:4,5,21,26,31).

Halakhah 3: "But for overhanging branches, or protuberances," etc. What is the status of the undistributed middle? Rebbi Johanan said, the undistributed middle is judged leniently. Rebbi Simeon ben Laqish said, the undistributed middle is judged restrictively. What is the undistributed middle? That is a limb from a corpse or a limb from a living body which is not sufficiently covered by flesh. Rebbi Yose
asked\textsuperscript{154}: From where [do we infer that] a bone [induces impurity in the size of] a barley grain? Not from that verse, "or a person’s bone\textsuperscript{155}''? Here you require a barley grain, there you do not require a barley grain\textsuperscript{156}! Rebbi Samuel bar Eudaimon stated: "A slain one'', anything from a slain person\textsuperscript{157}, that is a limb from a corpse or a limb from a living body which is not sufficiently covered by flesh.

150 Mishnah 2 spells out for which biblical impurities the nazir has to shave; the implication is that for anything less he does not have to shave. Mishnah 3 has a list of rabbinic impurities for which the nazir does not have to shave; the implication is that for anything more he has to shave. We are left without instructions for cases which fall in between.

151 Anything not covered by Mishnah 2 is not biblical; the nazir is prevented from shaving.

152 Anything not exempted by Mishnah 3 requires shaving and a new start. The Babli, 53b, reports the same opinions, limited to the case taken here as illustration.

153 Mishnah Ahilut 1:8 spells out that such a limb induces impurity by touch or carrying but not in a tent.

154 He questions R. Simeon ben Laqish's position.

155 \textit{Num.} 19:16. In v. 18, only "bone" is mentioned but not "human''. This is interpreted in \textit{Sifry Num.} #127,129 to cover bones coming from both living or dead persons; cf. Babli 54a, Targum Pseudo-Jonathan \textit{Num.} 19:16,18.

156 For a bare bone, everybody agrees that a barley grain represents the minimum size which induces impurity. According to R. Simeon ben Laqish, a bone fragment with some flesh is not subject to a legal minimum.

157 Without a minimum; \textit{Sifry Num.} #127.
Rebbi Johanan said, overhanging branches and protuberances are biblical for heave\textsuperscript{158} even though the \textit{nazir} does not shave. Rebbi Jeremiah asked\textsuperscript{159}, if to burn it, one burns even for a rabbinic doubt; maybe to whip\textsuperscript{160}? Rebbi [Yose]\textsuperscript{161} from Sidon stated before Rebbi Jeremiah and disagrees with Rebbi Jeremiah: "For any impurity deriving from a corpse for which a \textit{nazir} shaves one is guilty if entering the Sanctuary, but any impurity deriving from a corpse for which a \textit{nazir} does not shave one is not guilty if entering the Sanctuary.\textsuperscript{162}"

\textsuperscript{158} If heave was transported under overhanging branches or protuberances which might cover a grave, it becomes impure and forbidden as food; it must be burned.

\textsuperscript{159} Is there any practical difference whether the impurity imputed to the heave is biblical or rabbinical?

\textsuperscript{160} Implying that a person can be whipped for exposing heave to the impurity induced by overhanging branches or protuberances.

\textsuperscript{161} Missing in the text; identified in Halakhah 4 (Note 219).

\textsuperscript{162} Mishnah 4. If entering the Temple is not prosecutable, neither is exposing heave to this impurity.
Rebbi Johanan said, layers of a tree which cover four-by-four [handbreadths]: the nazir shaves\textsuperscript{163}. Rebbi Yose, Rebbi Johanan said, if one of his hands is on the other side and one hand is in the layer, the nazir does not shave\textsuperscript{164}.

Rebbi Yose asked: If it separates from impurity it also should separate from purity; if it does not separate from impurity, it should not separate from purity\textsuperscript{165}. Rebbi Johanan said, if the corpse is in the bedroom and the nazir under the bed, the nazir shaves\textsuperscript{166}. Certainly if the corpse is under the bed and the nazir in the bedroom, does the nazir not shave\textsuperscript{167}?

Rebbi Johanan said, if the corpse and the nazir are under the bed frame\textsuperscript{168}, under the belly of a camel\textsuperscript{169}, under the width of a gate, under the gutters\textsuperscript{170}, the nazir does not shave, nor for anything which is there for protection\textsuperscript{171}. Hizqiah heard it and said, they purified the dead\textsuperscript{172}!

Rebbi Johanan said, if the corpse is in the anteroom and the nazir in the dining hall, the nazir shaves; certainly if the corpse is in the dining hall and the nazir in the anteroom, the nazir shaves\textsuperscript{173}. Rebbi Mana asked, if it is a tent to separate it should be a tent to draw along; if it is not a tent to draw along, the impurity should disappear\textsuperscript{174}!

Rebbi Johanan said, if the impurity is under the outer half of the wall, the nazir shaves\textsuperscript{175}. Rebbi Joshia said, if impurity is hidden in the ground\textsuperscript{176} of the house, the nazir shaves. Rebbi Jacob bar Aha in the name of Rebbi Joshia: The nazir does not shave for most of the skeleton\textsuperscript{177} or most of the bones\textsuperscript{178}.
163 If a tree has a thick crown which forms a roof over an area of at least 4 by 4 handbreadths so that the sky is not visible, and impurity derived from a corpse is under this roof; a nazir which passes under the tree is in a "tent" together with the impurity and has to shave.

164 If the nazir stands outside the tree and only one of his hands is in the crown, he does not become impure by the "tent" formed by the tree. In general, the roof of a "tent" covering an impurity shields anything above it from impurity. The only exception is μελαθρον "squeezed impurity": If the roof of the tent is less that a handbreadth above the impurity, it does not shield but the impurity rises up to the sky and below into the ground (Mishnah Ahilut 7:1, 14:7).

165 This question is directed towards Mishnah Ahilut 6:1 which states that "humans and objects form tents to make impure but not to make pure." In the Mishnah, R. Eliezer disagrees and holds that any roof which brings impurity shields everything above it from impurity. R. Yose notes that the position of R. Eliezer is the only rational one.

166 Since a bed can be moved, it is an object and brings impurity, even if the nazir is more than one handbreadth below the bottom of the bed.

167 Even if the bed is one handbreadth above the corpse it does not form a "tent" to protect the nazir. The ceiling of the room is the "tent" and everything below it is impure.

168 Not in a room, and the frame is not holding bedding. This is a situation similar to that of standing under the gutters attached to a building.

169 A moving "tent" which only transmits rabbinic impurity.

170 Greek μέλαθρον "roof-tree, beam, roof".

171 But not for dwelling.

172 Since Hizqiah was R. Johanan's teacher, practice cannot follow R. Johanan.

173 This now refers to Mishnah Ahilut 4:3: "If [impurity] was in the entrance with the door open, the house is pure; if it was in the house, everything in the house is impure, since it is the way of impurity to leave but not to enter." If the dining hall had no windows (or its windows were narrow slits through which no corpse could be transported), so that the only way out was through the door of the anteroom, it is obvious that everybody in the anteroom was biblically impure if the corpse was in the dining hall. If the corpse was in the outer room, it still was on the same floor in the same
building as the nazir, who would be made biblically impure by the "tent", the ceiling of his room.

174 As explained in the preceding Note, the second case is the more natural and should have been mentioned first. In the formulation given, should one not ask whether in the first case the nazir was not biblically impure since impurity is supposed to leave?

175 This is a commentary on Mishnah Ahilut 6:3. If the wall of a house is rather thick and the "squeezed" impurity (Note 165) is under the inner part of the wall, the house is impure but anybody standing on the roof is pure since the roof intercepts the impurity. But if the "squeezed" impurity (Note 165) is under the outer part of the wall, the house is pure but anybody standing on the wall is impure since a roof does not intercept a "squeezed" impurity. R. Johanan asserts that this rule is biblical.

176 The definition of "squeezed" impurity.

177 The spine and skull (assuming they do not amount to half a qab); cf. Babli 53a.

178 125 bones (assuming they do not amount to half a qab); Mishnah Ahilut 2:1.

"In truth," Rebbi Eliezer\textsuperscript{179} said that every place where they stated "in truth," refers to practice going back to Moses on Mount Sinai.

178 This reading is found also in \textit{Sabbat} 10:4 (12c, l. 46). But in the other occurences in the \textit{Yerushalmi}, \textit{Sabbat} 1 (3b l. 69), \textit{Kilaim} 2:2 Note 36, \textit{Terumot} 2:1 Note 16, the name "Eleazar" (Lazar). In the Babli the quote is anonymous in \textit{Sabbat} 92b; it appears in the name of R. Eleazar in \textit{Baba mesi'a} 60a.
"They shall fall away, for his vow of nazir is impure." From here that the days of impurity fall away. Then should he invalidate? He invalidates only the days of [impurity of] the dead. Why should they not be counted? If you say that days in which he causes [impurity to] couch and seat are counted, days in which he does not cause [impurity to] couch and seat are certainly counted! What did you see to say that they are not counted? Rebbi said in the name of Rebbi Simeon ben Laqish: "For a wild growth of his head's hair." Days of hair growth are counted, days preparing for shaving are not counted. So far in his days of counting; in the days of his definite status? Rebbi Johanan in the name of Rebbi Yannai: "Please do not let her be like a corpse." Since the days of a corpse are not counted, the days of quarantine are not counted. A student quoted this saying of Rebbi Johanan's before Rebbi Simeon ben Laqish, who did not accept it. He said to him: Here, you call it quarantine, but there, you want to call it absolute; you cannot do that. For Rebbi Johanan said in the name of Rebbi Simeon ben Laqish: "Please do not let her be like a corpse; let her be quarantined." Just as the days of the dead are seven, so the days of quarantine are seven.

179 Num. 6:12.
180 The days of certified skin disease cannot count as days of nezirut even though the sufferer from skin disease is also required to let his hair grow.
181 The Mishnah states that a nazir who develops skin disease simply waits
until he is healed and then finishes his count. Why does he not start anew as in the case of impurity of the dead?

182 The biblical law is quite clear that only the impurity of the dead makes him lose the earlier days of his count.

183 Mishnah Kelim 1:4 states that the impurity of the sufferer from skin disease is more severe than the impurity of the female sufferer from flux. For the latter, it is stated explicitly (Lev. 15:26) that any couch and any seat used by her becomes a source of original impurity. No direct biblical source exists for declaring the sufferer from skin disease to cause this kind of impurity; it is derived indirectly in Sifra Meșorah Parashah 2(6). This derivation is accepted at face value by Maimonides both in his Mishnah Commentary (Kelim 1:4) and in his Code (Tum'at Sarait 10:11). The commentators of the Babli (Rashi, Pesahim 67b s. v. 21, Ravad, Commentary to Sifra) have difficulties in accepting the Sifra since it seems to contradict the Babli Pesahim 67b, but a student of the Yerushalmi does not have to consider this, in particular since Ravad does not object to Maimonides's ruling in his Code. For impurity there is no difference between a sufferer from skin disease in quarantine and one positively declared infirm (Mishnah Megillah 1:7, Negaim 8:8).

The argument given here refers to Mishnah Negaim 14:2 which states that the healed sufferer from skin disease in his days of counting, between the preliminary and the definitive purification, is free from all severe impurities and does not cause more impurity than a dead reptile (the slightest of impurities, Mishnah Kelim 1:1). It does not seem to make any sense to accept the days of the severely impure quarantined but not to accept the slightly impure counting sufferer from skin disease (cf. Note 144).

184 There are no sources which would permit filling in the lacuna.

185 Num. 6:5.

186 For the final purification of the sufferer from skin disease.

187 Num. 12:12, speaking of Miriam who was punished for calumniating Moses by becoming a clear sufferer from skin disease (v. 10), not a case of quarantine.

188 Num. 12:14.

189 While the case of Miriam was clearly not one of quarantine, the verse treats it as such by (1) calling her exclusion from the camp "quarantine" and (2) exempting her from the cleansing ritual which is required of
the absolute sufferer but not the absolute sufferer (Mishnah Megillah 1:8, Nega'im 8:8). The verse cannot be quarantined. Rebbi Meir said, this should not be less than the impurity of a dead reptile! Rebbi Aqiba said, I argued before Rebbi Eliezer: If for a barley-grain sized bone, which does not cause impurity to a human in a tent, a nazir shaves if he touches or carries it, should it not be logical that for a quartarius of blood, which causes impurity to a human in a tent, a nazir should have to shave if he touches or carries it? He said to me, what is that, Aqiba? This is not a place for an argument de minore ad majus! When I came and expounded that before Rebbi Joshua, he said to me, you have a good argument, but that is what they said was practice.
190 Explained in Mishnah 2.
191 Explained in Mishnah 3. In Mishnah Parah 11:4 the formulation is: "For any impurity which requires immersion in water by biblical decree, one is guilty if entering the Sanctuary, but for any impurity which does not require immersion in water by biblical decree, one is not guilty if entering the Sanctuary."
192 Which requires immersion in water by biblical decree, Lev. 11:31, and a person is guilty if he enters the Sanctuary when impure, Lev. 5:2.
193 Mishnah Ahilut 2:1.
194 Mishnah Ahilut 2:2. The nazir does not shave, Mishnah 3.
195 "Practice" here means an old tradition, whose origin can no longer be ascertained and which cannot be overruled. The relationship of this kind of practice to the interpretation of biblical verses is not amenable to logical analysis.

Halakhah 4: "Rebbi Eleazar said in the name of Rebbi Joshua," etc. There\(^{196}\), we have stated: "Two are impure from the dead, one is impure..."
for seven days and one is impure by the impurity of evening\(^{197}\). Three are impure from the dead, two are impure for seven days and one is impure until nightfall\(^{198}\). Four are impure from the dead, three are impure for seven days and one is impure until nightfall\(^{199}\). How is it for two? Any person who touches a corpse is impure for seven days; a person who touches him is impure until nightfall," etc. Rebbi Johanan in the name of Rebbi Yannai: All are biblically \[impure\] for heave\(^{200}\), but for entering the Sanctuary only the second impure who touched the first impure. What is the reason? "A person who would be impure and did not purify himself\(^{201}\);" anybody needing purification is guilty for entering the Sanctuary; anybody not needing purification is not guilty for entering the Sanctuary. They objected: But a person who touches objects which touched a corpse needs purification, but is he the second\(^{202}\)? Rebbi Abin bar Hiyya said, for impurity of a person from a person\(^{203}\), not for impurity of a person from objects. The statement of Rebbi Abin bar Hiyya \[implies that\] only the first is guilty\(^{204}\). Since \[for impurity of\] a person from a person only the first is guilty, so here the first is guilty. Rebbi Yose said, only if he immersed himself. That is a statement of Rebbi, since Rebbi said, all impure persons remain impure until the are immersed in water\(^{205}\).

196  Mishnah Ahilut 1:1.
197  As explained at the end of the Mishnah, a person touching a corpse becomes a source of original impurity. A second person touching the first becomes impure in the first degree. The first is subject to the rules of Num. 19, the second can cleanse himself by immersion in water; then he will become pure in all respects at sundown (Lev. 22:7). For degrees of impurity, cf. Demay 2:3, Note 137.
198  Explained in Mishnah Ahilut 1:2: An object touching the corpse becomes impure like the corpse itself (Sifry Num. 130). A second object touches the first; it becomes a source of original impurity; both need the ritual...
of Num. 19. A third object or a human touching the second object becomes impure in the first degree and can become pure at sundown.

199 Explained in Mishnah Ahilut 1:3: An object which touches the corpse becomes impure like the corpse itself. A human touches the first object, becoming a source of original impurity; a second object touches the human, also becoming a source of original impurity. A third object or a human touching the second object becomes impure in the first degree and can become pure at sundown.

200 Not only for heave but also for sacrifices: anything with a status of sanctity. But for profane food, humans, or objects, anything touching a corpse becomes a source of original impurity; the person touching it or him becomes impure in the first degree. In biblical law, no human can become impure by derivative impurity. No person touching anything more than once removed from the corpse can become biblically impure.

201 Num. 19:20: "This person will be extirpated from the congregation, for he desecrated the Eternal's Sanctuary".

202 A person who touched objects which touched objects which touched the corpse is a third in line who is impure by biblical standards and guilty if he enters the Sanctuary unpurified.

203 The statement of R. Johanan refers to impurity of a person induced by a person.

204 Anybody needing the ritual of Num. 19 but entering the Sanctuary without it is guilty of a deadly sin, as stated in Num. 19:20. The person only impure in the first degree, not subject to this ritual, is guilty of a sin but not a deadly one. As explained in Note 199, if the impurity is transmitted by an object, the human may be the second in the sequence.

205 The person impure in the first degree may still commit a deadly sin by entering the Sanctuary (Lev. 22:3) without immersing himself in water. But if he enters (or eats sanctified food) between immersion and sundown, he commits a minor sin (Lev. 22:7).
Rebbi Illa said: He himself, who touched the corpse, is guilty. He said it and gave its reason: "who became impure," that refers to the impurity of a human. But is there not a third? As Rebbi Abun bar Hiyya said, for impurity of a person from a person a man is guilty for impurity in the Sanctuary. They objected: If objects touch the corpse,
a human the objects, and objects the human. For impurity of a person from a person, not for impurity of a person from objects. Rebbi Zeriqa in the name of Rav Hamnuna: The Tanna there disagrees with Rebbi Ilia: "For an object made half of cement-earth and half of dung one is not guilty for coming to the Sanctuary. Because it is half of earth and half of dung; but if it were totally of earth, one would be guilty. Who is guilty? Not the one who touches it? Is he not the second who touches the first? Rebbi Phineas said before Rebbi Yose: Explain it if he threw it. He answered him, about him who threw it we stated: For washing his body he is subject to extirpation, for washing his garments to the forty. Rebbi Eleazar ben Rebbi Yose said before Rebbi Yose, do we not have the Mishnah in support of that first Tanna, as is stated: "Rebbi Eleazar said in the name of Rebbi Joshua: For any impurity caused by a corpse for which the nazir shaves, one is guilty if entering the Sanctuary, but for any impurity caused by a corpse for which the nazir does not shave, one is not guilty if entering the Sanctuary." For the first, for which the nazir shaves, one is guilty if entering the Sanctuary; for the second, for which the nazir does not shave, one is not guilty if entering the Sanctuary. Rebbi Johanan said, it is needed from what comes from the corpse: For a quartarius of blood or a quarter qab of bones, for which the nazir does not shave, one is not guilty if entering the Sanctuary; for half a log of blood and half a qab of bones, for which the nazir shaves, one is guilty if entering the Sanctuary. Rebbi Jeremiah said, we were of the opinion that they disagree about a sacrifice, but one whips even the third, even the fourth. Rebbi Yose from Sidon stated before Rebbi Jeremiah in opposition to Rebbi Jeremiah: "For any impurity caused by a corpse for which the nazir shaves, one is guilty if entering the Sanctuary, but for any impurity caused by a corpse for which the nazir
does not shave, one is not guilty if entering the Sanctuary." Rebbi Yose
ben Rebbi Abun said, Rebbi Yannai, Rebbi Johanan: It is needed from
what comes from the corpse: For a quartarius of blood or a quarter qab
of bones, for which the nazir does not shave, one is not guilty; for half a
log of blood and half a qab of bones, for which the nazir shaves, one is
guilty.

206 He holds that a deadly sin is
only committed if a person impure by
contact from body to body is entering
the Sanctuary, not if the impurity was
transmitted by contact with an object
as explained in Notes 197,198.
207 How could it be that a person
needs purification by the rites of Num.
19 and not be guilty entering the
Sanctuary unpurified?
208 The verse does not deal with
the impurity transmitted by objects; its
status remains indeterminate.
209 Tosephta Kelim Baba Mes'ı'a 1:5
says the same in different words.
210 Probably clay is meant; earth of
a consistency from which objects can
be made. Clay objects are the
paradigm of objects which can become
impure; they cannot be purified except
by being broken.
211 Objects made of dried camel or
cow dung cannot become impure.
212 If such an object was brought to
the Sanctuary after being exposed to
impurity, no sin was committed.
213 Since an object cannot be guilty,
the human who touches it must be
guilty. This contradicts both R. Ila and
R. Abin bar Hiyya.
214 Somebody threw an impure clay
object into the Sanctuary grounds.
Then there is no question of a human
entering the holy precinct.
215 A person is impure in original
impurity who transmits impurity to his
garments. If he enters the Sanctuary
while impure, he commits a deadly sin
with his body. But at the same time, he
carries his impure garments into the
holy precinct. This is a separate
offense, punishable by 39 (= 40-1)
lashes. The implication is that a person
throwing an impure object into the
Sanctuary is whipped but not subject to
Divine extirpation.
216 R. Ila, an Amora.
217 R. Johanan holds that the entire
discussion up to this point is based on a
false premise. It is clear to him that
anybody impure in at least the first
degree is forbidden access to the
Sanctuary on penalty of extirpation. R. Joshua’s statement only deals with the impurity generated by the corpse. Such impurity prohibits the person contaminated by it (or any of its derivatives up to the level of first degree impurity) from entering the Sanctuary if and only if it forces the nazir to shave.

218 He tries to salvage the opinions of R. Illa and R. Abin ben Hiyya, that everybody would agree that any person entering the Sanctuary in impurity commits a sin; the question would only be about a sacrifice for an unintended infraction. But for wilful transgression, the Mishnah in Ahilut is quite clear that it is punishable even for the third and fourth person.

219 He confirms the interpretation given in Note 217.

220 The order of the last two names has to be inverted: R. Yose ben R. Bun said in the name of R. Johanan who heard it from R. Yannai.
Mishnah 1: If a person said to two nezirim: I saw one of you becoming impure but I do not know which one of you it was, they bring\(^1\) one sacrifice of impurity\(^2\) and one of purity\(^3\). One of them says, if I am impure, the sacrifice of impurity is mine and that of purity is yours; otherwise the sacrifice of purity is mine and that of impurity is yours. Then they count another thirty days\(^4\) and bring one sacrifice of purity; (Mishnah 2) one of them says, if I was impure, the sacrifice of impurity was mine and that of purity was yours, hence this is my sacrifice of purity; otherwise the sacrifice of purity was mine and that of impurity was yours, hence this is your sacrifice of purity.

\(^1\) They purify themselves from the impurity of the dead and at the end of their period of nezirut they shave and bring the sacrifices in common.

\(^2\) Two birds and a sheep.

\(^3\) A male and a female sheep and a ram.

\(^4\) Assuming that both had vowed the standard period of 30 days. Otherwise they would have to repeat the longer of the respective periods of nezirut.
Mishnah 2: If one of them died, Rebbi Joshua said, he should seek out a person from the general public who would make a vow of nazir corresponding to his needs and say: If I was impure, you are a nazir immediately, but if I was pure, you are a nazir after 30 days. They count 30 days and bring one sacrifice of impurity and one of purity (Mishnah 3) and he says: If I am impure, the sacrifice of impurity is mine and that of purity is yours; otherwise the sacrifice of purity is mine and that of impurity is questionable. Then they count another thirty days, bring one sacrifice of purity (Mishnah 4) and he says: If I was impure, the sacrifice of impurity was mine and that of purity was yours, hence this is my sacrifice of purity; otherwise the sacrifice of purity was mine and that of impurity was questionable; hence this is your sacrifice of purity.

5 Then the survivor is in danger of never being able to conclude his nezirut since, not knowing which sacrifice to bring, he can bring neither.

6 And the sacrifice of purity will be yours.

7 The sacrifice of impurity consists of two birds. The one offered as elevation sacrifice can be given as obligation, if there was impurity, or as voluntary gift, if there was none. The bird offered as purification sacrifice cannot be eaten by the priests; after its blood was used, it has to be burned outside the Temple precinct (Mishnah Temurah 7:6).
Mishnah 4: Ben Zoma said to him, who would accommodate him to make a vow of nazir corresponding to his needs? But he brings a bird as purification offering and an animal as elevation offering and says: If I was impure, the purification offering is for my obligation and the elevation offering is voluntary. But if I was pure, the elevation offering is for my obligation and the purification offering is questionable. Then he counts 30 days and brings one sacrifice (of impurity and one) of purity (Mishnah 5) and says: If I was impure, the first elevation offering was voluntary and the one now is for my obligation. But if I was pure, the first elevation offering was for my obligation and now I am bringing the remainder of my sacrifices. Rebbi Joshua said, then it turns out that he brings his sacrifices piecemeal! But the Sages accepted the words of Ben Zoma.

8 While this offering is incomplete, it is sufficient to let him shave and restart his nezirut.
9 Of all kinds of offerings required from a pure or impure nazir, only the elevation offering can be voluntary.
10 The clause in parenthesis is obviously false; it is missing in the Babli and the independent Mishnah mss.
11 If he was pure, he brings the first offering 30 days before the other two, but the verse (Num, 6:14) calls all three sacrifices together "his sacrifice" in the singular, meaning that they have to be offered together.
12 As the only reasonable solution to an intractable problem.
Halakhah 1: "If a person said to two nezirim," etc. Not only if he said to one of them, "I saw one of you becoming impure but I do not know which one of you it was," but even if he said, "I saw one of you vowing to be a nazir but I do not know which one of you it was," both of them have to follow the rules of nazir because of his testimony. If they do not contradict him. But if they contradict him, this does not apply. If both of them contradict, it parallels the following: "If one witness says, he became impure, but he says, I did not become impure, he is pure. If two witnesses say, he became impure, but he says, I did not become impure, the two are believed more than he is, the words of Rebbi Meir. But the Sages say, everybody is believed about himself." Rav Jehudah in the name of Rav: So is the Mishnah: Rebbi Meir declares impure, Rebbi Jehudah and the Sages declare pure. Rebbi Johanan said, so is the Mishnah: Rebbi Meir declares impure, Rebbi Jehudah declares pure.
The rabbis' words support Rebbi Johanan, since Rebbi Gurion said in the name of Rebbi Yose ben Hanina: Rebbi Jehudah said this only about an old impurity, for he can say to them, I had been impure but I purified myself, and we have stated: The same holds for eating suet; the same holds for entering the Sanctuary. Should they not accept his position for impurity? Because of the impurity of a nazir, could they not say, where is the sacrifice which you brought? Then should they not accept his position for heave? So far the questions of Rebbi Hanina.

13 In this case it can really happen that the witness knew of a "tent" impurity unknown to the nezirim.

14 In matters of ritual law, the uncontested testimony of a single witness is valid.

15 A contested testimony of a single witness is worthless, not even admissible as supporting evidence.

16 It seems that the text, דָּבָר, is an error for דָּבָרָה, "two [witnesses]." The concurrent testimony of two witnesses must be believed by biblical standards.

17 Mishnah Taharot 5:9.

18 In this matter of the standing of two witnesses, the Sages fully accept the position of R. Jehudah.

19 But the Sages disagree with R. Jehudah; the Mishnah should have mentioned R. Jehudah and not the Sages. In his interpretation, the Sages follow R. Jehudah in accepting the statement of a person accused of a sin even against two witnesses but not in cases of impurity.

20 If at least one evening has passed since the possible impurity and the person in question denies that he was impure, we read from his disclaimer that he admits having incurred impurity but eliminated it quickly by immersion in a miqweh.

21 A single witness can force a person to bring a purification sacrifice for committing a sin. But since for an intentional sin, no purification sacrifice is possible, the person accused of committing the sin can always assert that he committed the sin intentionally and, therefore, cannot bring a sacrifice. Then he also must be believed if he asserts that he did not commit the sin (Babli Keritut 12a). (Talmudic law does not accept confessions since testimony of relatives is excluded and "everybody is related to himself." Therefore, the person asserting that he
intentionally committed the sin attributed to him by a single witness, cannot be prosecuted.)

22 The nazir brings a sacrifice for becoming impure by the impurity of the dead whether incurred willingly or involuntarily. The sacrifice is a public act; he cannot claim to have purified himself in private.

23 If an unauthorized person is accused of eating heave, he can always claim to have done it intentionally; so he does not have to pay the 25% fine (Mishnah Terumot 7:1).

Rebbi Mana understood it from the following: "They told him, if he wishes, he says that he did it intentionally." What can he say for an assigned slave girl? In error, he is obligated; intentionally, he is obligated! He can tell him, I touched her but did not finish, or as Rebbi Simeon ben Laqish said, I was forced to it by the spell she put on me.

For a nazir what can you say? In error, he is obligated; intentionally, he is obligated; forced, he is obligated! "Suddenly", to include in error, "suddenly", to include intentionally. "There was a condition in my mind that if I should become impure, my nezirut should burst away from me and a new nezirut would fall on me"; in any case he was not obligated to...
be a nazir until now. ("There was a condition in my mind that if I should become impure, my nezirut should burst away from me and a new nezirut would fall on me"; in any case he was not obligated to be a nazir until now.) What do you have in case of an oath? In error, he is obligated; intentionally, he is obligated! A condition may apply to words; there is no condition for oaths! It follows what Rebbi Abba said, Rav Jehudah: For error, its sacrifice, for intention, its sacrifice. But if he said, I thought that this was no oath, he is free. Therefore, all these subjects cannot be stated, but the following can be stated.

24 Read: חותם (already corrected in editio princeps).
25 That the Sages and R. Jehudah do not agree about the weight of a person's disclaimer as against two witnesses to his actions.
26 Mishnah Keritut 3:1.
27 Lev. 19:20-22, the case of a man sleeping with a slave girl assigned as a future wife to another free man. As long as the girl is not totally freed, she cannot marry the man to whom she is assigned. Therefore, her relations with another man are not adultery. A reparation offering is required from the man. This is one of the few cases in which a sacrifice is possible for deliberate sin.
28 If in the dark he thought that she was his wife.
29 This is the case treated by the verse. If he denies the accusation by two witnesses, one cannot take his denial as assertion that he did it but already had remedied the situation.
30 This is a first explanation: A sacrifice is due only if there was an ejaculation of semen (v. 20). If he took the slave girl to bed but stopped before there was an ejaculation, no sacrifice is due.
31 He disclaims responsibility by reason of temporary insanity caused by the girl's charms. This is enough to support his disclaimer against even two witnesses.
32 Exposed to the impurity of the dead; the case of the Mishnah.
33 This is proof that the nazir must bring his sacrifices even if forced. The reference is to Num. 6:9. In all other sources, Sifry Num. 28 [= Num. rabba 10(31)], Babli Keritut 9a, the inference is from the double expression "if a
person should die near him suddenly, unexpectedly... "Suddenly" is taken to refer to accidental impurity, "unexpectedly" to outside force (Sifry) or outside force and intention (Babli).

34 Since the vow of nezirat could have been formulated in a way that eliminates the possibility of a sacrifice for impurity, the testimony of the witnesses can be explained away.

35 A case of dittography.

36 If two witnesses tell a person that he owes a sacrifice because he has violated an oath imposed on him by other people (Lev. 5:1,4). How can he be believed if he denies the accusation?

37 Mishnah Keritut 2:2.

38 If he undertakes anything, he may add conditions. If others (usually a court of law) impose an oath on him, he swears according to their understanding, rather than his own.

39 Here, there may be a case in which no sacrifice can be demanded if the interested party denies their obligation.

40 In all cases discussed so far, the Sages cannot disagree with R. Jehudah; that is possible only in the cases dealt with in the next paragraph.
41 From what Rebbi Yose said, "X ate suet, and they warned him," he is not whipped. If one person said to him, you are a nazir, and based on this testimony he behaved like a nazir, when then he drank wine or became impure in the impurity of the dead, if two warned him, he is whipped. Is not the main testimony given by a single witness?

From what Rebbi Mana said, "X is the wife of a Cohen and whored; her husband, a Cohen, then had relations with her but I had warned him," he is [not] whipped. If she went to a secluded place in the presence of two, and one said, I saw her that she became impure; when her husband, the Cohen, had relations with her but two had warned him, he is whipped. Is not the main testimony given by a single witness?

41 From Sotah 6:2, Notes 34-42.

The readings from the Leiden ms. in Sotah are noted 6, those from a Genizah text 2. The sentence which really refers to the discussion here is missing in the text; the scribe omitted from the first יא to the next occurrence; cf. Sotah p. 252.

"They bring one sacrifice of impurity and one of purity." That is, if they are at the end of thirty days42. But if one is in the middle of thirty days, one has to wait till the end of thirty days. If both of them were nezirim for thirty days. But if one was a nazir for thirty and the other a nazir for 100, one has to wait for 100. Rebbi Jacob the Southerner asked before Rebbi Yose: If one of them became impure during these days, what is the rule? He said to him, like one who has to seek out a person from the general public43.
The Mishnah seems to indicate that immediately after being informed of the impurity, the nezirim bring the sacrifices. This impression is rectified here; the first set of sacrifices is due only if both have satisfied the terms of their original vows.

The nazir who is not impure without a doubt observes the rules (either following R. Yose or Ben Zoma) for a person possibly impure whose companion nazir has died (Mishnaiot 2-4).

If he drank wine within the first 30 days, he is (not) whipped; within the last 30 days, he is [ ] whipped. The one coming from the general population cannot be whipped, either for the (second) or the last period. So far, if he was warned separately for each period this is the disagreement between Rebbi Johanan and Rebbi Simeon ben Laqish who disagreed about the two days of holiday in the diaspora. Rebbi Johanan said, one accepts warning in case of a doubt; Rebbi Simeon ben Laqish said, one does not accept warning in case of a doubt.

Here begins the discussion of Mishnaiot 2 ff. The scribe (or the text he copied from) switched the places of "whipped" and "not whipped". If one of the nezirim died, the other certainly has to finish the period of his vow and then has to start a second period because he might have been impure and the nezirut of part of his first period might have been invalid. Since the first period was in fulfillment of his vow of nazir, any transgression is prosecutable. But since he keeps the second period only because of a doubt,
even if there are two witnesses both to
his vow of nazir and to his drinking
wine, a prosecutor could not prove that
a crime certainly had been committed.
Nobody can be found guilty by a
human court if the crime was not
proven.
45 Since his nezirut in both periods
is conditional, the certainty of his
crime is not provable.
46 Even if the crime was proven, a
conviction is possible only if criminal
intent was proven by two witnesses
who testify that the perpetrator was
warned of the criminality of his
undertaking; cf. Kilaim 8:1, Note 9.
47 It is clear that either the first or
the second period of nezirut are in
fulfillment of his vow, even if it is not
known which period counts in biblical
law. If the nazir was warned for both
during his first period after it was
determined that he had to keep a
second period, and he drank wine
during both periods, the fact of the
crime has been established. (The
separate problem, that the accused
might have forgotten the warning if it
preceded the action by a long time, is
not considered here.)
48 נמרוד is the Babylonian form
for Galilean נמרוד.
49 Before the publication of the
computed calendar, communities which
could not be informed by messengers
about the determination of the first
days of the months of Nisan and Tishri,
kept two days of holidays to account
for possible variations in the dates.
Since each day was only one of a
possible two, no work on the holidays
could be prosecutable unless the
warning was given for both days, the
infraction occurred on both days, and
this kind of long-term conditional
warning was accepted in court. [After
the publication of the calendar
computations, the first day of a holiday
is of biblical character; the second day
is of purely rabbinic character and is
kept only because the algorithm was
published on condition that its users
continue to keep the second day
(Eruvin 3:10 21c l. 24; Babli Besah 4b).]
50 Ye?amot 11:7 (Note 171),
Pesahim 5:4 (32s l. 5); Babli Makkot
16a.
"I made a vow of *nazir* but I forgot whether it was for now or for a later date. They told him, this [warning] is for now, and that for the later date. If he drank wine within the first 30 days, he is [] whipped; within the last 30 days, he is (not) whipped. Should one not say that the first days may be within the period of his vow, the later ones are after the period of his vow? "All days of his status as *nazir* to make the days after he finished his term like the days before he finished his term with respect to wine, impurity, and shaving.

51 From the context it seems that he vowed a standard 30 day *nezirut* but does not remember whether it was to begin immediately or after 30 days. Then he has to keep 60 days and bring one set of sacrifices after 60 days.

52 Here again, the statements are switched. He cannot be convicted during the first 30 days since it cannot be proven that he is obligated during these days.

53 How can he be convicted for drinking wine during the second 30 days when it cannot be proven that these were intended by his vow (unless he drank during both periods)?

54 *Num. 6:4.* As spelled out in v. 20, the *nazir* is forbidden to drink wine until he has brought his sacrifices. Since he did not bring sacrifices after the first 30 days, during the second 30 days he certainly is guilty, either because of his vow of the second 30 days or as an extension of his vow of the first 30 days for which the sacrifice was not yet offered.

Why can he not bring his sacrifices one by one? Not to preclude answers in the house of study.

55 This refers to the objection R. Joshua voiced to the method proposed by Ben Zoma. There is no reason why the sacrifices could not be brought at different times; R. Joshua offered his objection as a training exercise to his students.
students, lest they accept any statement without subjecting it to criticism and also that they should not be afraid to propose hypothetical answers which could be disproved by analysis.

56 (The community) [A person] who became impure by a doubt relating to a private domain on Passover. Rebbi Hoshiaia said, he should be pushed to the Second Passover. Rebbi Johanan said, one sends him on a far journey. This follows what Rebbi Johanan said, if he became impure by the impurity of the abyss, one sends him on a far journey. (A nazir) [The community] who became impure by a doubt relating to a private domain on Passover. Rebbi Johanan said, it should be presented in their doubt; Rebbi Hoshiaia said, it should be made in impurity. The great Rebbi Hoshiaia also agrees that it should be presented in their doubt; what Rebbi Hoshiaia said referred only to restrictions.

56 This paragraph presents textual difficulties. Since the following paragraph makes sense only in Pesahim 8:8, the present paragraph also must be parallel Pesahim 8:8 (36b l. 43 ff.) But the text there is quite different from the text here; they are not versions of a common original. In the text, the words "the community" and "a (single) person" have switched places. In Pesahim, different questions are asked, and the comparison is between "the community" and "a nazir", which would make better sense here.

57 It is a general principle that doubts about impurity are resolved by treating doubts in a private domain as certain impurity, in a public domain as certain purity (cf. Sotah 1:2, Note 88). The rule becomes ineffective if the
doubt arises in a domain whose status is in doubt.

58 The 14th of Nisan, the day on which the Pesah sacrifice has to be slaughtered in the afternoon.

59 The 14th of Iyyar, instituted for someone who either was impure or "on a far journey" on the 14th of Nisan (Num. 9:9-14). R. Hoshiaia treats him as certainly impure; he can stay near the Temple precinct and nevertheless celebrate the "Second Passover".

60 For R. Johanan the case remains one of doubt. If he stayed near the Temple precinct, he could celebrate neither the first (not being pure) nor the second (not being impure) Passover. Therefore, one sends him away so he can celebrate the Second Passover under a different qualification.

61 In Pesahim, this is called "the impurity of a broken field" (cf. Mishnah 7:3, Note 138); it applies to all impurities rabbinic in character. If the person incurs the impurity during the 14th of Nisan, he cannot offer the First Passover because he becomes pure after immersion in a miqweh only at sundown. He cannot offer the Second Passover because he was not biblically impure on the 14th of Nisan. He has to leave Jerusalem to be sufficiently "far away" in the afternoon of the 14th of Nisan.

62 The Second Passover was instituted only for individuals; if the majority of the people were impure, the Passover sacrifice was offered in impurity (Mishnah Pesahim 7:4,6).

63 Since the community offers the First Passover in impurity, the difference between the two opinions is only that for R. Johanan the pure minority offers its sacrifices in purity whereas it seems that for R. Hoshiaia the minority is obligated to follow the majority. This interpretation is rejected in the next sentence so that there remains no material difference between the two statements.
Rebbi Johanan in the name of Rebbi Benaiah: One sprinkles on an uncircumcised Jew, for we find that our forefathers in the desert received sprinkling when uncircumcised. Rav Hisda said, following him who said that they circumcised on the eleventh. But for him who said that they circumcised on the tenth, they did not count sprinkling when uncircumcised. Rebbi Abin said, did they not have to count for sprinkling when uncircumcised in any case? Rebbi Eleazar in the name of Rebbi Hanina: It happened that an uncircumcised Cohen was sprinkled and the sprinklings were declared valid. It was stated: Rebbi Eliezer ben Jacob says, there were soldiers and gate keepers in Jerusalem who immersed themselves and ate their Passover sacrifices in the evening.

The parallel text is in Pesahim 8:8 (36b, l. 55ff.) It belongs there and has no direct connections with the topics discussed here. A parallel discussion is in the Babli, Yebamot 71b.

The person impure by the impurity of the dead has to be sprinkled with water containing ashes of the Red Cow on the third and the seventh day of his impurity (Num. 19). The uncircumcised is barred from the Passover sacrifice (Ex. 12:48). It is asserted that the uncircumcised can purify himself from the impurity and, being circumcised later, participate in the Passover celebration.

Not in the desert, but after crossing the Jordan on the 10th of Nisan (Jos. 4:19). They were then circumcised (Jos. 5:2-8) and celebrated Passover on the 14th (Jos. 5:10).

If they were circumcised on the 11th they had to be sprinkled on the 10th, when they still were uncircumcised, in order to become pure on the 14th.

Rav Hisda’s argument has to be rejected since if sprinkling on an uncircumcised person is ineffective, the underlying counting (of the third,
seventh days) also must be ineffective. But for the Passover on the 14th, the counting had to start on the 7th, when according to the biblical text everybody (except Joshua, Caleb, and possibly Levites and/or Priests) were uncircumcised. He will hold that the first Passover in Canaan was held in impurity. This argument, represented in the Babli, *loc. cit.*, by Mar Zutra, there is rejected by Rav Ashi.

69 In *Pesahim*: "he sprinkled" (active verb form).

70 Greek στρατιώτης.

71 They were Gentiles who converted to Judaism, were circumcised on the 14th of Nisan, immersed themselves in a *migveh* and participated in Passover, not needing cleansing by sprinkling following the House of Shammai (Mishnah *Pesahim* 8:8).

Mishnah 6: A *nazir* who was doubtfully impure and doubtfully definitely [suffering from skin disease] may eat sacrificial meat after 60 days and drink wine and become impure by the dead after 120 days, since the shaving for skin disease supersedes the shaving of the *nazir* when it is certain, but when it is in doubt it does not supersede.

72 A person who has completed the 30 days of his *nazir* vow but is not sure whether or not he became impure from the impurity of the dead in his period of *nezirut*. Also, he was recently healed from skin disease. The sufferer from skin disease is called "definitely suffering from the disease" only if the conditions for impurity apply and he was declared impure by a Cohen (*Lev.* 13:8,11,20,22,25,27,30,44). A definitively suffering person has to be cleansed by the ritual of *Lev.* 14:1-32 which includes repeated shavings of all his hair. In the case treated in the Mishnah, the person was in a group where one was declared definitively
affected, but the Cohen does not remember whom in particular he declared impure.

73 After he was healed from skin disease, purified from his impurity, and has completed the 30 days of his vow, he shaves the first time for his rehabilitation from skin disease. He cannot do it before he has completed the 30 days since he might be a pure nazir for whom it is forbidden to shave for a possible impurity of skin disease, as explained at the end of the Mishnah. He then should count seven days and shave a second time, but he cannot do that since he might have been impure and the shaving was not for his skin disease but for his impurity. Therefore, he can shave a second time and finish his purification from skin disease after an additional nazir period of 30 days; then he is able to partake of sacrificial meat.

74 He cannot drink wine after 60 days since he might have been definitively sick but pure from the impurity of the dead; the period of his impurity as a sufferer from skin disease is not counted for his nezirut (Halakhah 7:3), which he has to keep for another 30 days. He cannot drink wine after 90 days since he might have been both definitively sick and impure from the impurity of the dead; his three shavings take care of the impurities both of skin disease and of the impure nazir; he has satisfied his obligations after 120 days and four shavings. The details of the required procedures and sacrifices are explained in the Halakhah.
Halakhah 2: Who is doubtfully definitely [suffering]? Two who came to him\(^{75}\). He declared one of them definitively affected but before he could declare the second one definitively affected, they were changed for him\(^{76}\). That is a doubtfully definitely [suffering person]. This is the one about whom Rebbi Hiyya stated\(^{77}\): A nazir, in doubt whether impure or pure, but certainly he was a nazir. A sufferer from skin disease, in doubt whether impure or pure, but certainly he was a sufferer from skin disease. He eats from sacrificial meat after 60 days, drinks wine and defiles himself for the dead after 120 days. How is that? One said to him, you are an impure nazir, go count seven [days]. He sprinkled, repeated, shaved, and brought\(^{78}\). He then counted seven [days] and wanted to shave. One said to him, impure nazir, go count seven [days] and continue for 30. He counted 30 [days] and wanted to shave. One said to him, you are a pure nazir; does not a pure nazir shave on kinds of blood\(^{79}\)? He brings an elevation offering and shaves on it, a bird purification offering and stipulates, saying: "If I was impure, the purification offering is my obligation and the elevation offering is voluntary. If I was pure, the elevation offering is my obligation and the purification offering is in doubt." He shaves his head, his beard, and his eyebrows in the way the sufferer from skin disease shaves\(^{80}\).

\(^{75}\) To a Cohen knowledgeable in the diagnosis of skin disease.

\(^{76}\) Since he does no longer recognize them, he cannot declare the second one definitively impure, even though he realizes that both of them satisfy all criteria of impurity, since the Cohen may not see two cases together (Mishnah Nega'im 3:1), and by now both are healed (cf. S. Lieberman, Tosefta kiFshutah Nezirut p. 563.)

\(^{77}\) Tosephta Nazir 6:1. (Cf.
The offerings of two birds required from the impure nazir. The sentence can also be interpreted as imperative: Go count seven [days], sprinkle, repeat (on day 7), shave (on day 7), and bring! The Erfurt text of the Tosephta is self-contradictory; it is partially vocalized, but the consonantal text is in the imperfect, the punctuation in the imperative.

He cannot shave without an appropriate sacrifice. In the Tosephta, the sentence is declarative: "A pure nazir shaves only on a bloody sacrifice".


Halakhah 3: 77 How does one deal with him in a restrictive way? He brings two swallows and slaughters one of them over a clay vessel filled from running water; one digs und buries it, for it is forbidden for usufruct. He shaves his head, beard, and eyebrows in the way the sufferers from skin disease do. He counts 30 days and brings another animal as elevation offering, saying: "If I was impure, the first elevation offering was voluntary and this one is obligatory, and the purification offering is my obligation. If I was pure, the first elevation offering was my obligation, this one is voluntary, and the purification offering is in doubt." He shaves his head, his beard, and his eyebrows in the way the sufferer from skin disease shaves.
81 Mishnah *Nega'im* 14:1 (Lev. 14:4-5).

82 This translation follows the Tosephta text. In ms. and editio princeps at both places ḳו "or" instead of ה"and this one".

83 As required in the purification ritual for the sufferer from skin disease, *Lev.* 14:10.

84 The healed person has to bring three sacrifices (*Lev.* 14:10,21-22), but only the sheep as reparation sacrifice is needed in the purification ceremony.

85 A *log* is .533 l.

84 This text cannot be accepted; it makes no sense and contradicts the last statement in the Halakhah. The text should be replaced by the corresponding one in the Tosephta: מַעְרָךְ לָא מְרַי עַד שֶׁנְהַמֶּרֶךְ נִכְנֶשׁ "otherwise, it should be a voluntary well-being offering". It is impossible to bring a reparation offering except for an obligation but a well-being offering is voluntary in almost all cases.

87 Since a reparation offering is "most holy", it must be slaughtered to the North of the altar (*Lev.* 7:2). The Tosephta adds that the sacrifice also needs the obligatory gifts accompanying a well-being offering.

88 Blood of the sacrifice and oil from the flask have to be put on the convalescent's right earlobe, right thumb, and right great toe (*Lev.* 14:14,17).
89 Any place within the Temple precinct; *Lev. 7:6*, *Mishnah Zebahim 5:5*.

90 Text of the Tosephta, required by the context.

91 Well-being sacrifices may be eaten by all pure Israelites for two days and the intervening night, reparation sacrifices only by priests and only for a day and half a night. There is a likelihood that some of the meat of the reparation sacrifice will become invalid after midnight; it has to be burned outside the Temple precinct. This is an alienation from the original purpose and has to be avoided.

92 The Tosephta is more explicit:

"Because an animal purification sacrifice cannot be offered in case of doubt."

93 The offering of the poor person healed from skin disease, *Lev. 14:22*.

94 *Mishnah Nega'im 14:12*.

95 Then he is poor.
Halakhah 6: He may eat sacrificial meat immediately. He cannot drink wine or defile himself for the dead since his *nezirut* is not counted during the days of his [impurity of] skin disease.

Halakhah 7: He counts another 30 days and brings all his sacrifices, stipulates, and says: If I was impure, the first elevation offering was obligatory and this one is voluntary. But if I was pure, the first elevation offering was voluntary and this one is obligatory. The purification offering is in doubt. He shaves his head, beard, and eyebrows, etc.

It is difficult to make sense of this text (which has no parallel in the Tosephta). The last sentence is certainly out of place since the ceremonies at the end of 60 days disposed of all possible impurities of the sufferer from skin disease. He cannot bring the entire set of sacrifices of the pure *nazir* before 120 days, as explained in Note 74. In addition, since an impure *nazir* has to bring a bird as elevation offering, rather than a four-legged animal, it is clear that after 120 days the declaration must read: "If I was impure, the first elevation offering was voluntary and this one is obligatory. But if I was pure, the first elevation offering was obligatory and this one is voluntary." It seems that a paragraph is missing, describing the offering after 90 days (which is parallel to the one after 30 days for the person who might have been impure by the impurity of the dead, Mishnah 3) and that the duly corrected present paragraph describes the sacrifices after 120 days.
Halakhah 8: How does one treat him according to Ben Zoma? He brings an animal elevation offering and shaves for it, a bird as purification offering, stipulates, and says: "If I was impure, the purification offering is for my obligation and the elevation offering is voluntary. If I was pure, the elevation offering is for my obligation and the purification offering is in doubt." He shaves his head, beard, and eyebrows, etc.

Halakhah 9: He may drink wine and defile himself for the dead immediately. When has this been said? If he made the vow of nazir as a nazir, but if he made the vow of nazir as a sufferer from skin disease he might eat sacrificial meat after two years, drink wine, and defile himself for the dead after four years.

97 This text is hopelessly garbled. to the Tosefta:

98 It seems that the original text was close...
and says: "If I was impure, the purification offering is for my obligation and the elevation offering is voluntary. If I was pure, the elevation offering is for my obligation and the purification offering is in doubt." Then he counts 30 days, brings the completion of his sacrifices and an animal elevation offering, stipulates, and says: If I was impure, the elevation offering was voluntary, the present one is obligatory, and the bird purification offering is obligatory. If I was pure, the prior elevation offering was obligatory and the present one voluntary; the purification offering is in doubt." He immediately drinks wine and defiles himself for the dead. When had this been said? If the vow of nazir was for 30 days. But if his vow was for 12 months, he eats sacrificial meat after two years, drinks wine, and defiles himself for the dead after four years.

a Ben Zoma disagrees with R. Simeon and holds that the healed sufferer from skin disease can cleanse himself by the bird purification sacrifice of the poor, without a reparation sacrifice. The Tosephta text also is defective, since Ben Zoma also agrees that complete purification is possible only after four periods. The original statement also must have contained four parts, not two as in the current text.

b As Tosaphot explains in Zebahim 76a, it is assumed that he already cleansed himself from the impurity of the dead by sprinkling. This shaving is valid if he was not impure from skin disease; it is useless if he was impure from skin disease since then it was not done in the correct framework and nezirut is not counted during his skin disease impurity.

c After another 30 days.

d The well-being offering of the pure nazir. He cannot bring the animal purification offering since this may not be offered in cases of doubt. Naturally, he also shaves for this sacrifice, and he has to stipulate that all sacrifices are either voluntary or in doubt in case he was already completely purified by the prior shavings.

e This text is from the Vienna ms. and the editio princeps. The Erfurt ms. reads "If I was impure, the prior purification offering was obligatory, the present one is voluntary, and the bird purification offering is obligatory. If I was pure, the prior elevation offering was voluntary and the present one obligatory; the purification offering is in doubt." It seems that the two texts are not variations of one
another (which would make the Erfurt text obviously erroneous) but residues of two different paragraphs of the original four-part text.

1 The forth period; its sacrifices and declarations are missing.

98 This sentence is out of place here.

99 There is a possibility that the original text underlying the Halakhah was not that of the Tosephta but referred to the situation mentioned by R. Ze'ira in the next Halakhah.

Halakhah 10: Rebbi Johanan said, these are Ben Zoma's words, but the words of the Sages: Forever is he definitively [impure] until he heave\textsuperscript{100} the reparation sacrifice\textsuperscript{101}. Rebbi Jeremiah asked: Why is he definitively [impure] until he heave the reparation sacrifice\textsuperscript{102}? Rebbi Yose said to him, why not? We find several reparation sacrifices which are pushed aside because of doubts! As we have stated there\textsuperscript{103}: "If a reparation sacrifice was mixed up with a well-being sacrifice, Rebbi Simeon says that both should be slaughtered in the North and eaten following the more restrictive rules. They said to him, one does not cause sacrifices to become invalid\textsuperscript{91}.

100 Lev. 14:12,24.

101 The entire purification of the convalescent from skin disease is by the blood of the reparation sacrifice and the olive oil; the other sacrifices are dependent on the reparation sacrifice; cf. Mishnah Nega'im 14:11.

102 This would imply that the nazir who may be impure from the dead and may be definitively impure from skin disease can never cleanse himself for sacrificial meat since R. Simeon's
The purification of the convalescent in all other respects only depends on the ceremonies described in Lev. 14:1-9, which do not require any sacrifice (Mishnah Nega'im 14:3; Maimonides Tum'at Sara'at 11:2).

103 Mishnah Zebahim 8:3. The animals should be put out to graze until they develop a blemish, when they can be sold and the money used for new sacrifices. In the meantime, the owners of the sacrifices can fulfill their obligations only by offering substitute animals.

Rebbi Jacob the Southerner asked before Rebbi Yose: Could they not arrange something for his wine104? He said to him, "the nazir shaves at the gate of the Tent of Meeting105;" if he is able to appear at the gate of the Tent of Meeting. This excludes him who is unable to appear at the gate of the Tent of Meeting.

104 Why does the nazir have to wait until the problems arising from the skin disease are resolved, which in the best case takes 2 periods of nezirut and in the worst forever? Why can he not shave twice within eight days to remove the impurity of skin disease (for profane purposes and heave) and then proceed directly to resolve the problem of nezirut?

105 Num. 6:18. The nazir cannot proceed to liquidate his vow as long as he is barred from holy places. (Cf. also Note 110).
What is the status of his hair? Rebbi Jacob bar Aha: Rebbi Johanan and Rebbi Simeon ben Laqish disagreed. Rebbi Johanan said, his hair is forbidden; Rebbi Simeon ben Laqish said, his hair is permitted. Rebbi Ze’ira asked: Do they disagree about a sufferer from skin disease who made a vow of nazir or do they disagree about a nazir who became a sufferer from skin disease? If you say that they disagree about a sufferer from skin disease who made a vow of nazir, then for a nazir who became a sufferer from skin disease everybody agrees that it is forbidden. If you say that they disagree about a nazir who became a sufferer from skin disease, then for a sufferer from skin disease who made a vow of nazir everybody agrees that it is permitted. For Rebbi Jeremiah it was obvious that they disagreed about a sufferer from skin disease who made a vow of nazir. Therefore, for a nazir who became a sufferer from skin disease everybody agrees that it is permitted.

106 The shavings of a nazir are forbidden for usufruct; they must be burned within the Temple precinct (Num. 6:18). But nothing is prescribed for the shavings of the convalescent sufferer from skin disease; therefore, these are permitted for usufruct.

107 Since his hair was forbidden already before he contracted the disease.

108 Any shavings for his convalescence are subject to the rules of skin disease.

109 For consistency, one should read here: "forbidden."
Does the obligatory shaving push aside the rules of voluntary shaving\(^\text{110}\)? Let us hear from the following\(^\text{111}\): "He shaves his head, his beard, and his eyebrows in the way sufferers from skin disease shave." But there one could say, maybe it was an obligatory shaving. \(^\text{112}\)Rebbi Ze'ira in the name of Rebbi Yudan: The Mishnah says so; "for Rebbi Simeon says, when one of the bloods was sprinkled, the nazîr is permitted to drink wine and to defile himself with the dead." Is he not forbidden because of "do not destroy"? Samuel bar Abba\(^\text{113}\) said, explain it if he was a eunuch\(^\text{114}\). But did we not state "the beard"? How can you say, a eunuch? You have only what Rebbi Jacob said in the name of Rebbi Johanan: If he removed it from bottom to top it is forbidden\(^\text{115}\). Rebbi Yose bar Abin said, there is no difference between bottom to top or top to bottom\(^\text{116}\).

\(^{110}\) Lev. 19:27 forbids to "shear off the corners of your head and to destroy the corners of your beard." The nazîr must shave his entire head, including its corners; the sufferer from skin disease must shave off all his hair, including corners of head and beard. There is no question that a person certainly impure, either from a corpse in the case of the nazîr, or being declared impure as a sufferer from skin disease, must shave as required. The problem is only how far a shaving because of doubt really pushes aside the general rules about forbidden shaving.

\(^{111}\) Halakhah 4, speaking of a case of double doubt.

\(^{112}\) It seems that this text does not belong here. It belongs to the paragraph before the last (Notes 102, 103), where R. Ze'ira notes that the nazîr cannot begin counting for his vow unless he is able to enter the Temple precinct. He brings an additional proof from Mishnah 6:11, which notes that permission to drink wine is given to the nazîr if and only if one of his sacrifices was offered in the Temple, whether he shaved or not.
Therefore, his proceedings as nazir cannot be based on the shavings as a convalescent alone, disregarding his required sacrifice. There can be no shortcut.

113 It seems that reference is made not to R. Samuel bar Abba, the student of R. Johanan, but to Samuel (bar Abba bar Abba) the Babylonian who in the Babli, 57b, restricts the applicability of the rules of shavings to women and minors, to whom Lev. 19:27 does not apply.

114 Since we are speaking of a person who certainly had made a vow of nazir, there can be no question that he is entitled to shear "the corners of his head"; the only problem is to shave "the corners of his beard" when it is not clear that it is really required. If the person in question has no beard, there is no problem.

115 By implication it would not be forbidden if the head was shaved totally before the beard was.

116 The preceding statement is rejected. It follows that Lev. 19:27 forbids to "shear off the corners of your head and to destroy the corners of your beard" but not to shave off all hair on the head and all hair on the chin in case of need.

117 "If he was doubtfully impure and certainly definitely [suffering from skin disease], he eats from sacrificial meat after 60 days, drinks wine and defiles himself for the dead after 120 days. If he was certainly impure and doubtfully definitely [suffering from skin disease], he eats from sacrificial meat after 20 days, drinks wine and defiles himself for the dead after 44 days. If he was certainly impure and certainly definitely [suffering from skin disease], he eats from sacrificial meat after eight days, drinks wine and defiles himself for the dead after 44 days."
If he was doubtfully impure and certainly definitely [suffering from skin disease], he eats from sacrificial meat after 8 days, drinks wine and defiles himself for the dead after 67 days. If he was certainly impure and doubtfully definitely [suffering from skin disease], he eats from sacrificial meat after 37 days, drinks wine and defiles himself for the dead after 74 days. If he was certainly impure and certainly definitely [suffering from skin disease], he eats from sacrificial meat after eight days, drinks wine and defiles himself for the dead after 44 days.

\[\text{1. The eight days of purification of the sufferer from skin disease.} \]

\[\text{2. The sixty days for two periods of nezirut plus seven days of the sufferer from skin disease which do not count for his nezirut.} \]

\[\text{3. He waits 7 days and shaves, both for his impurity of the dead and since he might have been impure with skin disease. He then keeps 30 days of nezirut in purity and shaves. This shaving certainly counts for the second shaving of the sufferer from skin disease; afterwards he may eat sacrificial meat. Since the thirty days would not count for his nezirut if he actually was a sufferer from skin disease, he keeps another 7 days for his impurity of the dead followed by 30 days of nezirut in purity, shaves, and is permitted wine.} \]

\[\text{4. Seven days of the convalescent sufferer from skin disease, seven days of the person defiled by the impurity of the dead, and 30 days of pure nezirut.} \]

Rebbi Abbamari, the brother of Rebbi Yose said, this shows that the shaving knife destroys seven for an impure nazir.
This shows that the Tosephta/Babli text is also understood here. In no case are the seven days counting for the convalescent counted for the nazir.
Mishnah 1: Gentiles cannot take a vow as nazir. Women and slaves can take a vow as nazir. A man’s power is restricted for his wives more than for his slaves since he can force his slave but he cannot force his wife. His power is restricted for his slaves more than for his wives since he can dissolve his wife’s vows but not his slave’s vows. If he dissolved his wife’s, they are eternally dissolved. If he dissolved his slave’s, once the slave gains his freedom he has to fulfill his nezirut. If [the slave] is not in the presence of his master, Rebbi Meir says, he cannot drink, but Rebbi Yose says, he may drink.

1 As explained in the Halakhah, Gentiles may vow under Jewish law. Only the special vow of nazir is restricted to Jews.

2 Who had been circumcised and become Jewish by immersion in a miqweh. When manumitted, such a slave will be a full member of the Jewish community. While still in servile status, he is obligated to follow all rules imposed on women.

3 If the slave makes any vow which inconveniences his master, the latter can veto the execution of the vow as long as the slave is under his authority.

4 Nedarim Chapters 10,11.

5 If the master vetoed the implementation of his slave’s vow, that vow becomes dormant but not
cancelled. Once the master’s authority is lifted, the vow is automatically activated, as explained in the next sentence.

6 Who made a vow of nazir against his master’s wishes.

7 Wine. Similarly, R. Meir will hold that the slave may not defile himself for the dead without specific instruction by his master.

Halakhah 1: "Gentiles cannot vow as nazir," etc. Israelites can vow as nazir, Gentiles cannot vow as nazir. 8 Since you say, "a man", why does the verse mention "a man"? To include Gentiles, who make vows and offer voluntary gifts like Israelites! Why should one not say the same here? There is a difference, for it is written "He shall atone for him." This refers to one to whom atonement applies. It excludes Gentiles, to whom atonement does not apply.

8 Sifra Emor Parašah 7(2); Babli Menahot 72b. The reference is to Lev. 22:18: "Every man of the House of Israel, and of the sojourners in Israel, who would bring their sacrifices for all their vows and all their gifts, to present them to the Eternal as elevation offerings." In the same Chapter, v. 25 makes it clear that what is acceptable from the Israelite is acceptable from the Gentile both as vow (in which a person engages himself to dedicate an animal) and a gift (in which a person dedicates an animal, in which case he does not have to supply a replacement if anything should happen to the animal before it could be sacrificed.)

9 "Every person" is in Hebrew שְׁנֵי אִישׁ "man, man". The repetition has to be explained.

10 Num. 6:2 reads: "A man or a woman, if he makes a clear vow of nazir to the Eternal." "Man" should include Gentiles by the preceding argument.

11 Num. 6:11. Since Gentiles are not subject to the rules of impurity, the rituals of purification cannot apply to them.
HALAKHAH 1

There we have stated: "The Non-Jew, Rebbi Meir says, is evaluated but does not evaluate; Rebbi Jehudah says, he evaluates but is not evaluated. Both agree that they make vows and are objects of vows."

Rebbi Jeremiah asked: For him who says there that he evaluates, here can he declare a nazir? For him who says there that he is evaluated, here can he be declared a nazir? How would it be possible for him to [be declared a nazir]? A Israelite can declare a Gentile to be a nazir. Would he listen to him? But the Israelite said, "I am a nazir," the Gentile heard it and said, "I am responsible for what this one said." It is only as if he paid a debt. How would it be possible for him to [declare a nazir]? A Gentile can declare an Israelite to be a nazir. Since an Israelite cannot declare [another] Israelite to be a nazir, a Gentile cannot declare an Israelite to be a nazir. But it must be that the Gentile said, "I am a nazir," the Israelite heard it and said, "I am taking upon me what this
one said. What did you exclude from him? An Israelite is subject to "not to desecrate," a Gentile is not subject to "not to desecrate". Rebbi Jonah said, Israelites can be relieved by a Sage, Gentiles cannot be relieved by a Sage. Rebbi Yose said, Israelites need a Sage to be relieved, Gentiles do not need a Sage to be relieved. It follows that Rebbi (Jonah) [Yose] follows Rebbi Abbahu. A Gentile woman came before Rebbi Abbahu, who said to Abime bar Tobi: Go and find her an opening by unforeseen circumstances. And Rebbi Jonah follows Rebbi Aha, who said that Laban was Kushan-Rišataim. Why was he called "Kushan the doubly bad"? Because he committed two evils. One that he desecrated his oath, the other that he subjugated Israel for eight years.  

12 Mishnah 'Arakhin 1:2.  
13 This refers to Lev. 27:1-8, where "evaluation" amounts are specified to be offered to the Sanctuary for persons of specified age and sex. According to R. Meir, a Jew may vow to pay a Gentile's evaluation but a Gentile cannot make such a vow. According to R. Jehudah, a Gentile may vow to pay a Jew's valuation but a Jew cannot offer to pay the Gentile's evaluation.  
14 Both Jew and Gentile may make a vow to pay to the Sanctuary the amount another person would fetch were he to be sold on the slave market.  
15 The texts used to introduce a vow of evaluation (Lev. 27:2) and a vow of nazir (Num. 6:2) are completely parallel. It is to be assumed that the rules derived from the texts are also parallel; if a Gentile can cause an obligation of payment of an evaluation, he also can cause an obligation of nazir; if a Gentile can be the object of an obligation of payment of an evaluation, he also can be the object of an obligation of nazir.  
16 The context requires to read for זָרִי and vice-versa.  
17 Tentative answer.  
18 Rejection of the tentative answer.  
19 The Gentile may well vow to the Jew's obligatory sacrifices since by biblical law, Gentiles' sacrifices are accepted. But this does not make the Gentile a nazir.  
20 Since the Gentile's vow is invalid, so is the Jew's.
question. Since it was shown that the power to evaluate is not related to the power to vow for nazir, the question arises whether in general the power of Gentiles to make vows is equal to that of Jews or not.

22 Num. 30:3; Sifry zuva 30:2. Since a Gentile is not subject to biblical laws other than those given to Adam and Noah, he cannot be held responsible if he "desecrates his word," i.e., does not keep his vow.

23 An Elder can annul the vow; cf. Tractate Nedarim, Introduction and Chapter 9.

24 Since Gentiles are not subject to the Law, they cannot profit from the Law. He will hold that Gentiles, whose informal marriages have biblical sanction, never can be divorced; cf. Qiddaśin 1:2, Notes 33 ff.

25 Since Gentiles are not subject to the Law, they do not need the Law. He will hold that since Gentiles are not under the biblical obligation of formal marriage, they never need a divorce but can validly terminate a companionship through unilateral action by either one of the parties.

26 Which is forbidden to Jews, Mishnah Nedarim 9:2. He ordered the lady’s vow to be dissolved to give her peace of mind, not because it would have been necessary.

27 Babli Sanhedrin 105b, as tannaitic text. The story would make Laban live more than 300 years.

28 Why can he not force his wife? Did not Rebbi Huna say, [if she vowed] any benefit from me [shall be forbidden] to you, he forces her and sleeps with her. Any benefit from you [shall be forbidden] to me, he has
to dissolve. There is a difference because it is a benefit for him and her. He should not be able to force his slave! There is a difference, "because his God's crown is on his head," a person who has no other master. This excludes the slave who has another master. If he comes to protest his master’s word, one says to him: this is practice, obey your master’s orders! If his master pushed him and he became impure, does he have to bring a sacrifice of impurity? Is he a nazir, did not you decide for him that he should become impure? You say, he brings a sacrifice of impurity; could he bring here a sacrifice of impurity? Does he annul? Is he a nazir, did not you decide for him that he should become impure? You say, he annuls; could he here annul?

28 The argument about the wife’s vow is from Nedarim 11:1, Notes 23-25.
29 Num. 6:7.
30 The master has the power to force the slave to disregard the vow. The slave in obeying his master does not commit any sin.
31 He has to follow his master’s command.
32 If his master’s action invalidates the slave’s vow, there is no valid vow of nazir. The status of the slave reverts to profane; the slave is not responsible for the lifting of the status of nazir from him. If there were anything sinful in this action, it would be the master’s responsibility.
33 Argument and meaning are completely parallel to the preceding.

The following is obvious: If he became impure and then was manumitted, he brings a sacrifice of impurity. When is that, if his master
forced him or if his master did not force him\textsuperscript{34}? If you say that he forced him, how can be bring a sacrifice of impurity\textsuperscript{35}? If you say he did not force him, should he not count for his master as long as he still is in the latter's power\textsuperscript{36}? Rebbi Yose said, we are dealing with the case that his master forced him. You should not say that because he was manumitted, the nezirut in impurity was lifted from him\textsuperscript{37}. Therefore, it was necessary to say that he counts nezirut in impurity\textsuperscript{38}.

\textsuperscript{34} What was the cause of the slave's impurity?
\textsuperscript{35} It was shown in the preceding paragraph that no sacrifice is due.
\textsuperscript{36} If the slave made a vow of nazir for a specified period, he should be able to count that period as long as he did not violate its terms by his own will.
\textsuperscript{37} Even if the slave was manumitted during his nezirut, the days he was impure because of his master's command are counted. The rules of nezirut of free men apply to him only from the moment of his manumission.
\textsuperscript{38} This is explained somewhat more fully in the Tosephta (6:6): "If [the slave] became impure and was manumitted, he counts from the time he became impure." In contrast to the free person, the 7 days he counts for his purification by means of the ashes of the Red Cow are counted as days of nezirut.

39"Rebbi Yose said, if a slave said, 'I shall be a nazir when manumitted,' his master forces him in matters of nezirut\textsuperscript{40}. [The master] can force a
slave in matters of *nezirut*; he does not have to force him in matters either of vows or of oaths. Rebbi Jeremiah asked before Rebbi Ze'ira: If his master forced him and he became impure, is he to be whipped? Or is that only practice? Where do we hold? If his *nezirut* has biblical status and by practice one may force, he is whipped. If both are rabbinical, he is not whipped. Rebbi Mana said, does one whip for practice? But it must be the following: If his *nezirut* is practice and by practice one may force, he is whipped. If both are rabbinical, he is not whipped.

39 Tosephta 6:6; Babli 62b.
40 Without having any influence on the status of the vow.
41 Since the slave is not his own master, he has no power to forbid anything to himself by vow or oath (explanation of the Babli, 62b).
42 The question of R. Mana shows that two sentences have to be switched. Instead of מיט וטת one has to read וטת וטת and vice-versa.

The first version of the argument of R. Jeremiah goes as follows: If the power of the slave to enter into a state of *nazir* is the same as the power of the master to force him to disregard his vow, and both have status of "practice", i.e., have quasi-biblical status as part of Judaism as organized by Ezra and his contemporaries, in the absence of a special practice exempting the slave, the latter should be held liable for infractions of his vow even if he was forced. But if the power of the slave to vow as *nazir* be rabbinical, then there can be no biblical punishment for infraction. On this R. Mana notes that quasi-biblical status is not biblical status, and biblical punishment for non-biblical infractions (*Deut. 25:4*) is impossible.

Therefore, the question is rephrased: If the power of the slave to enter into a state of *nazir* is biblical but the power of the master to force him to disregard his vow is only from practice, should the slave not be subject to prosecution for infringing his vow? The question is not to be taken seriously; it rather points out a logical inconsistency between the rule which allows the slave to become a *nazir* and the rule which allows the master to override, but not abolish, that vow.
If his master forced him in one respect, did he force him in all respects\(^{43}\)? We came to the disagreement between Rebbi Meir and Rebbi Yose: "If [the slave] is not in the presence of his master, Rebbi Meir says, he cannot drink, but Rebbi Yose says, he may drink." Where do we hold? If he told him, drink whether in my presence or not in my presence, even Rebbi Meir will agree. If he told him, drink in my presence, do not drink in my absence, even Rebbi Yose will agree. But we hold in the case that he tells him: "drink!" Rebbi Meir says, [it means] drink in my presence, do not drink in my absence\(^ {44}\). Rebbi Yose says, [it is] as if he said, drink whether in my presence or not in my presence.

\(^{43}\) Nezirut has three aspects: Growing hair, abstention from the fruit of the vine, and avoidance of the impurity of the dead. If the master objected to one aspect, does he reject the others automatically?

\(^{44}\) Therefore, R. Meir must hold that objection to one aspect does not imply anything for the others, while R. Yose holds that an objection to one aspect is interpreted as objection to all of them unless specified otherwise by the master.
Mishnah 2: If a nazir was informed that he was impure after he had shaved\textsuperscript{45} and it was a known impurity he cancels\textsuperscript{46}, but if it was impurity of the abyss\textsuperscript{47} he does not cancel. If it was before he shaved, he cancels in any case. How is that? If he went to immerse himself in a cave\textsuperscript{48} where a corpse was floating at the entrance, he is impure\textsuperscript{49}. If it was found buried in the ground and he went there to refresh himself\textsuperscript{50}, he is pure, but to purify himself from the impurity of the dead he is impure\textsuperscript{51} since the presumptive state of the impure is impure and the presumptive state of the pure is pure, for it is not unsubstantiated\textsuperscript{52}.

\textsuperscript{45} After he had finished his nezirut and has reverted to profane status.
\textsuperscript{46} He has to repeat the entire period of nezirut.
\textsuperscript{47} If the source of impurity was only detected after he had shaved in purity.
\textsuperscript{48} A miqweh in a cave. It seems that in the Judean and Galilean hills practically all miqwaot were in caves.
\textsuperscript{49} Even if there is a doubt whether the corpse already was there when he immersed himself, or if the corpse was there whether it floated outside the cave (when it would have transmitted impurity only by touch) or was inside (where the cave created the impurity of a "tent" and everybody under the "tent" became impure.)
\textsuperscript{50} And did not take sufficient care about his purity.
\textsuperscript{51} In any case of probable impurity caused by a buried corpse one continues in the prior state.
\textsuperscript{52} Since his prior state is known but his actual state in doubt, the certainly known is preferred to the doubtful.
Rebbi Johanan said, who is the Tanna of "when he had shaved, before he shaved"\(^5\)? Rebbi Eliezer! But for the rabbis it would be before the blood was sprinkled for him\(^4\). Ulla bar Ismael in the name of Rebbi Eleazar: What is Rebbi Eliezer’s reason? "The nazir shall shave the hair of his crowned head."\(^5\)" The Torah made his nezirut dependent on his hair.

That the final act of nezirut which returns the nazir to normal life is shaving.

This is a telescoped version of Num: 6:18: "The nazir shall shave his crowned head at the door of the Tent of Meeting, take the hair of his crowned head and put it in the fire under the well-being sacrifice."

If he completed his nezirut but did not manage to shave before he was informed about a possible case of a grave in the abyss, he cancels. If he designated his sacrifices but did not manage to shave before he was informed about a grave in the abyss\(^5\)? Rebbi Ze‘ira said before Rebbi Mana: Is that not the Mishnah? Whether he shaved or did not shave...
following Rebbi Eliezer, or whether it happened before or after blood was sprinkled according to the rabbis?  

56 Can designating the sacrifices be considered as liquidation of the status of nazir to free the person from repeating in case of a possible impurity from a hidden source?  

57 The Mishnah makes it quite clear that only shaving (according to R. Eliezer) or sprinkling of blood (according to the rabbis) is counted; dedicating the sacrifices does not mean anything in this respect.

From where about a doubtful case of a grave in the abyss? Rebbi Jacob bar Aha in the name of the rabbis: "Or on a far trip for you." What is open for you, including everything in the open. This excludes the case of a grave in the abyss which is not open.

58 Num. 9:10, detailing the rules of "Second Passover" for people impure or absent on the 14th of Nisan.

59 This and the following paragraphs are copied from Pesahim 7:7. In the present paragraph, the main text is missing. Both for the person going to celebrate the Passover sacrifice and the nazir who finished his term, the impurity caused by a doubtful case of a grave in the abyss is disregarded. In view of the central role of purity in everything connected with the Sanctuary, it is obvious that some biblical justification has to be found for the rule. In the case of Passover, the argument notes that the verse could have stated that a person "on a far trip" was required to celebrate the Second Passover. The addition "for you" seems to be superfluous. It is interpreted to mean just as the road is open to the wanderer, so the impurity has to be in the open for the impure person. The same argument is in the Babli, Pesahim 81b.

What is missing here is the argument for the nazir who had finished his term. In Pesahim 7:7 (34c
R. Johanan in the name of R. Yannai quotes Num. 6:9: "If a person dies suddenly on him", and explains the expression "over him" to indicate that it has to be in the open:

So far for the people celebrating Passover. From where the nazir? Rebbi Johanan in the name of Rebbi [Yannai]: "If a person dies suddenly on him". Since on him it is in the open, so everything in the open. This eliminates the grave in the abyss which is not in the open.
60If the public became publicly\textsuperscript{61} impure in a doubtful case of a grave in the abyss, does the diadem make it acceptable\textsuperscript{62}? It is a conclusion de minore ad maius. Since in the case of a single person, whose position you clarified to his disadvantage in the case of known impurity\textsuperscript{63}, you clarified to his advantage in the case of a grave in the abyss\textsuperscript{64}, it should be only logical that for the public, whose position you clarified to its advantage in the case of known impurity, you should clarify it to its advantage in the case of a grave in the abyss. A leniency which you apply to a single person you treat as a restriction for the public\textsuperscript{65}. A leniency which you apply to a single person, so that if it became known to him after sprinkling he should be treated as if he became impure before sprinkling, that he should eat the meat\textsuperscript{66}. The leniency which you apply to the pure nazir is a restriction for the impure nazir\textsuperscript{67}. The leniency which you apply to the pure nazir, so that if it became known to him after sprinkling he is treated as impure after sprinkling, that he should bring a sacrifice of impurity\textsuperscript{68}. You treat it as a restriction for the impure nazir, that if it became known to him after sprinkling he is treated as somebody
repeatedly becoming impure so that he has to bring a sacrifice of impurity for each single case. As it was stated: If he repeatedly became impure, he has to bring a sacrifice for each single case. If somebody is officiating for the Passover sacrifice, does the diadem make it acceptable? It is a conclusion de minore ad maius. Since for the owners [of the Passover sacrifice] whose position you clarified to their disadvantage in the case of the infirm and the aged, you clarified to their advantage in the case of a grave in the abyss, it should be only logical that for the officiating, whose position you clarified to his advantage in the case of the infirm and the aged, you should clarify it to his advantage in the case of a grave in the abyss. No. For the owners [of sacrifices] you clarify to their disadvantage in the case of impurity during the rest of the year; you also say for the officiating that you clarify their position to their disadvantage in the case of impurity during the rest of the year. Since you clarify their position to their disadvantage in the case of impurity during the rest of the year, you also clarify their position to their disadvantage in the case of the impurity of the dead on Passover. How is it really? "For you", whether for him or for the one officiating for him. So far for the people celebrating Passover. From where the nazir? Rebbi Yose ben Rebbi Abun in the name of Rav Ḥisda: We thought, "on him", not on the one officiating for him. Since we stated that the same rules apply to the nazir and to those celebrating Passover, it means that what holds for the one holds for the other.

While the text in Pesahim 7:7 is not without its problems, it is clear that the text there has to be taken as the source; the copyist here neither understood nor proofread what he wrote. The word is [correctly] missing in Pesahim; a case of doubtful impurity in the public domain is always resolved by a presumption of purity (Sotah 1:2,
About the diadem worn by the High Priest, Ex. 28:38 states: "It shall be on Aaron's forehead; Aaron shall carry the iniquity of the sacrificial gifts which the Children of Israel will dedicate, all their holy gifts; it shall always be on his forehead, to be accepted for them before the Eternal."

The action of the diadem, to make somewhat questionable sacrifices, e.g., those offered while using one of the legal fictions that may be used to overlook possible impurities, is therefore called "to make it acceptable."

A single person impure on the 14th of Nisan is required to celebrate the Second Passover on the 14th of Iyar while if the majority of the people are impure on the 14th of Nisan the congregation celebrate Passover in impurity. In this respect the standing of a single person clearly is inferior to that of the majority of the people.

If a doubt (mentioned explicitly in Pesahim, understood here) arises about a "grave of the abyss" in a private domain, it is treated as if it were in the public domain (Note 61).

This disproves the previous argument. The rules of impurity for private persons and for the majority of the people are not comparable.

This text does not make any sense. The correct text is in Pesahim: "A leniency which you apply to a single person, viz., that if it became known to him before sprinkling he should be treated as if he became impure after sprinkling, so that he should not be pushed to the Second Passover. You treat that as restriction for the public, that if it became known to them after sprinkling it should be treated as if they became impure before sprinkling, that the meat should not be eaten."

The first statement is derived from Mishnah Pesahim 7:7: "For a nazir and one who celebrates Passover who became impure in the impurity of the abyss, the diadem makes it acceptable."

The private person being involved in a possible impurity caused by a grave of the abyss never has to celebrate the Second Passover.

The second statement refers to Mishnaiot Pesahim 7:4-5. If the public are impure, the Passover sacrifice is slaughtered and eaten in impurity. But if it was slaughtered as pure and then it became impure or became known to be impure, it cannot be eaten.

This is a kind of headline for the following argument, rather than a case of dittography.

The intelligible text is in
Pesahim: "The leniency which you apply to the pure nazir, viz., that if it became known to him before sprinkling he is treated as impure after sprinkling, so that he should not bring a sacrifice of impurity." This is the statement of the Mishnah here, following the rabbis.

69 But if the impure nazir became aware of the second impurity before he offered his sacrifice of impurity, he has to bring only one sacrifice.

70 Halakhah 6:8, Note 198.

71 The Nazir text has nais "the passer-by" instead of Tai» "the officiating [priest]" passim.

72 The Passover sacrifice has to be slaughtered in the name of those who will be eating it, its "subscribers" (Mishnah Pesahim 5:3, Ex. 12:4). An old person and an infirm one who cannot eat meat in the volume of an olive may not subscribe to the Passover sacrifice, but as long as they do not exhibit a disability which disqualifies them (Lev. 21:18-20), old or infirm priests may serve in the Temple.

73 The correct reading "advantage" is in Pesahim. An impure person (including a nazir not impure by the impurity of the dead) can send his sacrifices (other than the Passover sacrifice) to the Temple by a pure agent, but an impure priest cannot officiate, irrespective of the nature of his impurity.

74 Num. 6:9: "If a person suddenly dies on him." In Sifry Num. 28, the expression "if a person dies" is interpreted as stating a fact, not a suspicion. This is used to clear the nazir from any suspected, unproven impurity from the dead.

75 Babli Pesahim 80b.
"What is a grave of the abyss? A corpse buried in stubble, straw, dust, or pebbles. But if it was buried in water, a dark spot, or rock crevasses, it does not create a grave of the abyss." The principle: Any place from where it can be removed creates a grave of the abyss; any place from where it cannot be removed does not create a grave of the abyss. Can stubbles and straw not be removed? Does the Mishnah not follow Rebbi Yose, since Rebbi Yose said, straw said to be disregarded is disregarded. Rebbi Yose ben Rebbi Abun in the name of Rav Hisda: It is everybody's opinion. What Rebbi Yose said, if he mixed it with dust. "There is straw which is treated like dust and dust which is treated like straw. Straw not to be removed is like dust; dust to be removed is like straw." In the House of Rebbi Yannai they said: If he covered it with mats it is disregarded. Come and see: If he [filled] it with mats it is not disregarded, if he covered it with mats it is disregarded. If he filled it with branches of date palms it is problematic. Rebbi Zeriqan, Rebbi Immi, in the name of Rebbi Simeon ben Laqish: Even thin sheets.

76 Tosephta Zabim 2:9; quoted in the Babli, 63b and Pesahim 81b, without further discussion. As explained in the next paragraph, a "grave of the abyss" is that of a person killed by an accident not witnessed by anybody. If one finds a corpse buried under a heap of straw, one has to assume that he suffocated when the straw fell on him. A corpse buried in dust or pebbles probably was the victim of an accident.

77 In this case, the person also probably was the victim of an accident. But since it could have been seen by a passer-by, the competent authorities should have been alerted; this is not an unknown body.
78 Obviously, the clauses in this sentence are switched (here and in Pesahim). As explained in the preceding notes, one must read: "Any place from where it cannot be removed creates a grave of the abyss; any place from where it can be removed does not create a grave of the abyss." A corpse whose existence is unknown cannot be removed.

79 This refers to the rules of the tent-impurity caused by a corpse. A "tent" is any covered space in which there is at least one handbreadth of space between the corpse and the roof. If the space is enclosed, the impurity is restricted to the "tent"; anything above the ceiling and below the floor of the "tent" is pure. But if the entire space between floor and ceiling is filled with matter, there is no "tent" and the impurity extends indefinitely above and below the tent space. This is known as "squeezed impurity" (Mishnah Ahilut 15:1,5,6; Halakhah 7:3, Note 164). It is implied in Tosephta Ahilut 15:5 that R. Yose restricts "squeezed impurity" to material permanently deposited; but a storage of straw which is to be removed in the future is not counted as filler.

80 Not really "mixed with", but "treated like," as formulated in the Tosephta.

81 Statement of R. Yose in Tosephta Ahilut 15:5; quoted in the Babli Eruvin 79a. "Straw" stands here for "material to be removed," "dust" for "permanent filling."

82 Straw covered with mats is not considered filling.

83 Reading from Pesahim, required by the text. In Nazir: "covered".

84 Filling the "tent" with mats creates "broken impurity".

85 If the floor is covered with mats, anything below the mats is disregarded concerning impurity.

86 No ruling is available in this case.

87 This translation is tentative, it follows the Pesahim text, reading נ"ו. The Nazir text reads נ"ו which cannot be כינון "emptiness", nor כינון "empty", nor נ"ו "spittle".
"What is a grave of the abyss? Any which nobody remembers."

Should we not be cautious and say, maybe one at the end of the world?

And is the permanence of the living not like living?

Explain that he was found compressed.

Consider him permanently alive, disregarding the notion of "unknown grave".

Which clearly shows that he was not buried by humans but was the victim of an accident. Since the accident was not noticed when it occurred, there is nobody "at the end of the world" who would know of it.

It was stated: "Only a corpse creates a grave of the abyss." Therefore, not a carcass. Would it not be a conclusion de minore ad majus? Since a corpse, which does not cause impurity of couch and seat, creates a grave of the abyss, should a carcass which causes impurity of couch and seat not create a grave of the abyss? Why was it said that only a corpse creates a grave of the abyss? To exclude couch and seat.
impurity. A buried animal carcass does not produce impurity. Carcasses cause impurity only when touched or carried. The meaning of this sentence can be clarified: Only for the impurity of the dead do we find a rule that sometimes allows one to disregard biblical impurity.

94 This argument, equally found in *Pesahim*, does not make any sense. There are several distinct ways to emend the passage to create sense; therefore, no textual emendation is proposed but the meaning can easily be clarified.

A person who is the source of his own impurity (a male or female sufferer from genital discharges) causes original impurity to any couch or personal seat he is using (*Lev.* 15:4-6, 21-22, 26). But any impurity induced on an inanimate object by a corpse is only derivative. The argument shows that the rules of the impurity of the dead and impurity produced by a living human body are not comparable: Each kind of impurity has its own severities and leniencies not found in the other.

Rebbi Yose ben Rebbi Abun said that Bar Piqa asked Rebbi: So far in a cave that had a ceiling ⁹⁵. Even in a cave without ceiling ⁹⁶? Does Bar Piqa think that if there is a doubt regarding floating impurity, it is pure? Rebbi told him, Bar Piqa remains in his stupidity: No case of doubt regarding floating impurity is declared pure except a reptile ⁹⁷; but a corpse is like something fixed in place. As it was stated ⁹⁸: "Anything thrown ⁹⁹ is pure in case of a doubt except an olive-sized piece from a corpse, [and] also those covers ¹⁰⁰ which induce impurity on bottom and top."
This refers to the Mishnah about the person who immersed himself in water in a cave in which a corpse was later found.

Is he impure only because of the "tent" impurity induced by the ceiling of the cave or is he impure since he might have touched the corpse without noticing? A "cave without ceiling" seems to be a pond.

Or any similar impurity which is removed by immersion in water without delay or further ceremony.

The meaning of this baraita, formulated differently, is found in Tosephta Taharot 5:6-7 and in the Babli, 63b-64a.

An impure item thrown over a person and it is not clear whether he or she was touched by the item or not.

Those whose impurity is generated by their bodies (Note 93) who cause original impurity to what is below (the couch or seat) and above (the clothing) their persons.

Does this not disagree with Rebbi Joshia, since Rebbi Joshia said, if impurity is hidden in the ground below the house, the nazir shaves. Rebbi Johanan said, here on the side, there on place. Rebbi Ezra said in the name of Rebbi Yudan: Even if you say in both cases on the side, in both cases on place. What means "impure"? Impure and he does not shave?

Since the Mishnah states that he is impure but not, speaking of a nazir, that he has to shave, do we have to read the Mishnah as equating this impurity to those mentioned in Chapter Seven for which the nazir does not have to shave?
Mishnah 3: If somebody finds a corpse in original position, lying as usual, he takes him and his surroundings. If he finds two, he takes them and their surroundings. If he finds three and between one and the next is a distance of between four and eight cubits, enough for the bier and the people who bury, that is a cemetery. He has to check on both sides for another 20 cubits. If he finds a grave at the end of 20 cubits, he has to check another 20 cubits since it is obvious that if this were a new burial ground, one would have taken him and his surroundings there.

105 An alternative spelling of מְשַׁמָּה.
106 Ploughing his field or excavating his property, he finds a grave unknown to him.
107 The position of the bones is that usual in Jewish burials.
108 He can remove the bones and the earth that will have absorbed the decaying flesh. The Mishnah assumes that no sarcophagus was used.
109 Three parallel graves.
110 It is forbidden to step on a grave while burying another person. Therefore, a Jewish cemetery must allow enough space that burials can take place which do not desecrate prior graves.
111 It is forbidden to remove the graves or to use the ground for other purposes.
112 If a series of graves was found which conform to the rules of a cemetery, it must be a cemetery since otherwise the bones would have been removed.
Halakhah 3: What means "lying as usual"? His legs straight and his hands over his heart. But if he found him compressed, I am saying that a heap fell on him and killed him. But did we not state: "If he found two with their heads beside their legs, he takes them and their surroundings?" They wanted to say, what means "compressed"? Their heads beside their legs. Rebbi Isaac ben Rebbi Eleazar said, like fried fish, the head of one near the tail of the other and vice versa.

113 Babli 65a. the legs of another is not a form of burial but a sign of an accident.
114 A Gentile way of burial.
115 The head of one corpse between another's legs.

Rebbi Isaac bar Gufta asked before Rebbi Mana: In a statement you say, "he collects every single bone and everything is pure;" and here, you say so? He answered him, say what comes afterwards: "If he prepared it from the start as a grave, it has surroundings."

116 Mishnah Ahilut 16:5: "If one removes a grave from his field, he collects every single bone and everything is pure." In contrast, the Mishnah here requires that a certain amount of earth also be removed.
117 Statement of R. Simeon in the same Mishnah. From a cistern used to bury stillbirths or crime victims (incomplete corpses which have no claim to "surroundings") one can remove all bones and it is pure. But if he prepared the cistern from the start as a temporary grave, it has surroundings (when the bones are finally removed). This is the case.
considered in the Mishnah here, since another, i.e., intended as temporary
one speaks of graves parallel to one graves.

How much is the surrounding of a grave? One shaves off three finger-
breadths, the place where fluid penetrates.\(^{118}\)

In the Babli, 65a, this is a little more explicit: In virgin soil, one takes as much as one recognizes that the decomposing flesh penetrated.

\(^{118}\) In the Babli, 65a, this is a little more explicit: In virgin soil, one takes as much as one recognizes that the decomposing flesh penetrated.
Rav Hisda said, [the Mishnah] implies that it is permitted to remove a corpse of obligation\(^{119}\). Rebbi Ze'ira said, explain it if the burial was unauthorized or subject to question. Should one not be afraid that it might be a corpse of obligation? Rebbi Ze'ira thinks that corpses of obligation are infrequent\(^{120}\). It turns out that there are three kinds of burials. A grave which is found one removes; after removal the place is impure\(^{122}\) and forbidden for use\(^{123}\). A known grave may not be removed; but if it was removed the place is pure and permitted for use\(^{124}\). A grave which endangers the public\(^{125}\) is removed; after removal the place is impure and forbidden for use." Rebbi Abba bar Cohen instructed in Kefar Aqabia\(^{126}\) that its place is permitted for use. Does he disagree? There if it preceded the village, here if the village preceded it\(^{127}\). It was stated: "A grave surrounded by a village on three sides can be removed\(^{128},^{129}\), on two sides, some Tannaim state that one removes it, some state that one may not remove it. Rav Hisda said, he who says that one removes it, if it is within slightly more than 70 cubits\(^{130}\). He who says that one does not remove it, if it is outside slightly more than 70 cubits. He who says that one removes it, if [the village] is built in the form of a Γ\(^{131}\). He who says that one does not remove it, if [the village] is built in the form of a π\(^{132}\). All kinds of graves may be removed except the graves of a king or a prophet. They said to him, were not the graves of David's sons removed but the graves of the sons of Hulda were in Jerusalem and nobody ever touched them to remove them\(^{133}\). Rebbi Aqiba told them, is that a proof? A duct was there and the impurity exited from there horizontally into the Qidron valley\(^{134}\)."

\(^{119}\) Since the Mishnah permits accidentally, it must permit the removal of any grave which was found

\(^{120}\) removal of a "corpse of obligation"
once it is no longer remembered.

120 R. Ze'ira holds that graves of unattended people are such a rarity that their locations remain known over a very long time. If the owner of a parcel finds there a grave of whose existence he was not informed by its prior owner, either it was an illegitimate burial (which may be removed since "nobody can fulfill his obligations with his neighbor's money") or it was a burial with consent of the prior owner done on condition that it might later be removed and the prior owner was under the mistaken impression that it already had been removed. The same interpretation is given in the Babli Sanhedrin 47b.

121 Tosephta Ahilut 16:9; Tractate Šemahot 14; Babli Sanhedrin 47b. To this one may add the versions in Maimonides Tum'at Mēt 9:5-6 which is essentially identical with the Yerushalmi and the text there of Ravad, which in general follows the Babli. Tractate Šemahot does not give an opinion about impurity; otherwise it follows the Babli. The three texts, Yerushalmi (Y), Babli (B), and Tosephta (T) state that if the grave found accidentally be removed the place is impure (Y), pure (BT); its use is forbidden (YT), permitted (B). The place of a known grave after removal is pure (YT), impure (B); its use is permitted (YT), forbidden (B). The place of a grave removed because of a danger to the public is impure (YT), pure (B); its use is forbidden (YBT) except that Ravad reads here "permitted" in the Babli, a reading contradicting all our other sources for the Babli.

122 In the interpretation of Maimonides, the place is only impure as long as not all earth, including 3 finger-breadths of virgin soil, has been removed. This interpretation shows clearly that he reads here "impure"; there can be no emendation of the text.

123 Since a grave is forbidden for any use by biblical law, a removal cannot change the character of the ground.

124 Since the Tosephta shows that the text here cannot be amended, the only explanation is that a known grave may be removed only if either it was established illegally as a criminal act which cannot deprive the owner of the lawful use of his property, or it was intended as a temporary grave exempt from the biblical rules (Note 120).

125 A grave in a public road is considered a danger to the public.

126 The locality has not been determined; it might designate any place located on a hill (ascus).
127 If the grave predated the building of the access road to a village, the road should have avoided the place of the grave; it has to be rerouted. But if the grave was dug in an existing public road, it is illegal, not considered a grave, nor protected by the rules.

128 A similar text is in Tractate Šemahot 14.

129 Since it will be a public obstacle.

130 In Šemahot, this is part of the statement of the baraita: If a grave is between two parallel rows of houses and the empty space in between is at least the size of a standard field, a bet se'ah, it cannot be removed. If the difference is less, it may be removed. The bet se'ah is defined as 5'000 square cubits (cf. Peah 2:1, Note 31), its edge length is $\sqrt{5000} = 70.71\ldots$ cubits. This length is the general standard for defining a "built-up area." As long as no two buildings are separated by more than 70.7 cubits, they are part of the same urban area, e.g., for defining the area of free mobility on the Sabbath. Therefore, an empty strip less than 70.7 cubits wide is not open space but a built-up area.

131 Any point within the right angle is accessible from the outside and is considered part of an open field.

132 Since the break in the left hand stroke of the letter π is a relatively late development, it would be better to designate the shape of the village as π. In old texts, the left stroke of π is flush with the end of the horizontal stroke and ends a little higher; the one of η is slightly to the right of the end of the horizontal stroke and ends exactly at the horizontal stroke. The meaning is that if the grave is between two rows of houses at a distance less than 70.7 cubits, it is within a built-up area where it does not belong.

133 Which is extraordinary since within the urban area of Jerusalem no grave could be tolerated, seeing that a grave is a "squeezed impurity" (Note 79) which causes "tent" impurity to anybody stepping over it and disables him from entering the Temple Mount.

134 If the graves were open to the outside, the impurity was not "squeezed" and there was no induced "tent" impurity over them.
There\textsuperscript{135}, we have stated: "He makes a courtyard\textsuperscript{136} in front of the cave six cubits square as a place for the bier." And here, he says so\textsuperscript{137}? There for a bier standing, here for the width of a turning bier. How far\textsuperscript{138}? For the carriers of the bier, their replacements, and the replacements of their replacements.

\textsuperscript{135} Mishnah \textit{Baba batra} 6:8, detailing the standards for a builder of burial caves.

\textsuperscript{136} A flat space outside the cave.

\textsuperscript{137} Why does the contractor only have to build a space of six cubits square for burial in a cave whereas for burial in the ground one reserves eight cubits on either side? It is to be expected that the minimal standards for a commercial contract are less than those for checking for impurity.

\textsuperscript{138} This has nothing to do with either commercial contracts or impurity; it defines the persons participating in a funeral and exempt from any other duties while the funeral procession is in progress; Mishnah \textit{Berakhot} 3:1.

\textsuperscript{139} Mishnah \textit{Baba batra} 6:8.

\textsuperscript{140} Simeon bar Abba in the name of Rebbi Johanan\textsuperscript{32}: Just as they disagree here, they disagree about a graveyard\textsuperscript{33}. Rebbi Jonah
said, one cannot compare these. There, they form a graveyard; here, they
do not form a graveyard. Rebbi Yose said, one cannot compare these.
There, if they were spaced apart and one moved them closer together,
that is the disagreement. If they were close and one moved them apart,
everybody would agree. But here, what is their disagreement? When one
found them close together. Rebbi Simeon said, a landslide fell on them
and compressed them. But the Sages say, were they spaced apart and
somebody brought them close together?"

139 Mishnah Kilaim 5:2. variant readings and commentary there,
140 Kilaim 5:2 (29d l. 54 ff.), full Notes 32-40.

How far does one importune him142? Rebbi Yose in the name of Rebbi
Miasha bar Jeremiah: Up to 40 cubits. If he checked twenty and found,
he checks another ten. If he checked twenty and found, he checks
another ten143. Some Tannaim state: If he checked ten and found, he
checks another ten. If he checked ten and found, he checks another
ten144.

141 In ms. and editio princeps this is the start of Halakhah 4.
142 This refers to the end of Mishnah 3: If there are three parallel
graves and one found another grave at the end of 20 cubits, how often does he
have to repeat the operation?
143 In this version, he has to check
60 cubits. On either side of the graves
he has to check at most 20 cubits. If he
found a grave, he has to check 10 more
cubits, for a total of 2(20+10) = 60
cubits.
144 This agrees with the original
statement. He has to check a maximum a total of 40.
of $10 + 10 = 20$ cubits on either side for

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Mishnah 4: Any person with initially doubtful skin disease is pure as long as he was not declared impure. After he was declared impure, in doubt he is impure. In seven ways does one check the sufferer from a genital discharge before he becomes impure: About eating and drinking, carrying a load or jumping, sickness, looking, and thought. After he becomes impure one does not check him; his accident, doubtful case, and semen are impure since the matter is not unsubstantiated.

145 A sufferer from skin disease is impure only after he was declared impure by a Cohen. Once he is impure, he can regain purity only by a ceremony administered by a Cohen. A Cohen may not declare a person impure unless the impurity is clearly demonstrated; he may not cleanse a person declared impure unless that person is clearly healed. The details are given in Mishnah Nega'im 5:4-5.

146 The Mishnah is given in great detail in Zavim 2:2; it is included here only because it is a “not unsubstantiated” case.

147 The basic source is Lev. 15:1-15. After a discharge of semen, a male is impure for the rest of the day (Lev. 15:16). For any other discharge, the first time he is pure. After the second discharge within 24 hours he is impure for seven days. However, if there is a
reason to suspect that the discharge was induced by an outside cause, he remains pure since impurity is created by (Lev. 15:2) "flow from his flesh", not from any outside cause. After the third discharge, he needs purification by a sacrifice.

148 If he ate or drank excessively.
149 Extraordinary physical exertion, whether professional or for sport.

150 Looking at women might cause an ejaculation as well as thinking of copulation.

151 Once he is suffering from gonorrhea, any discharge is ascribed to his condition rather than to extraneous influences.

Halakhah 4: "He shall declare him impure." The certain case he declares impure, he does not declare the doubtful case impure. Forever he is in his impurity until he is known to be pure. "He shall purify him." The certain case he declares pure, he does not declare the doubtful case impure.

152 Lev. 13:2. This is the first case of skin disease treated in Lev.; it stands for all cases.
153 Lev. 13:23. Sifra Tasria' Parashah 4(9); Babli 65b.
154 Read: "pure".

It is written: "The unwell woman in her separation and the sufferer from flux in his flux." Since the menstruating woman may become impure also by accident, so the sufferer from flux may become impure also by accident. Then even at his first episode? Rebbi Ze'ira said, from the moment he becomes like a menstruating woman.
155 *Lev.* 15:33, the final verse of the chapter dealing with impurity caused by the human body.

Outside influences are disregarded only after the sufferer from flux is subject to a week-long impurity.

156 Since the two kinds of impurity are mentioned together.

157 But the Mishnah declares that outside influences are disregarded only after the sufferer from flux is subject to a week-long impurity.

158 Whose impurity always extends for seven days.

159 But semen is impure only until sundown after immersion in water.

160 If the sufferer is impure for seven days and he has an ejaculation, any further discharge within 24 hours of his prior episode of flux is not considered caused by his sexual activity but will cause him to require a sacrifice for his purification.

161 The injured is no longer critical but did not get out of bed, which would be the biblical criterion preventing a prosecution of the attacker for murder.

162 If at any moment the victim was judged not critically ill, death could have a cause unrelated to the attack.
שלב ה: כוכב מתקינה. רבי תנכה פורץ (חכמים מאדיים)
שאנצ'איי לזרב. דבורי אפרים. שעי עומדים ריבי על עץ. דב רמיה
אומר. עופר השמיעו רבד על שיניים. ודправлен דרבי תנכה. אמר קוס
(הנוכל בורא על משעון וauce המכה. כי עלה עלعقد השאה בזכלה
בשלח מדינה תוד עיניו. איכא איפל מחפחת עפולה ראשהו פטוש. מה
עטומף דרבני. אלו גוזח (בפל למשבך. רבי איאי אנדידע של암 אינון מת
שאה נוכל למשבך. אלא שעמדותה لها. אם שעמדותה להיה זא
היה דיכני אא גוק (הנוכל בורא על משעון.Ἀא אל קמ חיב. איכא
בשלח עמדותה להיה. אא חפשה עמדותה להיה היה אא דכנייה רכ
שא. רבי איאל白沙 רבי שמעון בך לכות. ידוהו מקא איה שימח. רבי
אאוב白沙 רבי ויסי יבורי חניה. עפוה שלשלעותיה היה. מה נפק מגיניוון
הכל מפה שחקה. מקא זאאמר. ידוהו מקא איה שימח. או קסא גז. לא גז
מקא שמח. מתקינה מקיינו לדינן ופרסיבין מhya לציד. מקולה
מיתיעים לבר יניסי בך חינה. שעמדותה להיה. מקיינו מצוין שיא
שעון. מקא זאאמר. עופר השמיעו חיה. לא גזא איאום רך שמח.
גע מוח שטוכל. מسريינו לבר לבר שמעון בך לכות. ידוהו להימד בחז.
מקיינו מצוין לד. מקא היסי יבורי חניה. אופר רבי ויסי. ליד כלא ממעשה ישבכבי
לאמר ממעשה ישבכבי.
Halakhah 5: So is the Mishnah: Rebbi Nehemia declares him not prosecutable but the Sages declare him guilty since it is not unsubstantiated. The Sages say, two estimations have precedence over one estimation; Rebbi Nehemiah says, the intermediate estimation has precedence over the two. What is Rebbi Nehemiah's reason? "If he gets up and walks outside on his cane, the attacker is exonerated." Could you think that this one walks in the market and the other is executed because of him? But even if he died according to the first estimation he cannot be prosecuted. What is the rabbi's reason? "If he does not die but is bedridden." Would we not know that even if he does not die that he will be bedridden? But if they estimated that he would die. If they estimated that he would die, that is what is written: "If he gets up and walks outside on his cane." Therefore, if he does not get up, [the attacker] is guilty. But if they did not estimate that he would die? If they did not estimate that he would die, that is what is written: "But he has to pay for his disability." Rebbi Ilia in the name of Rebbi Simeon ben Laqish: It is an extraordinary decree of Scripture that he has to pay. Rebbi Abbahu in the name of Rebbi Yose ben Hanina: It was an erroneous estimation. What is the difference between them? If his state improved. For him who says, it is an extraordinary decree of Scripture that he has to pay; if he paid, he paid. If he did not pay, the verse makes him pay. A baraita supports one and a baraita supports the other. A baraita supports Rebbi Yose ben Hanina: If they estimated that he would die, when does he have to pay him? From the moment he improves. For him who says, it was an erroneous estimation; if he did not pay one does not order him to pay. If he paid, can he take it back? This supports Rebbi Simeon ben Laqish: If they estimated that he would live but he died. From when does one have to pay him? From the
moment he turns worse. Rabbi Yose said, it does not say here, "from the moment he turns worse" but "from the moment he turns better."

163 The origin of this and the following paragraphs is in Sanhedrin 93 (fol. 27a). The first part of our text is almost identical with the text there; the second part is badly garbled and can be understood only from the Sanhedrin text. (J denotes a Genizah reading.)

164 Reading כנין as in Sanhedrin, in place of המ "who is the author"?

165 The expression רודי לבר "the thing has feet" formulates prima facie evidence of guilt, not an argument which prohibits prosecution.

166 Any "estimation" here is a judicial act. If the physician in charge as an officer of the court considered the victim as critically ill both at the beginning and at the end of treatment, this overrides the fact that for some time the victim was taken off the critical list. The attacker can be jailed only if the victim is in danger of his life and there is the possibility that the case may become one of capital crime (Mekhilta dR. Ismael, Miṣpatim 6; Babli Sanhedrin 78b, Ketubot 33b).

167 Once the victim was taken off the critical list, it is impossible to convict the attacker of premeditated murder.

168 Ex. 21:19. Both Targum Onqelos and Mekhilta dR. Ismael explain המשנת not as "cane" but as "health". This meaning seems to be understood here.

169 The verse seems to be superfluous (but its continuation, spelling out the financial obligations of the attacker, is not.)

170 The term "exonerated" is read as "permanently exonerated."

171 Babli Sanhedrin 78a/b, Ketubot 33b; Tosephta Baba qama 9:7; Mekhilta dR. Simeon bar Iohai pp. 174-175.

172 Ex. 21:18.

173 Otherwise there could not be any monetary claim derived from this paragraph. (There could be a claim under rabbinic rules for insult, etc.)

174 In Sanhedrin: "estimated" and "did not estimate" are exchanged everywhere. This seems to be the correct version; in v. 18 the imperfect יְקרִינָה יָדָו is read as "not expected to die", since it does not say יָדָו מִשְׁמַח. But then v. 19 could simply mean that [the attacker] has to pay for disability and medical costs; the long introductory clause therefore refers to another case. For the Sages, the medical prognosis is irrelevant.

175 As a matter of principle, a
person convicted of a crime cannot be made to pay since that would constitute multiple punishment (cf. *Terumot* 7:1, *Notes* 3-73; *Ketubot* 3:1). Therefore, a verse is needed to force the potential murderer to pay if his victim survives.

176 If the victim survives, it is proof that the first estimation was wrong; there is no criminal case and the civil case can proceed unhindered.

177 From here on, the sentences have to be re-ordered as indicated by the text in *Sanhedrin* (different text in *Sanhedrin* is in parentheses and italicized):

What is the difference between them? If his state improved. For him who says, it is an extraordinary decree of Scripture that he pay, if he paid, he paid. If he did not pay, the verse makes him pay (does he have to pay?).

For him who says, it was an erroneous estimation, if he did not pay one does not order him to pay. If he paid, can he take it back?

A *baraita* supports one and a *baraita* supports the other. A *baraita* supports Rebbi Yose ben Hanina: If they estimated that he would die, when does he have to pay him? From the moment he improves. (It proves that the estimate was wrong.)

This (*A baraita*) supports Rebbi Simeon ben Laqish: If they estimated that he would live but he died (die but he lived). From when does he have to pay him (count for him)? From the moment he turns worse. Rebbi Yose said, it does not say here, "from the moment he turns worse" but "from the moment he turns better." (but from the start. That means, it is an extraordinary decree of Scripture that he pay. But if you say, it was an erroneous estimation, he has to pay until [the victim] dies.)

178 Even if the victim later dies.
179 But for R. Simeon ben Laqish he has to pay for disability from the moment of the injury.
180 That means, even if he turns worse, since he had to pay from the start by court order. For R. Yose ben Hanina, he never pays once the case has turned into a criminal matter.
181 Then the *baraita* is no support for R. Simeon ben Laqish since R. Yose ben Hanina will agree that the agressor has to pay the victim who is getting better.
If he hit him on his hand and it withered. The physicians said, if it is amputated he will live. Does he have to pay for the [hand]? Let us hear from the following: "If people quarrel," "if people brawl." Is not quarrel brawl and brawl quarrel? Why does the verse say, "if people quarrel, if people brawl"? To apply the rules of the unintended to the intended and of the intended to the unintended. It must be the following: If he hit him on his hand and it withered. The physicians said, if it is amputated he will live. Does he have to pay for the [hand]? Since you say there, it is an extraordinary decree of Scripture that he pay for the hand, so here it is an extraordinary decree of Scripture that he pay for the hand.

182 Reading of Sanhedrin. The reading here, קָנָר, "the slave" is an obvious misspelling for קָנָר, "the limb". Throughout the Halakhah, the scribe is not sure in his distinction between ז and כ.

It is clear that the attacker has to pay for the operation since this is medical treatment. The question is whether he also has to pay for the
permanent impairment of the victim's earning power caused by the loss of his hand.

183 *Ex. 21:22*, speaking of the injury to an innocent bystander, the unintended victim of an intended hit. The verse decrees the responsibility of the attacker for medical cost and disability.

185 In both cases, all four payments are due from the attacker.

186 Since the attacker has to pay for the operation, he has to pay for the permanent impairment.

Mishnah 6: Samuel was a *nazir* following the words of Rebbi Nahorai, as it is said: "A shaving knife shall not come on his head." It is said about Samson "a shaving knife", and it is said about Samuel "a shaving knife". Since "a shaving knife" mentioned for Samson refers to *nazir*, so "a shaving knife" mentioned for Samuel refers to *nazir*. Rebbi Yose said, but fear is only of flesh and blood! Rebbi Nahorai answered him: Was it not said: "Samuel said, how can I go? Will not Saul hear of it and kill me?" The fear of flesh and blood already was on him.

187 IS. 1:11. 189 Reading אָמַר (root אָמַר) "fear"
188 Jud. 13:5 for מַרְכָּה (root possibly מַרְכָּה) "shaving"
knife".  

191 In most Mishnah mss., the reading here also is רוח חוה.

190 Isa. 16:2.

Halakhah 6: Rebbi Yannai said: It is written\(^\text{192}\): "To all the hills which are to be worked by the harrow the fear of worm\(^\text{193}\) and snail will not come." Just as the stalk fears the iron, so the hair fears the iron\(^\text{194}\).

\(^\text{192}\) Isa. 7:25.  
\(^\text{193}\) A rock-splitting worm used by King Solomon to quarry the stones for the Temple without iron implements

\(^\text{194}\) (Sotah 9:13/14, Note 219.)
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