

Background and Instructions for the Pruzbul Form

by Rabbi Aaron Levine

Introduction

This current Jewish year 5768 is a *Shemita* year.¹ One of the laws of *Shemita* is that **at the very end of the year** loans outstanding between Jews² become automatically cancelled. This cancellation will take effect with sunset on *Erev Rosh Hashanah* 5769, Monday afternoon September 29, 2008 at 6:41 p.m. Once the official time of cancellation passes a lender may not request his borrower to pay off his debt to him.

Notwithstanding the law of cancellation of debts, the mechanism of *Pruzbul*, instituted by Hillel the Elder in the period of the second Temple, allows a lender to demand payment of a loan he extended another Jew, even if the debt remains outstanding when the cancellation date set in.

What follows is: a selection of the laws of *Shemita*, background for the institution of *Pruzbul*, an explanation of how *Pruzbul* works, selected laws relating to *Pruzbul*, instruction on how to fill out the *Pruzbul* form and an illustration and translation of a filled out *Pruzbul* form.

Selected Laws Relating to *Shemita*

מִקֵּץ שִׁבְעֵי-שָׁנִים תַּעֲשֶׂה שְׁמִטָּה: וְזֶה דְבַר הַשְּׁמִטָּה שְׁמוּטָה כָּל-בַּעַל מִשָּׂה יָדוֹ אֲשֶׁר יִשָּׂה בְרֵעֵהוּ לֹא-יִגַּשׁ אֶת-רֵעֵהוּ וְאֶת-אָחִיו בִּי-קָרָא שְׁמִטָּה לְהוֹ: אֶת-הַנִּכְרִי תִגַּשׁ וְאֲשֶׁר יִהְיֶה לְךָ אֶת-אָחִיךָ תִשְׁמַט יָדְךָ:³
At the end of seven years you shall institute a release. This is the matter of the release. Every creditor shall release his authority over what he has lent to his fellow; he shall not press his fellow or his brother for He has proclaimed a release for Hashem. You will press the non-Jew; but over what you have with your brother, you shall release your authority.⁴

According to Torah law *Shemita* cancels loans only when *Yovel* is in effect.⁵ For a variety of reasons we do not observe the laws of *Yovel* today. Cancellation of loans today is hence only by dint of Rabbinical decree.⁶

Shemita cancels only loans which include both oral and written notes of indebtedness. Obligations incurred in the context of **commercial transactions**, are, however not cancelled. Accordingly, payments past due or installment debt owed in the context of contracting for a

1. Rambam (הלכות שמיטה פרק י' ה"ד ו') records that the second Temple was destroyed in the year 3829. In his view, the destruction occurred in a *Shemita* year. The current year 5768 is thus 1,939 years since the destruction of the second Temple. Being that *Shemita* occurs every seven years it follows that this year is the 277th *Shemita* since the destruction of the second Temple.

2. *Shemita* does not cancel a loan between a Jew and a non-Jew.

3. דברים ט"ו, א-ג.

4. Translations are taken from the Artscroll Sapirstein Edition of Rashi and the Artscroll Schottenstein Edition of the Talmud.

5. רמב"ם פ"ט מהלכות שמיט"א ויובל ה"א.

6. Many leniencies result as a consequence of this rule.

service or in the purchase of a good are not cancelled. Nevertheless, if the commercial creditor consolidated the delinquent payments and stipulated a specific date for payment, the commercial debt becomes converted into ordinary debt, with the consequence that at the conclusion of the *Shemittah* year, the debt is automatically cancelled.

Debts owed to a *shul* or other charitable organizations do not become automatically cancelled at the conclusion of the *Shemittah* year.

Background for the institution of *Pruzbul*

Towards the end of the second Temple, Hillel the Elder observed people refraining from lending money out of the concern that they would be unable to collect their loans after *shemittah*. The Torah warns us about such a thing:

הַשֹּׁמֵר לֵךְ פְּוִי־יְהִיָה דָבָר עִם־לִבְךָ בְּלִיעַל לְאמֹר קָרְבָה שְׁנַת־הַשְּׁבַע שְׁנַת הַשְּׁמִטָּה וְרָעָה עֵינֶיךָ בְּאָחִיךָ הָאָבִיּוֹן וְלֹא תִתֵּן לוֹ וְקָרָא עָלֶיךָ אֱלֹהֵי וְהָיָה כִּךָ חַטָּא:⁷

Beware lest there be a lawless thought in your heart, saying the seventh year approaches the year of release and you will look malevolently upon your destitute brother and you will not give him, then he will call out against you to Hashem and there will be sin upon you.

In response Hillel the Elder established a legal device called the *Pruzbul*.⁸ When the lender writes a *pruzbul*, *shemittah* does not cancel the loan. The lender is free to collect the loan after *Shemittah*.⁹

Understanding How *Pruzbul* Works¹⁰

Once the cancellation date passes, a lender may not “press” his debtor to make payment on an outstanding loan. There is, however, no prohibition for a *Bet Din* to collect a loan. This is so because the **power** of *Bet Din* is such that the debt is regarded as if it was already collected without a need for *Bet Din* to “press” for payment. *Pruzbul* therefore calls for a lender to transfer the loans he holds to a *Bet Din*. The lender then acts as an **agent** of the court to collect the loan. After the loan is collected the court transfers the money to whomever it wishes; in this case to the original lender. *Bet Din* does this by virtue of its power to declare someone’s property ownerless and gives it away to whomever it wishes. This principal is called *hefker beis din hefker*.

7. דברים טו. ט.

8. The Talmud translates *Pruzbul* as: פְּרוּם בּוּלִי וּבּוּטִי, The benefit (פרום) of the rich (בולי) and the poor (בוטי). What this says is that by means of a *Pruzbul* the wealthy will be able to collect their loans after *Shemittah* and will lend money to the poor. The word *Pruzbul* is the combination of the first two words of this three word description פְּרוּם בּוּלִי. It would thus be translated, the benefit of the rich. The word *Pruzbul* is related to the greek *prozbulutei* (*proz-bule-butei*). This word is translated as a council appointed to protect people from harm and to their enactments (See Schottenstein Edition of Talmud, Artscroll Mesorah, Gittin 36-37, specifically 36a note 3). The Talmud gives a second interpretation as פּוּרְקָא דְמִלְתָּא, meaning the adjustment of the matter. The Talmud spells *Pruzbul* with a ס (פרוסבול). We commonly spell it with a ז (פרויבול).

9. גיטין לו.

10. One is required to understand what a *Pruzbul* is and how it works before writing one. פרישה סי' ס"ז סקב"ג.

Notwithstanding that the power of a Jewish court is severely limited in our time we still have the custom to write a *Pruzbul*.¹¹

There are many versions of *Pruzbul* in circulation. Some are more elaborate than others. The essential feature of the version we have adopted entails the **acknowledgment** on the part of the lender to two witnesses that he has turned over the loans he holds to a *Bet Din*, consisting of three named rabbis.¹²

Selected Laws of Pruzbul

In our times it is common for women to own assets and have their own bank accounts, therefore all women should prepare a *Pruzbul* or have someone prepare one on their behalf.¹³

If a child has money or assets on his name a parent should fill out a *pruzbul* on his behalf.¹⁴

The Talmud tells us that the *Pruzbul* is only effective if the borrower owns real estate. If a person rents, leases or even has permission to live or store his possessions in a certain place he meets this condition. There are many leniencies in this matter, therefore we do not investigate if the borrower owns real estate before writing a *Pruzbul*.

Some have the custom to write the *Pruzbul Erev Rosh Hashanah*. Others write it during the month of *Elul*. Any loan made **after** the *Pruzbul* is written is not included in the *Pruzbul* and is cancelled by *Shemitah*.

If one lent money to a person in another time zone it is preferable to fill out the *Pruzbul* before *Rosh Hashanah* begins in the debtor's time zone. However, it is valid as long as *Rosh Hashanah* has not begun in the time zone of the lender.¹⁵

A *Pruzbul* should be prepared even if one is certain that he has not lent anyone money. One may not be aware that many financial arrangements are considered loans according to Torah law.

If one forgot to write a *Pruzbul* and remembered before the beginning of *Rosh Hashanah* and is not able to write one, he should gather three people and read the text of the *Pruzbul* to them.¹⁶

11. A pruzbul is not a mundane document. It is considered a "document of *mitzvah*." שו"ת דברי מלביאל ה"ג סי' פ"ה

12. In other versions, the lender stipulates before a *Bet Din* that he desires to transfer the loans he has to the *Bet Din*.

In this version the document is signed by the judges themselves.

13. בן הורה הגרש"ז אויערבאך זצ"ל. ע' ספר נטעני גבריאאל ע' צג

14. נטעני גבריאאל ע' רכו

15. שם ע' קעג

16. שערי צדק לחיי אדם פרק כ"א. נטעני גבריאאל ע' קי"ד

If an individual borrowed money and is certain that his lender did not make a *Pruzbul*, the debtor is still obligated to return the money. *Shemita* only cancels the lender's power to collect. The borrower still has a moral obligation to return money even after *Shemita*.¹⁷ When the borrower returns the money the lender is duty bound to **refuse** to accept payment and must say "מְשַׁמֵּט אֲנִי", I relinquish the loan. The *Shemita* year 5768 has cancelled your debt, I may therefore not accept your offer to pay. The debtor should then say "אֵף עַל פִּי בֵן", I know that the conclusion of the *Shemita* year has cancelled my debt to you, nevertheless, I would like to give you this sum of money not as a debt I owe you but rather as a **gift**.

Some have a custom that after writing a *Pruzbul* they lend a small amount of money, say one dollar to a friend. This loan is not protected by the *Pruzbul* because it was made after the *Pruzbul* was written. After *Rosh Hashanah* the borrower should attempt to return the money. The lender should say "מְשַׁמֵּט אֲנִי", I relinquish the loan. The friend should then say "אֵף עַל פִּי בֵן", nevertheless, I wish to give you the money as a gift. This custom allows a lender to fulfill the *mitzvah* of relinquishing a loan and at the same time allows the borrower to fulfill his moral obligation outside the framework of law. This *mitzvah* is rare as it occurs only once in seven years.¹⁸

Chazal tells us ¹⁹שֶׁכֶּר מִצְוָה בְּהָאֵי עֲלָמָא לִיבָא, there is no reward in this world for the fulfillment of a *mitzvah*. However the laws of *shemita* are an exception. The Torah concludes the section of *shemita* saying: ²⁰כִּי בִגְלַל הַדְּבָר הַזֶּה יְבָרַכְךָ ה' אֱלֹהֶיךָ בְּכָל-מַעֲשֶׂיךָ וּבְכָל מַשְׁלַח יָדְךָ: For because of this matter *Hashem* your God will bless you in all of your deeds and in your every undertaking. In the merit of fulfilling this *mitzvah* may we witness this blessing speedily in our days.

17. אגרות משה חו"מ ח"א כב. זכר יצחק סימן כג.

18. בן איש חי פרשת כי תבוא וכתב שכן הנהיג בבאגדאד. ע' ספר נטעי גבריא אל ע' קמ"ז.

19. קידושין למ:.

20. דברים טו, י.

Filling Out the *Pruzbul* Form and Illustration

Below is a sample *pruzbul*. Simply enter the Jewish day of the month, your Jewish name and have it signed by two witnesses. The witnesses may not be related to each other, to you the lender or to the borrower. The *Pruzbul* may be also filled out at night. Once filled out, the *Pruzbul* document should be put away for safekeeping. **It need not be handed over to the rabbis mentioned in the document.** If the *Pruzbul* were lost before *Rosh Hashanah* one should write another one. If not, *Shemita* will cancel the loans. If it were lost after *Rosh Hashanah* it does not matter and one may claim any loan.

- (1) יום כ"ט לחודש אלול שנת ה' אלפים תשס"ח ← **Jewish Date**
- (2) לפנינו בא דוד בן שמעון _____ ← **Lender**
(Your Name)
- (3) ואמר לנו היו עדים שהנני מוסר כל חוב שיש לי
- (4) לרב אהרן לעווין ולרב יחיאל מיכל אורליאן
- (5) ולרב שלום יעקב כרמי דיינים בברוקלין נוא יארק
- (6) שאוכל לגבותו כל זמן שארצה כתקנת פרוזבול
- (7) שתיקן הלל הזקן זכר לברכה. ובאנו על החתום
- (8) נאום: אפרים בן זלמן _____ עד ← **Witnesses**
- (9) נאום: יצחק בן אברהם הכהן _____ עד ←

What follows is a loose translation:

- (1) The 29st day of the month of Elul 5768
- (2) Before us has come Dovid the son of Shimon
- (3) He has made the following declaration: Be witnesses that I transfer all outstanding loans owed to me
- (4) to Rabbi Aaron Levine, Rabbi Mitchell Orlian
- (5) and Rabbi Shalom Carmy who are judges in Brooklyn, New York.
- (6) so that I can collect them whenever I wish, according to the enactment of *Pruzbul*
- (7) that was established by Hillel the Elder, may he be remembered for blessing. To this we affix our signatures.
- (8) The testimony of Asher the son of Zalman, witness.
- (9) The testimony of Yitzchok the son of Avraham the Cohen witness.

***Pruzbul* cards and copies of this article are available in Shul and online at YIofJ.org.**