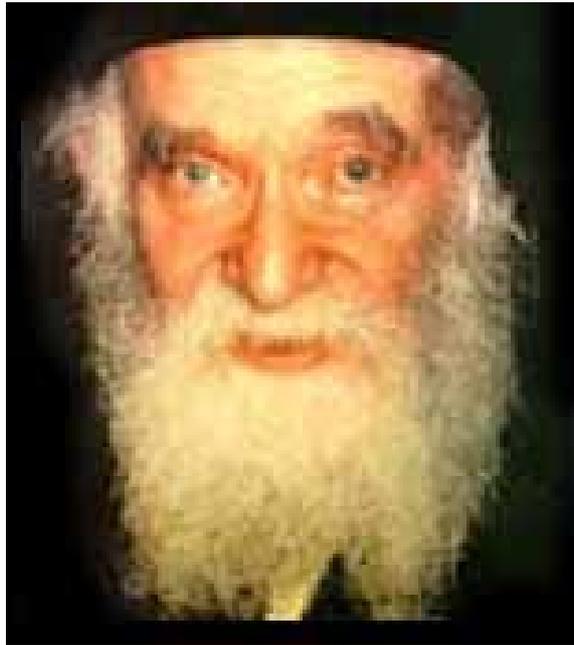


The Soncino Babylonian Talmud

Book V

Folios 120b-142a



CHULLIN

**TRANSLATED INTO ENGLISH
WITH NOTES**

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Chullin 120b

The Divine Law then could have stated it¹ with regard to creeping things and the other cases² would have been inferred therefrom? Such inference could be refuted thus: It is so with the case of creeping things since they convey uncleanness no matter what their size.³ And as for [the Baraitha] which was taught: ‘The liquids that exuded from produce of tebel,⁴ or from new produce,⁵ or from consecrated produce or from seventh year produce,⁶ or from the produce of diverse kinds,⁷ are like [the produce] themselves’ — whence is this derived? Should you say it can be inferred from the other cases,⁸ [but it will be refuted thus,] It is so with the others since each is an original prohibition.⁹ Now this [inference] could stand in respect of those that are original prohibitions, but whence would we know it in respect of prohibitions which are not original?¹⁰ —

We could infer it from the law of the first-fruits.¹¹ And whence do we know it with regard to the first-fruits? — From the following teaching of R. Jose:¹² It is written: The fruit,¹³ that is to say, you shall bring fruit but not liquids. And whence do we know that where a man brought grapes and trod them [into wine they are acceptable as first-fruits]? The verse therefore says: Thou shalt bring.¹⁴ But the inference can be refuted thus: It is so with first-fruits since they require the recital [of a passage]¹⁵ and also setting down!¹⁶ —

Rather it¹⁷ must be inferred from Terumah. And whence do we know it with regard to Terumah itself? Because it has been likened to the first-fruits, for a Master has said: The offering if thine hand¹⁸ refers to the first-fruits. But [it will be refuted thus]: It is so with regard to Terumah since on account of it people incur the penalty of death¹⁹ and the penalty of the [added] fifth!²⁰ —

Rather it must be inferred from the two, from Terumah and the first-fruits. But [it will be refuted thus], It is so with regard to Terumah and the first-fruits since on account of them people incur the penalty of death and the penalty of the [added] fifth! —

Rather it must be inferred either from Terumah and one of the other cases²¹ or from the first-fruits and one of the other cases.²¹ And as for [the Mishnah] which we learnt: ‘[If a non-priest drank in error] date-honey, cider, vinegar from winter-grapes, or any other juices,²² of Terumah, R. Eliezer declares him liable to the payment, of the value and the [added] fifth, but R. Joshua declares him exempt [from the added fifth]’²³ — on what principle do they differ?²⁴ — They differ as to [whether we say], ‘Deduce from it and [entirely] from it’, or, ‘Deduce from it and establish it in its own place’.²⁵

R. Eliezer holds, ‘Deduce from it and [entirely] from it’: thus, ‘deduce from it’ — just as in the case of first-fruits the liquids which exude from them are like [the fruits] themselves, so in the case of Terumah, too, the liquids which exude from it are like [the fruit] itself; ‘and [entirely] from it’ — just as this law of first-fruits applies even to the other kinds,²⁶ so with regard to Terumah, too, this law applies even to ,the other kinds.²⁷

R. Joshua holds, ‘Deduce from it and establish it in its own place’: thus ‘deduce from it’ — just as in the case of first-fruits the liquids which exude from them are like [the fruits] themselves, so in the case of Terumah, too, the liquids which exude from it are like [the fruit] itself; ‘and establish it in its own place’ — just as the liquids that can be consecrated as Terumah are only wine and oil but no other liquids, so, too, the rule that the liquids which exude from it are like [the fruit] itself, applies only to wine and oil, but to no other liquids.²⁸ And as for [the

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Mishnah] which we learnt: ‘No liquid may be brought as first-fruits excepting the product of olives and grapes’²⁹ — who is the author thereof?—

It is R. Joshua who holds the principle, ‘Deduce from it and establish it in its place’, and then he infers the law as to first-fruits from Terumah.³⁰ And as for [the Mishnah] which we learnt: ‘One would not suffer the penalty of forty stripes incurred through the transgression of the law of ‘*orlah*’³¹ [for the liquid which issued from any *Orlah* fruits] save for that which issued from olives and grapes’²⁹ — who is the author thereof? — It is R. Joshua who holds the principle, ‘Deduce from it and establish it in its own place’, he then infers the law as to first-fruits from Terumah,

- (1) That the extracts and juices from forbidden substances or the liquids made from them are included within the prohibition.
- (2) Sc. the carcass of a clean bird, the forbidden fat, and leavened bread. V. Tosaf. s.v. לכהוב, and also Glos. Of Isaiah Berlin in the margin of the text quoting the Adreth Hiddushim.
- (3) I.e., even the size of a lentil's bulk; but v. Tosaf. 120a s.v. שכן.
- (4) *שבל* ‘mixed’; produce from which the priestly and Levitical dues have not been separated.
- (5) The harvest of the new season which may not be eaten before the offering of the ‘Omer; v. Lev. XXIII, 10-14.
- (6) Cf. Ex. XXIII, 21; Lev. XXV, 2-7.
- (7) Cf. Lev. XIX, 19; Deut. XXII, 9.
- (8) Sc. the fat, leavened bread and the carcass of a clean bird.
- (9) Lit., ‘the prohibition comes from itself’; as opposed to a prohibition which is brought about by man. All the cases mentioned in this passage are original except that of consecrated produce.
- (10) Sc. consecrated produce.
- (11) Cf. Deut. XXVI, 1ff. First-fruits are, like consecrated produce, rendered holy by the word of man.
- (12) ‘Arak. 11a.
- (13) Deut. XXVI, 2.
- (14) We thus see that the liquid is like the fruit.
- (15) Ibid. 5ff.
- (16) I.e., setting down the basket of fruit before the Lord; *ibid.* 10.

(17) Sc. that the liquid and juice of any substance is like the substance itself in the case of consecrated produce.

(18) Ibid. XII, 17. Heb. ותרומה ידך. By ידך, ‘thy hand’ is meant: First-fruits, in reference to which ‘hand’ is mentioned (cf. Deut. XXVI, 4); hence Terumah is equated with First-fruits. V. Mak. 17a.

(19) When a non-priest deliberately consumes Terumah he incurs the penalty of death at the hands of Heaven; cf. Lev. XXII, 9, 10.

(20) When a non-priest consumes Terumah in error and makes restitution, cf. *ibid.* 14.

(21) I.e., either the case of leavened bread, or of the carcass of a clean bird (Rashi, but v. Tosaf. s.v. אלא). The inference is drawn by reducing these cases to their common features, that is, each is a forbidden substance and the liquid made from it is forbidden like the substance itself.

(22) Excepting wine and oil.

(23) Ter. XI, 2. Ber. 38a.

(24) Since it is established by analogy with first-fruits that the liquid exuding from Terumah is like Terumah itself.

(25) Whenever one subject is inferred from another by means of analogy, or by ‘the common features’, the question always arises as to extent to which the inference must be carried. We may say that the inference is ‘from it and again from it’, i.e., the subjects must be alike in every respect and on every point, or we may say that the inference is ‘from it and then put in its place’. i.e., the inference is made with regard to one point only, and as for the rest each subject is regulated by the rules which govern its other aspects.

(26) I.e., to the seven kinds of products for which the Land of Israel was famed: wheat, barley, grapes, figs, pomegranates, olive-oil and date-honey. V, Deut. VIII, 8.

(27) Hence the liquids made from apples and dates are subject to the law of Terumah.

(28) For wine and oil are the only liquids expressly mentioned in the Torah with regard to Terumah; cf. Num. XVIII, 12;

Deut. XVIII, 4. So, juice which exuded from grapes and olives of Terumah is as the Terumah itself.

(29) Ter. XI, 3.

(30) The rule stated in this Mishnah is arrived at by the following stages in the argument: (a) it is inferred from first-fruits that the liquid derived from Terumah fruits is consecrated like the fruit itself; (b) this deduction must be governed by the conditions of Terumah, i.e., this rule applies only to those liquids which are expressly mentioned in the Torah as Terumah, sc., wine and oil; and finally (c) it is inferred from Terumah that only

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the liquids from olives and grapes are acceptable as first-fruits.
(31) V. Glos.

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and finally he derives the law as to ‘Orlah by means of the word ‘fruit’ stated here and also in connection with the first-fruits.¹

AND ALAL.² What is ALAL? R. Johanan said: It is withered flesh.³ Resh Lakish said: It is flesh which the knife has cut away.⁴ An objection was ‘raised. It is written: But ye are plasterers of lies, ye are all physicians of elil.⁵ Now according to him who says it is withered flesh it is well, for such cannot be healed; but according to him who says it is flesh which the knife has cut away, surely this can be healed!⁶ — There is no dispute at all about the elil mentioned in the verse;⁷ they only disagree as to the meaning of alal in our Mishnah.

Come and hear: [from our Mishnah]: R. JUDAH SAYS, IF SO MUCH OF ALAL WAS COLLECTED TOGETHER SO THAT THERE WAS AN OLIVE'S BULK IN ONE PLACE, ONE WOULD THEREBY BECOME LIABLE. And to this R. Huna added, provided he collected it together.⁸ Now according to him who says it is the flesh which the knife has cut away, it is clear that when there was an olive's bulk of it [in one place] one would thereby become liable; but according to him who says it is withered flesh, what if there was an olive's bulk of it, it is surely only regarded as wood? They certainly do not disagree as to the alal referred to by R. Judah;⁹ they only disagree as to the meaning of the alal according to the Rabbis.

R. Johanan maintains that even withered flesh can be included together [with ordinary flesh to make up the minimum quantity to convey uncleanness], but Resh Lakish maintains that only the flesh which the knife has cut away can be included but withered

flesh cannot be included. What is the case with regard to the flesh which the knife had cut away? If he intended it [as a foodstuff],¹⁰ it should contract uncleanness alone;¹¹ and if he did not intend it [as a foodstuff], he has then surely abandoned it!—

R. Abin and R. Meyasha [each offered a suggestion]; one suggested the case where he intended part of it [as a foodstuff],¹² the other suggested the case where part was rent by a wild beast and part cut away by the knife.¹³ We have learnt elsewhere:¹⁴ The beak and the claws contract uncleanness and convey uncleanness and can be reckoned together [with the flesh].¹⁵ But is not the beak like wood? — It refers to the lower beak. And is not the lower beak also like wood? — R. Papa said: It means the lower part [inside membrane] of the upper beak. As to ‘claws’, — R. Eleazar said: It refers to that part [of the claws only] which is buried in the flesh.

HORNS. R. Papa said: It refers to that part [of the horns] from which the blood flows when cut into.

SIMILARLY, IF A MAN SLAUGHTERED AN UNCLEAN ANIMAL.¹⁶ R. Assi stated: Some teach that in the case of an Israelite [slaughtering] an unclean animal and also in the case of a gentile [slaughtering] a clean animal, there must be¹⁷ an express intention [to regard it as a foodstuff],¹⁸ and the animal must be¹⁷ rendered susceptible [to uncleanness by a liquid] from another source.¹⁹ Wherefore is it necessary that it be rendered susceptible to uncleanness? Ultimately it will convey the graver uncleanness,²⁰ will it not? And whatever will ultimately convey the graver uncleanness does not require to be rendered susceptible to uncleanness! For the school of R. Ishmael taught: But if water be put upon seed²¹ — just as seeds, which will never ultimately convey the graver uncleanness, require to be rendered susceptible to uncleanness by a

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liquid,²² in like manner, whatever will not ultimately convey the graver uncleanness requires to be rendered susceptible to uncleanness by a liquid. And it has also been taught: R. Jose says: Why did [the Rabbis] rule²³ that in the case of the carcass of a clean bird there must be an intention [to use it as food],²⁴ but it does not need to be rendered susceptible to uncleanness by a liquid? Because

- (1) Just as the term 'fruit' stated in connection with the first-fruits (Deut. XXVI, 2) includes the products of olives and grapes but no other liquids (v. supra n. 4) so the term 'fruit' stated (Lev. XIX, 23) in connection with 'Orlah includes the products of olives and grapes but no other liquids.
- (2) Heb. ללס.
- (3) So R. Hananel and Tosaf. According to Rashi, it is the hard veins in the throat.
- (4) When the animal is flayed some flesh is inevitably cut away and remains attached to the hide.
- (5) Job XIII, 4. Heb. ללס, usually translated 'of no value'. The word is of the same root as that of our Mishnah.
- (6) If the flesh cut away is replaced and bound up well it would heal up.
- (7) Scriptural *elil* certainly means 'withered flesh' (or, 'the hard veins').
- (8) And by collecting it together of set purpose he has revealed his intention that he never ceased to regard it as foodstuff. If, however, it was collected by a child, or if he himself inadvertently collected it together, R. Judah would agree that the olive's bulk of it cannot be accounted as *nebelah*.
- (9) R. Judah when dealing with *alal* certainly speaks of the 'pieces of flesh cut away by the knife in flaying.
- (10) Even though it was already adhering to the skin.
- (11) Without being included together with other flesh; for whatsoever can be eaten and is intended to be used as a foodstuff will contract and convey food uncleanness.
- (12) But he did not expressly state which part he intended as a foodstuff. Therefore, by itself it cannot contract uncleanness, for in an egg's bulk thereof only part of it is a foodstuff, but that part which was intended as a foodstuff can be reckoned together with other foodstuff to make up the quantity of an egg's bulk.
- (13) A wild beast attacked the animal whilst alive and tore away a portion of flesh which was left hanging, and later when the animal was being flayed this portion of flesh and some more was cut

away by the knife and remained attached to the skin. Now it is to be assumed that the portion torn by the wild beast is usually not regarded as abandoned but that cut away by the knife is; consequently this portion of flesh adhering to the skin is abandoned in part only, and therefore the other part can be reckoned together with other flesh.

(14) Toh. I, 2.

(15) The carcass of a clean bird (except that it renders the clothes of the person that eats of it unclean) is not in itself a source of uncleanness, but is regarded only as a foodstuff, to contract uncleanness from unclean matter and to transfer it to other foodstuffs. This Mishnah (Toh. I, 2) enumerates the various parts of a fowl which by themselves are not regarded as foodstuffs but can serve as handles to convey uncleanness to the fowl or from it.

(16) V. supra p. 648, n. 5.

(17) In order that the animal should convey food uncleanness, if it comes into contact with unclean matter, from the moment after the slaughtering, while it still moves about convulsively, until the moment it is dead. Without this express intention it would not be regarded as a foodstuff until it was actually dead.

(18) I.e., his intention at the time of slaughtering the unclean animal was that a gentile should eat of it immediately.

(19) But the blood from the slaughtering of this animal will not serve to render the animal susceptible to uncleanness as is the case generally with slaughtering (v. supra 35b), for the blood is regarded as the blood of a dead animal which is not designated in the Bible as a liquid. The word 'water' in cur. edd. is omitted in MSS. and is deleted by Shittah Mekuhbezeth.

(20) When the animal is actually dead it will then render men and vessels that come into contact with it, even with only an olive's bulk of it, unclean, and it also renders these unclean by carrying.

(21) Lev. XI, 38.

(22) Foodstuff, liquids, and earthenware vessels can in no circumstances be a primary source of uncleanness, for these are implicitly excluded from Num. XIX, 22, since these, once unclean, have no remedy whereby they can become clean again.

(23) V. Toh. I, 1.

(24) For the carcass of a clean bird is generally not counted as a foodstuff in small towns and villages; in large towns, however, intention to use it as a foodstuff is not necessary since it is there generally regarded as a foodstuff, cf. 'Uk. III, 3.

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it will ultimately convey the graver uncleanness!¹ — Hezekiah answered, [The case In our Mishnah is different] since he could cut it up into pieces each smaller than an olive's bulk.²

Said R. Jeremiah to R. Zera, But could Hezekiah really have said so?³ Behold it has been reported: If a man cut ritually, both, or the greater part of both [organs of the throat of an unclean animal], and the animal was still struggling: Hezekiah said: It is no more subject to the prohibition of limbs [from the living animal];⁴ but R. Johanan said: It is still subject to the prohibition of limbs [from the living animal]. ‘Hezekiah said: It is no more subject to the prohibition of limbs’, because it is now considered as dead. ‘R. Johanan said: It is still subject to the prohibition of limbs’, because it is not actually dead!⁵ —

He replied: It is really out of the category of living animals but has not yet come within the category of dead animals.⁶ The text above stated: ‘If a man cut ritually both or the greater part of both [organs of the throat of an unclean animal], and the animal was still struggling: Hezekiah said: It is no more subject to the prohibition of limbs [from the living animal]; but R. Johanan said: It is still subject to the prohibition of limbs’.

R. Eleazar said: Hold fast to this view of R. Johanan for R. Oshaia has taught in agreement with him. For R. Oshaia taught: If an Israelite slaughtered an unclean animal for a gentile, as soon as he has cut both or the greater part of both organs of the throat, even though it still struggles, it conveys food uncleanness,⁷ but not the uncleanness of nebelah. A limb severed from it is regarded as severed from the living animal,⁸ and flesh severed from it is regarded as severed from the living animal, and it may not be eaten by a gentile even after the life of the animal has departed.¹⁰ If he only cut one or the greater

part of one organ, it does not convey food uncleanness.¹¹ If he stabbed it,¹² it has no uncleanness whatsoever.¹¹ If a gentile slaughtered a clean animal for an Israelite, as soon as he has cut both or the greater part of both organs, even though it still struggles, it conveys food uncleanness,¹³ but not the uncleanness of nebelah. A limb severed from it is regarded as severed from the living animal, and flesh severed from it is regarded as severed from the living animal, and it may not be eaten by a gentile even after the life of the animal has departed. If he only cut one or the greater part of one organ, it does not convey food uncleanness.¹¹ If he stabbed it, it has no uncleanness whatsoever.¹¹ If the gentile cut only so much as does not render the animal trefah,¹⁴ and an Israelite came and finished it, the slaughtering is valid. If an Israelite slaughtered, whether he had cut so much as would render the animal Trefah or not, and a gentile came and finished it, the slaughtering is invalid. If a person desires to eat the flesh of an animal before the life has departed from it, he should cut off an olive's bulk of flesh from around the throat, salt it well, rinse it well, wait until the life departs [from the animal], and then eat it. Both Israelite and gentile may eat it in this manner.

This [Baraita]¹⁵ lends support to the view of R. Idi b. Abin. For R. Idi b. Abin said in the name of R. Isaac b. Ashian: If a person desires to be in good health he should cut off an olive's bulk of flesh from around the throat, salt it well, rinse it well, wait until the life departs [from the animal], and then eat it. Both Israelite and gentile may eat it in this manner.¹⁶

R. Eleazar raised the question: What is the law if he paused or pressed down [the knife whilst cutting the organs]?¹⁷ — Thereupon a certain old man answered: Thus said R. Johanan, It requires the same ritual acts of slaughtering as in the case of a clean animal. To what extent are the ritual acts essential?

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— R. Samuel b. Isaac said: Even to the examination of the knife.

R. Zera enquired of R. Shesheth: Can the animal protect the articles that are swallowed within it [from becoming unclean or not]?¹⁸ — He replied: It already conveys food uncleanness,¹⁹ is it then possible that it should afford protection! The other retorted: It does not yet convey the uncleanness of nebelah,²⁰ why then should it not afford protection? — Abaye said: It does not protect the articles that are within it from becoming unclean since it already conveys food uncleanness, and he who commits an unnatural crime upon it is culpable²¹ since it does not yet convey the uncleanness of nebelah.

R. JUDAH SAYS, IF SO MUCH OF ALAL WAS COLLECTED, etc. R. Huna said: Provided he collected it together [of set purpose].²² R. Huna also said: If there were two pieces of flesh on the hide, each a half-olive's bulk, the hide renders them negligible.²³

(1) For, when dead, it renders unclean the person that eats it and his clothes; therefore it does not require to be rendered susceptible to uncleanness by contact with a liquid.

(2) It must be remembered that our Mishnah deals with an animal not quite dead but still struggling, at which stage it certainly cannot convey the uncleanness of nebelah; moreover it is by no means certain that ultimately it will convey the graver uncleanness, i.e., the uncleanness of nebelah, for it is possible that the animal will be cut up into bits, each piece smaller than an olive's bulk.

(3) That while the animal still struggles it is not deemed nebelah and does not convey uncleanness as such.

(4) A gentile bound by the Seven Commandments of the Sons of Noah (cf. Sanh. 56a), is forbidden to eat a limb torn from a living animal. According to Hezekiah the animal is regarded as dead, and therefore is not subject to the aforementioned prohibition, not so according to R. Johanan.

(5) We thus see that according to Hezekiah even while the animal is still struggling it is presumably regarded as dead since the prohibition of limbs no longer applies.

(6) So that Hezekiah holds that it is not subject to the prohibition of 'limbs' since it can no longer be considered as living, neither can it be considered as dead to convey the graver uncleanness.

(7) If it came into contact with unclean matter it will convey uncleanness to other foodstuffs, for it is regarded as a foodstuff immediately on the cutting of the organs; the reason being that the ritual slaughtering performed by the Israelite expressly on behalf of the gentile renders the animal a foodstuff forthwith, just as the slaughtering by an Israelite of a clean animal certainly renders it a foodstuff forthwith.

(8) And defiles forthwith like nebelah.

(9) Sc. the limb or the flesh that was severed.

(10) Since it was severed from the 'living' animal, hence in agreement with R. Johanan that while struggling, the animal is still considered living.

(11) As long as it still struggles. For the animal at this moment is permitted neither to Israelite nor to gentile.

(12) At the throat.

(13) Just as when an Israelite slaughters an animal, as soon as the organs are cut through it is rendered a foodstuff forthwith, so it is when a gentile slaughters it expressly on behalf of an Israelite.

(14) E.g., the gentile only cut half through the windpipe, so that if the gentile were to stop at this stage the animal would not be Trefah. Cf. supra 59b.

(15) Which states that even the gentile may eat of it.

(16) v. supra p. 177.

(17) In the aforementioned cases, where an Israelite slaughtered an unclean animal for a gentile, or a gentile slaughtered a clean animal for an Israelite, the question is raised as to whether the slaughtering must be entirely in accordance with ritual, free from such invalidating acts as pausing or pressing (cf. supra 9a), for otherwise it is like stabbing, or not.

(18) I.e., where an Israelite slaughtered an unclean animal for a gentile, or a gentile a clean animal for an Israelite, and the animal whilst alive had swallowed certain articles, and after it was slaughtered, while still struggling, was brought under the same roof or 'tent' as a corpse. V. supra 71b where it is stated that a living person or animal can protect from the uncleanness of the 'tent' the articles that are swallowed within them. The question is: Is the animal whilst still struggling regarded as living or not?

(19) Apparently because it is considered as dead.

(20) It is then not considered as dead.

(21) He suffers the death penalty if he committed the crime deliberately, or if inadvertently, is

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obliged to bring a sin-offering. According to Rashi, Abaye always considers the animal in that status which produces the more stringent result; but v. Tosaf., s.v. ״אָ״.

(22) V. supra p. 672, n. 7.

(23) They cannot be reckoned together as one whole olive's bulk of nebelah so as to convey uncleanness by carrying.

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According to whose authority is this ruling? If according to R. Ishmael's¹ — but he maintains that the hide does not render them² negligible; and if according to R. Akiba's¹ — but it is obvious, for he maintains that the hide renders them² negligible! — In fact it is in accordance with R. Ishmael's view, for R. Ishmael only maintains that the hide does not render them negligible in the case where the pieces were torn away by a wild beast,³ but where they were cut away by the knife [he concedes that] the hide renders them negligible.

Come and hear [from our Mishnah]. R. JUDAH SAYS, IF SO MUCH OF ALAL WAS COLLECTED TOGETHER SO THAT THERE WAS AN OLIVE'S BULK IN ONE PLACE, ONE WOULD THEREBY BECOME LIABLE. And to this R. Huna added, provided he collected it together.⁴ Now if you say that even where the knife cut it away it is not rendered negligible according to R. Ishmael, it is well, for then R. Huna is in agreement with R. Ishmael.⁶ But if you say that where the knife cut it away R. Ishmael concedes that it is rendered negligible, then [it will be asked], With whom does R. Huna agree?⁷ — You must therefore say that even where the knife cut it away it is not rendered negligible according to R. Ishmael; and R. Huna⁸ is in agreement with R. Akiba. But this would be obvious? — No, for you might have thought that R. Akiba maintains his view only where the knife cut it away, but where it was torn away by a wild beast he would concede that it is not rendered negligible; he therefore teaches us that the reason for R. Akiba's view is

because the hide renders it negligible, making thus no difference whether it was torn away by a wild beast or cut away by the knife, for so it reads in the last clause: 'Wherefore does R. Akiba declare him clean in the case of the hide? Because the hide renders them negligible'.⁹

MISHNAH. IN THE FOLLOWING CASES THE SKIN IS CONSIDERED FLESH:¹⁰ THE SKIN OF A MAN, THE SKIN OF THE DOMESTIC PIG (R. JUDAH¹¹ SAYS, EVEN THE SKIN OF THE WILD PIG), THE SKIN OF THE HUMP OF A YOUNG¹² CAMEL, THE SKIN OF THE HEAD OF A YOUNG¹² CALF, THE SKIN AROUND THE HOOFS, THE SKIN OF THE PUDENDA,¹³ THE SKIN OF A FOETUS, THE SKIN BENEATH THE FAT TAIL, THE SKIN OF THE HEDGEHOG,¹⁴ THE CHAMELEON, THE LIZARD AND THE SNAIL. R. JUDAH SAYS, THE LIZARD IS LIKE THE WEASEL.¹⁵ IF ANY OF THESE SKINS WAS TANNED OR TRAMPLED UPON AS MUCH AS [WAS USUAL] FOR TANNING, IT BECOMES CLEAN, EXCEPTING THE SKIN OF A MAN. R. JOHANAN B. NURI SAYS, THE EIGHT REPTILES HAVE [REAL] SKINS.¹⁶

GEMARA. Ulla said: According to the law of the Torah the skin of a man¹⁷ is clean, but for what reason did they say it was unclean? As a precautionary measure lest a man make rugs out of the skin of his father and mother. Others refer this [dictum of Ulla's] to the later clause of our Mishnah, viz., IF ANY OF THESE [SKINS] WAS TANNED OR TRAMPLED UPON AS MUCH AS [WAS USUAL] FOR TANNING, IT BECOMES CLEAN, EXCEPTING THE SKIN OF A MAN. Ulla said: According to the law of the Torah, if the skin of a man was tanned, it thereby becomes clean, but for what reason did they say it remained unclean? As a precautionary measure lest a man make rugs out of the skin of his father and mother. Now those who refer this [dictum of Ulla's] to the first clause will certainly refer it to the later cause,¹⁸ but those who refer it to the later

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clause [maintain that] in the first the uncleanness is by the law of the Torah.

THE SKIN OF THE DOMESTIC PIG, etc. What is the issue between them? One¹⁹ is of the opinion that this²⁰ is hard and only the other²¹ soft, whereas the other²² maintains that this,²⁰ too, is soft.

THE SKIN OF THE HUMP OF A YOUNG CAMEL. How long is the camel considered young? — Ulla said in the name of R. Joshua b. Levi: As long as it has not borne a burden. R. Jeremiah enquired: What is the law [with regard to its skin] if it had reached the age for bearing burdens but had not actually borne any? Abaye enquired: What if it had actually borne burdens although it had not reached the age for it? — These questions must stand. Resh Lakish was once sitting and raised the question: How long is the camel considered young? — R. Ishmael b. Abba answered: So said R. Joshua b. Levi: As long as it has not borne a burden. Whereupon he [Resh Lakish] said: Sit down opposite me.²³

R. Zera was once sitting and raised the question: How long is the camel considered young? — Rabin b. Hinena answered him: So said Ulla in the name of R. Joshua b. Levi: As long as it has not borne a burden. He [Rabin] then repeated it over again,²⁴ whereupon the other [R. Zera] said to him, 'It is the only thing you knew, and you have already told us it!' Come and see the difference between the imperious men of the Land of Israel and the pious men of Babylon!²⁵

THE SKIN OF THE HEAD [OF A YOUNG CALF]. How long is the calf considered young? — Ulla said: Throughout its first year. R. Johanan said: As long as it sucks. The question was raised: Did Ulla mean 'Throughout its first year' provided it still sucked,²⁶

(1) V. infra 124a.

(2) Sc. pieces of flesh adhering to the hide each less than an olive's bulk.

(3) In this case the pieces of flesh became attached to the hide accidentally, without the knowledge or will of the owner, and therefore R. Ishmael holds that these pieces are not rendered negligible. Where, however, the pieces were cut away and intentionally left hanging on to the skin by the man who flayed the animal, even R. Ishmael agrees that they are negligible in themselves and are considered as part of the hide.

(4) This provision implies that the knife had cut away shreds of flesh in a number of places and left them attached to the hide. The fact that one is liable if the pieces were collected together clearly indicates that the hide did not render these shreds negligible, for had they once been rendered negligible the person who touched them would not become unclean and so not be liable for any further consequences.

(5) Sc. shreds of flesh attached to the hide.

(6) I.e., R. Judah of our Mishnah, as interpreted by R. Huna, is in agreement with R. Ishmael, and the Rabbis who differ with R. Judah are in agreement with R. Akiba.

(7) I.e., R. Judah's view as interpreted by R. Huna.

(8) I.e., the second dictum of R. Huna ('If there were two pieces of flesh', etc.) accords with R. Akiba; the first dictum of R. Huna which interprets the view of R. Judah in our Mishnah ('Provided he collected it together') accords with R. Ishmael.

(9) V. infra 124a.

(10) The skins enumerated are thin and tender, and therefore with regard to the laws of uncleanness are regarded as flesh.

(11) In MS.M. and in the editions of the Mishnah: 'R. Jose'.

(12) V. Gemara, for the definition of 'YOUNG'.

(13) I.e., the skin of the womb in a female animal.

(14) Cf. Lev. XI, 29, 30, where are enumerated the eight unclean reptiles. In the case of these four mentioned, their skin is soft and is counted as the flesh. The identification of the reptiles mentioned is very uncertain; v. Lewysohn, Zoologie des Talmuds.

(15) Whose skin is hard and therefore not unclean.

(16) Lev. *ibid.* The skins of these eight reptiles are quite separate from the flesh and cannot convey uncleanness.

(17) Taken from a corpse. Human skin might have been preserved for sentimental reasons, or perhaps on grounds of utility.

(18) For since the skin was tanned and its character thus altered, there would be no other reason why it should remain unclean, except this precautionary measure stated by Ulla.

(19) The first Tanna.

(20) The skin of a wild pig.

(21) The skin of the domestic pig.

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(22) R. Judah.

(23) As a token of his gratitude and as a mark of respect.

(24) He thought that R. Zera had not heard it the first time.

(25) Resh Lakish who was of the powerful and imperious men of Palestine (cf. Yoma 9b) treated his informant with courtesy and respect, whereas R. Zera, a Babylonian who was renowned for his piety (cf. B.M. 85a) treated his informant with disrespect and insult.

(26) So that if it had passed its first year or if it had ceased to suck within its first year it was no more young.

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whereupon R. Johanan said to him, ‘As long as it sucks’;¹ or Ulla meant ‘Throughout its first year’, whether it still was sucking or not, whereupon R. Johanan said to him, ‘Throughout its first year and provided it was still sucking?’ —

Come and hear: ‘R. Johanan said: As long as it sucks’ — Now if it were the case [that R. Johanan required both]² he should have said, provided it still sucks. This proves it. Resh Lakish enquired of R. Johanan: ‘Can the skin of the head of a young calf convey uncleanness or not?’ — He replied: ‘It cannot’ — ‘But’, said the other, ‘you, our teacher have taught us, "IN THE FOLLOWING CASES THE SKIN IS CONSIDERED AS FLESH:... THE SKIN OF THE HEAD OF A YOUNG CALF"’. — He replied: ‘Do not weary me [with your arguments], for I taught that [Mishnah] as the opinion of an individual.³ For it was taught:⁴ If a man slaughtered a burnt-offering purposing to burn an olive's bulk of its skin from under the fat tail at the improper place,⁵ the sacrifice is invalid, and he is not liable to the punishment of kareth,⁶ but [if he purposed to burn it] at the improper time, it would be piggul,⁶ and he would be liable to the punishment of Kareth.

Eleazar b. Judah of Ablum⁷ stated in the name of R. Jacob, similarly R. Simeon b. Judah of Kefar ‘Ikum⁸ stated in the name of

R. Simeon, [If a man while slaughtering a burnt-offering intended to burn] either the skin around the hoofs, or the skin of the head of a young calf, or the skin from under the fat tail, or any of the skins⁹ enumerated by the Sages in connection with the law of uncleanness VIZ., IN THE FOLLOWING CASES THE SKIN IS ACCOUNTED AS FLESH, meaning to include the skin of the pudenda¹⁰ — at the improper place the sacrifice is invalid, and he is not liable to the punishment of Kareth; but at the improper time, it would be Piggul, and he would be liable to the punishment of Kareth’.

THE SKIN AROUND THE HOOFS. What is the meaning of AROUND THE HOOFS? — Rab said: It means actually around the hoofs. R. Hanina said: It means the [skin upon the nethermost] limb¹¹ which is usually sold with the head.

THE SKIN OF THE HEDGEHOG. Our Rabbis taught: ‘The unclean’¹² includes their skins, which are to be regarded as their flesh. I might then say that this is so with regard to then, all,¹³ the verse therefore states These.¹² But does not the expression ‘These’ refer to all [reptiles mentioned]?¹⁴ — Rab said: The phrase After its kinds¹⁵ interrupts the subject matter. And why is not the mole also reckoned?¹⁶ — R. Samuel b. Isaac said: Rab is himself a Tanna and he [in his Mishnah] includes the mole. But why does not our Tanna [of our present Mishnah] include the mole? — R. Shesheth the son of R. Idi said: Our Tanna agrees with R. Judah that it depends upon the feel [of the skin],¹⁷ but he differs with him¹⁸ about the feel of the [skin of the] lizard.¹⁹

IF ANY OF THESE SKINS WAS TANNED, etc. Only if trampled upon does it [become clean], but if not trampled upon it does not [become clean]; but R. Hiyya has taught [to the contrary], viz., If a man patched up his basket with the ear of an ass it becomes clean!²⁰ — If he patched up something with

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it, then it becomes clean even though it had not been trampled upon; but if he had not patched up anything with it, then if trampled upon it does [become clean], but if not trampled upon it does not [become clean]. How much [trampling] would be sufficient for tanning? — R. Huna said in the name of R. Jannai, [The equivalent of a] four mils [distance].

R. Abbahu said in the name of Resh Lakish: For kneading,²¹ for prayer,²² and for washing the hands,²³ the standard is four mils. R. Nahman b. Isaac said:

- (1) Even though it had passed its first year.
- (2) That it must be in its first year and also continue to suck.
- (3) It accords with the individual opinion of Eleazar b. Judah infra. V. supra 55b.
- (4) Zeb. 28a.
- (5) An intention, expressed during the slaughtering of a sacrifice, of performing a subsequent service improperly, can only invalidate the sacrifice if the proposed service relates to matters which are usually so served and performed. E.g., an intention, expressed during the slaughtering of the sacrifice, of eating at the improper time or place, such parts which are not usually eaten, as the hide, does not invalidate the sacrifice. It is evident, therefore, that the skin from under the fat tail is regarded as edible inasmuch as the sacrifice is rendered invalid by the wrongful intention with regard to it.
- (6) V. Glos.
- (7) V. supra p. 305, n. 1.
- (8) V. supra ibid., n. 2.
- (9) This Tanna — Eleazar b. Judah — is of the opinion that all the skins mentioned in our Mishnah are edible and therefore regarded as flesh, whereas the first Tanna (with whom R. Johanan is in agreement) considers only the skin under the fat tail as edible.
- (10) I.e., the skin of the womb of the female animal. This had to be specially included for the Tanna was dealing with the case of a burnt-offering which is a male and not a female animal.
- (11) I.e., the metatarsus, which is usually sold with the head as offal.
- (12) Lev. XI, 31. The three verses relevant to this argument read: (v. 29)... the weasel, and the mouse, and the toad after its kinds, (v. 30) and the hedgehog, and the chameleon, and the lizard, and the snail, and the mole. (v. 31) These are the unclean amongst all the creeping things.

(13) I.e., that the skins of those mentioned in v. 29 should also be reckoned as the flesh.

(14) Both in vv. 29 and 30.

(15) Ibid. 29. The term These (in v. 31) refers only to those reptiles mentioned in the preceding verse 30.

(16) Which is also mentioned in v. 30.

(17) The Tanna of our Mishnah and R. Judah (also mentioned in our Mishnah) do not form their views by the interpretation of the aforementioned verses but from practical observation. It depends entirely upon the feel of the skin.

If the skin of the reptile feels soft and fleshy it is regarded as flesh, but if hard and scaly it is not regarded as flesh.

(18) I.e., with R. Judah.

(19) The skin of the lizard according to R. Judah feels hard but according to the first Tanna it has the feel of flesh.

(20) The ass's ear becomes clean as soon as it serves as skin even though it has not been treated in any way for tanning and not even trampled upon.

(21) A person who undertakes, for reward, to knead the dough of an owner in conditions of Levitical cleanness, and the owner's vessels are unclean, must go even a distance of four miles, if that is the nearest Mikweh, in order to immerse the vessels, but no further. For other explanations v. Tosaf. s.v. לגבל.

(22) A person who is on the way and wishes to rest for the night, and knows of a Synagogue not more than four mils away, must continue his journey till he reaches that Synagogue in order to pray there.

(23) Before meals. If a person knows that he can obtain water a distance of four mils away, he must wait until he reaches it before making a meal.

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It was Aibu who reported this¹ and he mentioned four things, one of which was the trampling for tanning. R. Jose b. R. Hanina said: This 'teaching applies only to the distance ahead of him,² but [as for going] back he need not turn back even one mil. R. Aha b. Jacob said: From this [can be inferred that] a distance of one mil he need not turn back, but a distance of less than a mil he must turn back.

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Our Rabbis taught: If a [Roman] legion which passes from place to place enters a house, the house is unclean, for there is not a legion that does not carry with it several scalps.³ And be not surprised at this; for R. Ishmael's scalp was placed upon the head of kings.⁴

MISHNAH. IF A MAN WAS FLAYING CATTLE OR WILD ANIMALS, CLEAN OR UNCLEAN,⁵ SMALL OR LARGE, IN ORDER TO USE THE HIDE FOR A COVERING,⁶ [THE HIDE] IS REGARDED AS A CONNECTIVE [WITH THE FLESH] IN RESPECT OF UNCLEANNESS, FOR THE FLESH TO CONTRACT UNCLEANNESS OR CONVEY UNCLEANNESS, UNTIL SO MUCH [OF THE] HIDE HAS BEEN FLAYED AS CAN BE TAKEN HOLD OF;⁷ OR IF [IT WAS BEING FLAYED] FOR A WATER-SKIN,⁸ UNTIL THE BREAST HAS BEEN FLAYED;⁹ OR IF IT WAS BEING FLAYED FROM THE FEET UPWARDS,¹⁰ UNTIL THE WHOLE HIDE¹¹ [HAS BEEN FLAYED]. AS FOR THE SKIN THAT IS ON THE NECK, R. JOHANAN B. NURI DOES NOT REGARD IT AS A CONNECTIVE,¹² BUT THE SAGES DO REGARD IT AS A CONNECTIVE UNTIL THE WHOLE HIDE HAS BEEN FLAYED.

GEMARA. What is the law when more than this¹³ [has been flayed]? — Rab said: That which has already been flayed is clean;¹⁴ R. Assi said: The handbreadth nearest to the flesh is unclean.¹⁵ An objection was raised: If a man had flayed this extent,¹⁶ henceforth whosoever touches that which has already been flayed is clean.¹⁷ Presumably [this is so] even [if he touches] the handbreadth nearest to the flesh?¹⁸ — No, except for the handbreadth nearest to the flesh.

Come and hear: [Whosoever touches] the skin opposite the flesh is unclean. [That is, presumably whosoever touches] the skin opposite the flesh only is unclean, but [whosoever touches the skin in] the handbreadth nearest to the flesh is clean! —

This Tanna expresses the handbreadth nearest to the flesh by the term 'the skin opposite the flesh'.

Come and hear: If a man flayed cattle or wild animals, clean or unclean, small or large, in order to use the hide for a covering, [and he flayed] so much [of the hide] as can be taken hold of, [it does not serve as a connective], and the handbreadth nearest to the flesh is clean! — That refers to the first handbreadth.¹⁹ It was taught: How much is meant by 'so much as can be taken hold of'? — A handbreadth. But it was taught: Two handbreadths! — Abaye explained (The former Baraita meant) a double handbreadth. And so it has been expressly taught: How much is 'so much as can be taken hold of'. A double handbreadth.

We have learnt elsewhere:²⁰ If a man had begun to tear a garment²¹ (which was unclean), so soon as the greater part of it is torn²² the parts can no longer be deemed to be joined and it is clean. R. Nahman said in the name of Rabbah b. Abbuha: This [teaching] applies only to a garment which had been immersed that same day,²³ for since he did not shrink from immersing it, he likewise will not shrink from tearing the greater part of it; but it does not apply to a garment which had not been immersed that same day, for it is to be feared that he will not tear the greater part of it. Thereupon Rabbah said: There are two objections to this argument. In the first place [it certainly cannot apply to a garment which had been immersed that same day], for people might say that immersion during the day is sufficient [to render an article clean];²⁴ secondly,

(1) In the name of R. Simeon b. Lakish, and not R. Abbahu.

(2) This distinction obviously according to Rashi does not refer to the case of the kneader, for to him it would make no difference in which direction he would have to go. V. however, Tosaf. supra 122b s.v. לגבל.

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(3) As mementos of victories, or, as Rashi suggests, to serve as charms against danger in battle.

(4) Cf. A.Z. 11b, Sonc. ed., p. 58.

(5) Either the animal was clean (i.e., of the species fit for food, and also slaughtered ritually) and the man who flayed it was unclean, or the animal was unclean (i.e., either of the former species but not ritually slaughtered, or of the species that are forbidden to be eaten even though slaughtered ritually) and the man who flayed it was clean.

(6) For this purpose the hide was slit the whole length of the animal and flayed on both flanks, the result being one large sheet of hide.

(7) Until this much has been flayed that portion which has actually been flayed is not regarded as entirely disconnected from the flesh but rather as a 'handle' which conveys uncleanness to and from the flesh. Once this extent (- for the measure v. Gemara —) has been flayed the hide is regarded as disconnected and can no longer serve as a handle.

(8) For this purpose the hide was not slit lengthwise but was cut around the neck and flayed whole from the animal so as to form a receptacle to hold liquids.

(9) The breast is the most difficult part of the operation of flaying for the hide adheres fast there and, therefore, so long as the region of the breast has not been flayed that which has already been flayed serves as a connective or 'handle' to the flesh.

(10) In this manner of flaying, the region around the breast is the last important section to be flayed, although there yet remains the skin around the neck to be flayed.

(11) Whether this includes the flaying of the skin around the neck or not, is the subject of the following dispute between R. Johanan b. Nuri and the Sages.

(12) It is negligible and soon falls away of itself by the weight of the rest of the hide, and therefore can no longer serve as a connective.

(13) Sc. as much as can be taken hold of; a handgrip.

(14) But that which still adheres to the flesh serves as a 'protection' and conveys uncleanness to and from the flesh.

(15) The last handbreadth of the skin that had been flayed nearest to the flesh is unclean, i.e., it serves as a 'handle' to convey uncleanness to and from the flesh.

(16) As much as a handgrip.

(17) Assuming the animal was itself unclean; for it does not serve as a 'handle'.

(18) Contra R. Assi.

(19) R. Assi admits that where only so much of the hide as can be taken hold of plus one

handbreadth had been flayed the handbreadth nearest to the flesh is not deemed a 'handle' for the amount flayed is too little to be made use of as a handle. For a var. text and interpretation v. Tos. s.v. בפירוש.

(20) Kel. XXVIII, 8.

(21) In order to render it clean by making it unfit for its former use.

(22) The original garment is now deemed to be destroyed and with it the uncleanness it bore, even though each part of the garment is of a substantial size (Rashi). According to Tosaf. the garment was torn to shreds there was no piece the width of three fingerbreadths but these shreds were joined at one end (v. Tosaf. supra 72b s.v. בשעת).

(23) Ordinarily the garment by evening would be clean, but this man desiring to use it immediately with clean things sets a bout to tear it. Now since he has actually immersed it in the waters of a Mikveh, an act which certainly does not improve the garment, he will have no hesitation in tearing the greater part of the garment.

(24) For those who saw the immersion of the article by day and later see it used that selfsame day with clean things, will be led to believe that immersion by itself renders an article clean without the additional necessity of waiting until sunset of that day, for they might not be aware of the fact that the garment had been torn.

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the same is to be feared in the case of the burnt-offering of a bird, according to the view of R. Eleazar son of R. Simeon, namely that he will not divide the greater part of both organs [of the throat]!¹ — R. Joseph replied to him: As for your objection 'people might say that immersion during the day is sufficient', [my answer is,] the tearing explains the position;² and as for your objection 'The same is to be feared in the case of a burnt-offering of a bird according to the view of R. Eleazar son of R. Simeon', [my answer is,] priests are most careful.³

Come and hear: IF A MAN WAS FLAYING CATTLE OR WILD ANIMALS, CLEAN OR UNCLEAN, SMALL OR LARGE, IN ORDER TO USE THE HIDE FOR A COVERING, UNTIL SO MUCH [OF THE HIDE HAS BEEN FLAYED] AS CAN BE

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TAKEN HOLD OF, etc. Now if more than this had been flayed, it would be clean, would it not? But why? Should we not apprehend that he will have flayed only so much as can be taken hold of, in which case [by touching the hide]

he is [as it were] touching uncleanness,⁴ and yet we declare him to be clean? If it were a case of uncleanness as enjoined by the Torah this would indeed be so; but here we really speak of uncleanness as enjoined by the Rabbis.⁵ This is well in the case of an unclean person [flaying] a clean animal, but in the case of a clean person [flaying] an unclean animal, surely the uncleanness is enjoined by the Torah!⁶ — It refers to a Trefah animal.⁷ And can a Trefah animal render ought unclean? — Yes, as stated by Samuel's father. For Samuel's father stated: A Trefah animal that was slaughtered renders holy things unclean.⁸

Come and hear: R. Doseithai b. Judah says in the name of R. Simeon: If a man was skinning reptiles, the skin is regarded as a connective until the whole has been removed. Now it follows, does it not, that in the case of a camel it is not regarded as a connective?⁹ — Draw not the inference that in the case of a camel it is not regarded as a connective, but rather that in the case of a camel the skin that is on the neck is not regarded as a connective, and this accords with the opinion of R. Johanan b. Nuri.¹⁰

R. Huna said in the name of R. Simeon son of R. Jose: This [teaching]¹¹ applies only to the case where he did not leave [untorn] a portion sufficient for an apron, but if he left [untorn] a portion sufficient for an apron, it [the garment] is deemed to be joined.

Resh Lakish said: This [teaching]¹² applies only to a garment, but in the case of leather, [what is left] is firm.¹³ But R. Johanan said: Even in the case of leather, [what is left] is not firm.

R. Johanan raised an objection against Resh Lakish [from the following Mishnah]: If a hide had contracted midras¹⁴ uncleanness, and a man had the intention to use it for straps and sandals, so soon as he puts the knife into it, it becomes clean;¹⁵ so R. Judah. But the Sages say. Not until he has reduced its size to less than five handbreadths.¹⁶ It follows, however, that if he had reduced its size [to less than five handbreadths] it would be clean; but why? Surely, we should say, [what is left] is firm! — When do we say, [what is left] is firm, only in the case where the hide was cut with a straight cut, but here we must suppose that it was trimmed on all sides.¹⁷

R. Jeremiah raised an objection: IF A MAN WAS FLAYING CATTLE OR WILD ANIMALS, CLEAN OR UNCLEAN, SMALL OR LARGE, IN ORDER TO USE THE HIDE FOR A COVERING, UNTIL SO MUCH [OF THE HIDE HAS BEEN FLAYED] AS CAN BE TAKEN HOLD OF, etc. Now if more than this had been flayed it would be clean, would it not? But why? Surely we should say [that the residue of the hide that is attached to the carcass] is firm! — R. Abin explained it, [that with regard to the hide,] each portion¹⁸ flayed is considered as fallen away.¹⁹

R. Joseph raised an objection: AS FOR THE SKIN THAT IS ON THE NECK, R. JOHANAN B. NURI DOES NOT REGARD IT AS A CONNECTIVE. But why? Surely it holds firm!²⁰ — Thereupon Abaye said to him, But read the next line: BUT THE SAGES DO REGARD IT AS A CONNECTIVE!²¹ In fact, said Abaye, the point at issue between them²² is concerning a protection that will soon fall away of its own accord:²³ one maintains that it is still a protection,²⁴ the other²⁵ that it is no protection.

R. Jeremiah raised an objection: If an oven²⁶ had become unclean how can one make it

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clean again? One should divide it into three parts²⁷ and scrape off the plastering

(1) In sacrificing the burnt-offering of a bird the head had to be nipped off by the officiating priest, but not severed entirely (cf. Lev. I, 17); and according to the interpretation of R. Eleazar b. R. Simeon, it means that he must divide the greater portion of each organ and no more (v. supra 21a). Now is there not a similar apprehension in this case that the priest will not divide the greater portion of the organs?

(2) The onlookers will know that it is the tearing of the garment that renders it clean and not the immersion by itself.

(3) And do exactly what is required by law, neither more nor less.

(4) Assuming that the carcass was unclean.

(5) I.e., the ruling with regard to an unclean person flaying a clean animal as stated in our Mishnah, refers to a person that was rendered unclean by enactment of the Rabbis (cf. the cases enumerated in Shab. 13b) and the animal spoken of was a consecrated animal. Accordingly we do not impose any further preventive measures by reason of such remote apprehensions.

(6) I.e., the uncleanness of nebelah.

(7) The reference in our Mishnah with regard to an unclean animal, really means an animal which was slaughtered and found to be Trefah.

(8) So according to Maim. Yad, Aboth Ha-tumah, II, 8. Rashi interprets: A consecrated animal which was slaughtered and found to be Trefah renders unclean, v. supra 73a.

(9) As soon as the extent of a handgrip of the hide has been flayed. And there is no mention of any apprehension lest on account of this ruling, people might be led to believe that even when less than a handgrip had been flayed the hide is not to be regarded as a connective. This then conflicts with R. Nahman's statement supra.

(10) This refers to the case where the man who flays the camel requires the hide for a water-skin, or where he flays it from the feet upwards; in either case, according to R. Johanan b. Nuri, once the whole hide, with the exception of that which is on the neck, has been flayed, it can no longer be regarded as a connective (v. our Mishnah supra), in contradistinction from the case of reptiles, for with reptiles even the skin around the neck is regarded as a connective. There is indeed here no ground at all to apply a preventive measure in apprehension lest he who flays the camel will not remove all the hide with the exception only of that which remains on the neck, in which case the hide would be a connective, for the standard has been clearly stated, namely, whether or not anything

more than the skin of the neck remains, and this standard is a matter which is clearly noticeable and ascertainable. On the other hand, the standard 'as much as can be taken hold of' is not so clearly defined and ascertainable; similarly, the difference between tearing the greater part of a garment and only half of it is also a matter not clearly discernible, accordingly in the latter two cases there is ground for a restrictive measure.

(11) That a garment is rendered clean by tearing the greater part of it.

(12) That where there was not left untorn a portion sufficient for an apron the garment is rendered clean.

(13) No matter how little it is, for it can be sewn together and used again for its original purpose.

(14) Heb. גזרס. The degree of uncleanness arising when an unclean person, of those mentioned in Lev. XV, 2, 19, 25, sits or treads upon or leans with the body against an object, provided such object is fit and generally used for one of the above purposes.

(15) By putting the knife to it he has annulled it from its original use even though there are as yet substantial pieces left each five handbreadths square, this being the minimum size for leather to contract Midras uncleanness (cf. Kel. XXVII. 2).

(16) Kel. XXVI, 9.

(17) Since there are irregular cuts on all sides, even if it is sewn together it will not hold firm.

(18) Lit., 'the first, the first'.

(19) For it cannot by any means be made to adhere again to the flesh, whereas in the case of a garment it can be sewn together to hold fast.

(20) The skin on the neck still adheres to the flesh, nevertheless, R. Johanan b. Nuri holds that whosoever touches this skin (the animal being unclean) is not thereby rendered unclean; thus conflicting with Resh Lakish's view.

(21) And this would be in support of Resh Lakish's view.

(22) Sc. between the Sages and R. Johanan b. Nuri in our Mishnah.

(23) E.g., the skin around the neck when all the rest of the hide has been removed.

(24) The Sages hold that so long as it has not fallen off it still serves as a protection and conveys uncleanness to and from the flesh.

(25) R. Johanan b. Nuri.

(26) It usually consisted of an earthenware pot with no bottom, placed on the ground, and plastered on all sides with clay to hold it firm.

(27) So that no part thereof be more than half the size of the original oven. Cf. Lev. XI, 35.

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so that it¹ lies on the ground. R. Meir says. One need not scrape off the plastering nor [see to it] that it lies on the ground, but one need only cut it down to less than four handbreadths high inside.² It follows that if one did cut it down to less than four handbreadths high it would be clean; but why? Surely we should say that it stands firm!³ — Thereupon Raba said to him, Why not rather quote the view of the Rabbis,⁴ ‘One should scrape off the plastering so that it lies on the ground’ [in support]?

Rather, said Raba, This is the interpretation: If an oven had become unclean how can one make it clean again? It is the unanimous opinion that one should divide it into three parts and scrape off the plastering so that it lies on the ground. And if one desires that the oven should not be susceptible to uncleanness what should one do? One should divide it into three parts and should scrape off the plastering so that it lies on the ground. R. Meir says. One need not scrape off the plastering nor [see to it] that it lies on the ground, but one need only cut it down to less than four handbreadths high inside.⁵

The Master said: ‘One should divide it into three parts’. But there is a contradiction to this, for we have learnt: An oven must, in its first state, be [at least] four handbreadths high,⁶ and any fragment thereof⁷ [is still unclean if it is] four handbreadths high: so R. Meir. But the Sages say. This⁸ applies only to a large oven,⁹ but as regards a small oven¹⁰ no matter what its height was in its first state, provided its manufacture was complete. [it is susceptible to uncleanness,] and any fragment thereof [is still unclean if it amounts to] the greater portion of [the oven].¹¹ How much is meant by ‘no matter what its height’? R. Jannai said, [At least] one handbreadth high, for it is usual to make an oven one handbreadth high [as a plaything]. Now only if there is a fragment of

four handbreadths [is it still unclean], but if there is no fragment of four handbreadths it is clean!¹² — I can answer: There he split it across the width,¹³ but here he split it lengthwise.¹⁴

The Master said: ‘And any fragment thereof [is still unclean if it amounts to] the greater portion of [the oven]’. But of what use can the greater portion of a handbreadth be? — Abaye said: It means, any fragment of a large oven [is still unclean if it amounts to] the greater portion of it. But [with regard to a large oven] the Sages say [in agreement with R. Meir that it is still unclean if the fragment is] four handbreadths? — This is no difficulty: one ruling refers to an oven nine handbreadths high, the other to an oven seven handbreadths high.¹⁵

Another version reports the passage as follows: R. Huna said in the name of R. Ishmael son of R. Jose. Even if he left a portion sufficient for an apron [the garment is rendered clean]. Thereupon Resh Lakish said: This [teaching] applies only to a garment, but in the case of leather [what is left] is of value.¹⁶ But R. Johanan said: Even in the case of leather [what is left] is of no value. R. Johanan raised the following objection against Resh Lakish: If¹⁷ a hide had contracted Midras uncleanness and a man had the intention to use it for straps and sandals, so soon as he puts the knife into it, it becomes clean: so R. Judah. But the Sages say. Not until he has reduced its size to less than five handbreadths. It follows, however, that if he had actually reduced its size [to less than five handbreadths] it would be clean; but why? Surely we should say [what is left] is of value! — We must suppose here that he intended [the hide] to serve as a seat for one suffering with an issue.¹⁸

MISHNAH. IF THERE WAS AN OLIVE'S BULK OF [UNCLEAN] FLESH ADHERING TO THE HIDE¹⁹ AND A MAN TOUCHED A SHRED HANGING FROM IT,²⁰ OR A HAIR

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THAT WAS OPPOSITE TO IT,²¹ HE BECOMES UNCLEAN.²² IF THERE WERE TWO PIECES OF FLESH EACH A HALF-OLIVES BULK UPON IT, THEY CONVEY UNCLEANNESS BY CARRYING²³ BUT NOT BY CONTACT:²⁴ SO R. ISHMAEL. R. AKIBA SAYS, NEITHER BY CONTACT NOR BY CARRYING.²⁵ R. AKIBA, HOWEVER, AGREES THAT IF THERE WERE TWO PIECES OF FLESH, EACH A HALF-OLIVE'S BULK, STUCK ON A CHIP AND A MAN SWAYED²⁶ THEM, HE BECOMES UNCLEAN.²⁷ WHEREFORE THEN DOES R. AKIBA DECLARE HIM CLEAN IN THE [CASE WHERE THEY ADHERE TO THE] HIDE? BECAUSE THE HIDE RENDERS THEM NEGLIGIBLE.

GEMARA. 'Ulla said in the name of R. Johanan. This rule²⁸ applies only to the case where a wild beast tore it away,²⁹ but where it was cut away by the knife [in flaying] it certainly is deemed negligible.³⁰ R. Nahman enquired of 'Ulla, 'Did R. Johanan also say so even if it was as large as a tirta?³¹ — He replied. 'Yes'. 'And even as large as a sieve?' — He replied. 'Yes'. 'By God!' said the other; 'even if R. Johanan himself had told it me by his own mouth I should not have accepted it!'

When R. Oshaia went up [to Palestine] he met R. Ammi and reported to him the discussion, 'So said 'Ulla and so answered R. Nahman'. Said [R. Ammi] to him, 'And even if R. Nahman is the son-in-law of the Exilarch shall he make light of the teaching of R. Johanan?' On another occasion he [R. Oshaia] found him [R. Ammi] sitting and expounding it³² with reference to the second clause [of our Mishnah] thus: 'IF THERE WERE TWO PIECES OF FLESH EACH A HALF-OLIVE'S BULK UPON IT. THEY CONVEY UNCLEANNESS BY CARRYING BUT NOT BY CONTACT: SO R. ISHMAEL. R. AKIBA SAYS, NEITHER BY CONTACT NOR BY CARRYING. Thereupon R. Johanan had said: This rule³³

applies only to the case where a wild beast tore them away, but where they were cut away by the knife [in flaying] they are deemed negligible'. Then said [R. Oshaia]. 'Does the Master refer it to the second clause?' — He replied. 'Yes; did 'Ulla tell it you with reference to the first clause?' Said the other, 'He did'. 'By God!' said R. Ammi, 'even if Joshua the son of Nun had told it me by his own mouth I should not have accepted it!'

When Rabin came down with all the company³⁴ that used to come down [from Palestine to Babylon] they reported that it referred to the first clause. But is there not then a difficulty?³⁵ — As R. Papa suggested [elsewhere]³⁶

(1) Sc. the plastering; i.e., the plastering must be entirely demolished so that it in no wise supports the parts of the oven (Rashi); or, 'it' sc. each part of the oven (Maim); or, 'it' sc. the crack must run from the top to the bottom of the oven, i.e., a perpendicular crack (R. Samson of Sens).

(2) Kel. V, 7.

(3) By reason of the plastering around it. This then conflicts with Resh Lakish who maintains that if only a portion of an article remains firm, although the rest of it is broken or torn, it is still considered an article.

(4) Sc. the first Tanna of this Mishnah.

(5) The dispute therefore between R. Meir and the Rabbis is only with regard to an oven which was not unclean, concerning the measures necessary in order to prevent it from ever becoming unclean.

(6) In order to be susceptible to uncleanness.

(7) I.e., of a large oven which was broken in order to be made clean again; cf. Lev. XI, 35.

(8) Sc. the ruling of R. Meir.

(9) I.e., an oven used for baking or cooking.

(10) Which is used as a plaything.

(11) Kel. V, 1.

(12) This clearly contradicts the aforementioned Mishnah which states that an oven to be made clean again must be divided into three parts, but it would not be sufficient to divide it into two, even though each part would be less than four handbreadths.

(13) And if none of the fragments are of four handbreadths, the oven is absolutely useless and therefore clean.

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(14) And if there remains standing the greater part of the oven, even though such part is less than four handbreadths, it remains unclean. It must therefore be divided into three parts so that no part is equal to the greater part of the oven.

(15) The Sages adopt rules of leniency: where the greater portion of the oven is more than four handbreadths then they regard fragments up to the size of the greater portion as clean; and where the greater portion is less than four handbreadths then they regard fragments up to four handbreadths as clean.

(16) Even though it is only the size of an apron. Hence it is not rendered clean by 'the tearing, for it cannot be said to be destroyed for all use.

(17) V. supra p. 690.

(18) Reading למישיב זה. According to MS.M. and 'Aruch the reading is למישיבה, a peculiar word, whose etymology as well as meaning is extremely doubtful. 'A leather seat of a folding chair' (Jast). The argument is, since the hide was intended to be used for a particular purpose so soon as it is diminished and so rendered unfit for that purpose it is deemed to be of no value.

(19) In one place.

(20) I.e., from the olive's bulk of flesh (Rashi). According to Maim. the Mishnah refers to a fiber that proceeds from the hide.

(21) I.e., on the outside of the hide, directly over the morsel of flesh.

(22) For the shred is like the flesh itself, and the hair is a protection to the flesh.

(23) For when a person carries the hide he carries at the same time an olive's bulk of the carcass.

(24) Since the pieces are apart they cannot be touched simultaneously but only one after the other, and each time only a half-olive's bulk is touched. The two separate 'contacts' cannot be reckoned together to make up a 'contact' of an olive's bulk.

(25) For R. Akiba is of the opinion (infra) that flesh less than an olive's bulk adhering to hide is deemed as part of the hide itself.

(26) I.e., moved them without actually touching them. Heb. היסט 'swaying'. 'shaking'.

(27) V. Gemara for the reason of R. Akiba's view.

(28) That an olive's bulk of flesh adhering to the hide is not rendered negligible.

(29) I.e., a wild beast bit into the animal whilst alive and later when the animal was being flayed pieces of flesh were found to have been torn away and left hanging to the hide.

(30) Even though there is a whole olive's bulk of flesh.

(31) A quarter of a Kab; or, the pan of scales (Rashi). The question is, what if the knife, whilst flaying, cut away a large slice of flesh as much as

a tirta? Can this quantity, too, be deemed negligible or not?

(32) Sc. the above statement of R. Johanan.

(33) That two pieces of flesh each a half-olive's bulk are not rendered negligible according to R. Ishmael.

(34) גזירות; the scholars who used to travel to and fro between Palestine and Babylon reporting teachings of the one country to the other.

(35) For if it is held that a whole olive's bulk of flesh is rendered negligible when cut away by the knife then the same should be the case where flesh the size of a tirta or a sieve was cut away. But this is contrary to reason!

(36) V. infra.

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that the flesh was beaten thin, so here it could also be explained that the flesh was beaten thin.¹

IF THERE WERE TWO PIECES OF FLESH EACH A HALF-OLIVES BULK UPON IT, etc. Bar Padda said: This ruling² applies only to the case [where a man touched them] from the outside,³ but [where he touched them] on the inside⁴ the two contacts can be reckoned together.⁵ But R. Johanan said: The two contacts cannot be reckoned together. R. Johanan is consistent in his view, for R. Johanan also said that R. Ishmael and R. Dosa b. Harkinas said the same thing. R. Ishmael taught it in the above passage,⁶ and R. Dosa b. Harkinas in the following Mishnah which we learnt: If any matter⁷ which causes uncleanness in a 'tent'⁸ was divided and [the parts]⁹ brought into a house, R. Dosa b. Harkinas declares [everything under the same roof-space] clean, but the Sages declare it unclean.¹⁰ Now does not R. Dosa b. Harkinas hold that two overshadowings¹¹ cannot be reckoned together? Similarly, two contacts cannot be reckoned together. As it is established that R. Dosa b. Harkinas is in agreement with R. Ishmael, it follows that the Sages [the opponents of R. Dosa] are in agreement with R. Akiba [the opponent of R. Ishmael]. But does not R. Akiba hold that they are entirely clean?¹² —

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R. Akiba only declares them clean when adhering to the hide, but otherwise they¹³ convey uncleanness, as stated in the latter part [of the Mishnah]: **R. AKIBA, HOWEVER, AGREES THAT IF THERE WERE TWO PIECES OF FLESH. EACH A HALF-OLIVE'S BULK, STUCK ON A CHIP AND A MAN SWAYED THEM, HE BECOMES UNCLEAN. WHEREFORE THEN DOES R. AKIBA DECLARE HIM CLEAN IN THE [CASE WHERE THEY ADHERE TO THE] HIDE? BECAUSE THE HIDE RENDERS THEM NEGLIGIBLE.**

R. 'Ukba b. Hama raised an objection. It is written: [He that toucheth] the carcass thereof,¹⁴ but not the hide upon which are two pieces of flesh each a half-olive's bulk. I might think that the same is the case with regard to carrying, the verse therefore says. And he that carrieth... shall be unclean.¹⁵ So R. Ishmael.

R. Akiba says: It is written: 'He that toucheth', and 'He that carrieth': therefore, what comes within the scope of uncleanness by contact, comes within the scope of uncleanness by carrying, and what does not come within the scope of uncleanness by contact does not come within the scope of uncleanness by carrying.¹⁶ Now if it were so,¹⁷ it indeed comes within the scope of uncleanness by contact on the inside! — Raba answered. He means to say this: What comes within the scope of uncleanness by contact on every side thereof comes within the scope of uncleanness by carrying, and what does not come within the scope of uncleanness by contact on every side thereof does not come within the scope of uncleanness by carrying.¹⁸

R. Awia the Elder enquired of Rabbah son of R. Huna: Can a closed marrow-bone, according to R. Ishmael, convey uncleanness [by carrying] or not? Does R. Ishmael accept the principle 'What comes within the scope

of uncleanness by contact, comes within the scope of uncleanness by carrying, and what does not come within the scope of uncleanness by contact, does not come within the scope of uncleanness by carrying',¹⁹ — but here [in our Mishnah] the reason²⁰ is because it comes within the scope of uncleanness by contact on the inside; or does he not accept this principle at all? — He replied: See, there's a raven flying past.²¹

[When R. Awia left,] his son Raba said to him,²² 'Was that not R. Awia the Elder of Pumbeditha whom you, Sir, have praised as a great man'? He replied: 'I am to-day [in the condition of the lover who said,] Sustain me with raisin-cakes!²³ And he asks me a matter which requires much reasoning!' Ulla said: If there were two pieces of flesh, each a half-olive's bulk, stuck on a chip and a man waved them to and fro, even the whole day long, he remains clean. Why? Because [as] written [the word can be read] 'be carried', but [by tradition] we read 'carries';²⁴ it is necessary therefore that when one 'carries' it, it must be able to 'be carried' at one time.²⁵

We have learnt: **IF THERE WERE TWO PIECES OF FLESH, EACH A HALF-OLIVE'S BULK. UPON IT, THEY CONVEY UNCLEANNESS BY CARRYING BUT NOT BY CONTACT; SO R. ISHMAEL.** Wherefore is this so? They surely cannot 'be carried' at one time? — R. Papa suggested that there was a thin strip [of flesh joining the two pieces].

Come and hear: **R. AKIBA, HOWEVER, AGREES THAT IF THERE WERE TWO PIECES OF FLESH, EACH A HALF-OLIVE'S BULK, STUCK ON A CHIP AND A MAN SWAYED THEM, HE BECOMES UNCLEAN.** Wherefore is this so? They surely cannot 'be carried' at one time? — Here, too, we must suppose that there was a thin strip of flesh.

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Tannaim differ on this point.²⁶ It was taught: It is all one²⁷ whether one touches them²⁸ or sways them. R. Eliezer says. Even if one carries them. But does not the one that carries them also sway them?²⁹ — This must be the interpretation: It is all one whether one touches them or sways them even though they cannot be carried [at one time]. Whereupon R. Eliezer comes to say, [No,] only if they can be carried at one time. Then what is the meaning of ‘even’?³⁰ — Read: Only if they can be carried at one time.

MISHNAH. WITH REGARD TO A THIGH-BONE³¹ OF A CORPSE.

- (1) There was a thin slice of flesh the size of a tirta or even of a sieve which when collected and rolled tip amounted to an olive's bulk only.
- (2) Of R. Ishmael that the two pieces of flesh each a half-olive's bulk adhering to the hide do not convey uncleanness by contact.
- (3) I.e., he did not actually touch the flesh but only the hide opposite each piece; the hide in such a case cannot serve either as a protection or as a handle to combine the two pieces in order to convey the uncleanness.
- (4) I.e., he actually touched the pieces of flesh, first the one half-olive's bulk and then the other. In this case R. Ishmael will hold that the two separate contacts are combined and are regarded as one contact of a whole olive's bulk, and the person would be unclean.
- (5) Lit., ‘there is such a thing as touching and again touching’.
- (6) That according to R. Johanan R. Ishmael holds that two separate contacts, each time of half the minimum quantity, cannot be reckoned as one contact of the whole quantity.
- (7) Of those enumerated in Ohol. II, 1, e.g. an olive's bulk of the flesh of a corpse, or a ladleful of corpse-mould.
- (8) By overshadowing, i.e., which renders unclean everything which happens to be in the same tent or under the same roof space as the unclean matter. Cf. Num. XIX, 14.
- (9) Each less than the minimum quantity.
- (10) Oh. III, 1, ‘Ed. III, 1.
- (11) Each time of half the minimum quantity. According to R. Dosa b. Harkinas, overshadowing must be in one place, at the same time, and over a whole olive's bulk.
- (12) Sc. the flesh adhering to the hide. Thus R. Akiba is more lenient in his view than R. Ishmael, whereas the Sages who differ with R. Dosa

(supra) declare everything in the house to be unclean.

(13) Sc. the two pieces of flesh, each a half-olive's bulk, when touched separately.

(14) Lev. XI, 39.

(15) Ibid. 40.

(16) Therefore, argues R. Akiba, it cannot be said that these pieces of flesh convey uncleanness by carrying and not by contact, as R. Ishmael would have it.

(17) That, according to Bar Padda, R. Ishmael holds that these pieces can convey uncleanness also by contact, namely, on the inside (v. supra p. 696, n. 2), then R. Akiba's argument is void of meaning.

(18) I.e., R. Akiba means that unless a substance can convey uncleanness by every contact with it, from the outside as well as from the inside, it will not convey uncleanness by carrying.

(19) And therefore a closed-up marrow-bone of a carcass, since it does not convey uncleanness by contact (v. next Mishnah, for the bone itself is not considered unclean as the carcass, and the marrow within it is inaccessible for it is closed-up), will not convey uncleanness by carrying.

(20) Why the two morsels of flesh convey uncleanness by carrying.

(21) An evasive answer.

(22) Raba said to his father Rabbah b. R. Huna.

(23) Cant. II, 5. He had just finished his lecture for that day (or, he was that day elected Head of the Academy — ‘Aruch) and was too exhausted for any argument or discussion but required rest and refreshment.

(24) Lev. XI, 40. Heb. והנשא. The traditional reading והנשא is, (in active sense) ‘and he who carries’; though the word might also be read as ונשא, (in passive sense) ‘and whatsoever is carried’.

(25) I.e., the olive's bulk must be one whole piece so that if one were to lift up part thereof the whole would be lifted up.

(26) As to whether it is essential that the olive's bulk be in one whole so that it could be carried at one time.

(27) And one is rendered unclean.

(28) Sc. the two pieces of unclean flesh each a half-olive's bulk.

(29) Wherein then does R. Eliezer differ from the first Tanna?

(30) The word ‘even’ implies an extension of the law beyond that stated by the first Tanna; on the other hand, ‘only’ is a limitation,

(31) Or any bone which contains marrow.

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OR A THIGH-BONE OF A CONSECRATED ANIMAL,¹ HE WHO TOUCHES IT, WHETHER IT BE STOPPED UP OR PIERCED, BECOMES UNCLEAN. WITH REGARD TO A THIGHBONE OF A CARCASS OR OF A [DEAD] REPTILE, IF IT WAS STOPPED UP HE WHO TOUCHES IT REMAINS CLEAN,² BUT IF IT WAS AT ALL PIERCED IT CONVEYS UNCLEANNESS BY CONTACT. WHENCE DO WE KNOW [THAT IT CONVEYS UNCLEANNESS] ALSO BY CARRYING? THE TEXT SAYS, HE THAT TOUCHETH³ AND HE THAT CARRIETH:⁴ THEREFORE, WHAT COMES WITHIN THE SCOPE OF UNCLEANNESS BY CONTACT COMES WITHIN THE SCOPE OF UNCLEANNESS BY CARRYING. AND WHAT DOES NOT COME WITHIN THE SCOPE OF UNCLEANNESS BY CONTACT DOES NOT COME WITHIN THE SCOPE OF UNCLEANNESS BY CARRYING.

GEMARA. He who touches it does [become unclean] but he who overshadows it does not [become unclean]. What are the circumstances? If there was an olive's bulk of flesh upon it, then surely it conveys uncleanness by overshadowing? — It must be that there was not an olive's bulk of flesh upon it. But if there was an olive's bulk of marrow within it, then surely the uncleanness breaks through and rises upwards,⁵ and it should convey uncleanness by overshadowing? — It must be that there was not an olive's bulk of marrow within it. But if it is held that the marrow within [the bone] can restore [the flesh] outside it,⁶ then surely it is a proper limb, and it should convey uncleanness by overshadowing? —

Rab Judah the son of R. Hiyya said: This proves that the marrow within cannot restore [the flesh] outside it. How have you explained the case? That there was not an olive's bulk.⁷ Then why does it convey uncleanness in the case of consecrated

animals?⁸ Furthermore, why does the thigh-bone of a carcass or of a [dead] reptile, even when pierced, convey uncleanness?⁹ — These are no difficulties at all, for the first clause¹⁰ refers to the case where there was not an olive's bulk and the subsequent clause¹¹ to the case where there was an olive's bulk. What does he teach us then? — He teaches us a number of rules. The first clause teaches us [the principle] that the marrow within [the bone] cannot restore [the flesh] outside it.¹² The clause concerning consecrated animals teaches us that whatever serves [as a holder for] the meat left over [from the sacrifice] is a matter of consequence,¹³ for R. Mari b. Abbuha said in the name of R. Isaac,¹⁴ Bones of sacrifices which served [as a holder for] the meat left over [from the sacrifice] render the hands unclean, since they have become auxiliary¹⁵ to forbidden matter. The clause concerning the carcass [teaches us] that even if there is an olive's bulk [of marrow in the bone], only when [the bone is] pierced does it [convey uncleanness], but when not pierced it does not [convey uncleanness].

Abaye said: In fact [I maintain that] the marrow within [the bone] can restore [the flesh] outside it, but here we are dealing with a bone which was sawn through [transversely],¹⁶ and it is in agreement with R. Eleazar's view. For R. Eleazar stated: If a man sawed through a marrow-bone lengthwise it is still unclean,¹⁷ if transversely it is clean; as a mnemonic think of the palm tree.¹⁸

R. Johanan said: In truth, there was an olive's bulk [of marrow in the bone], and [I maintain that] the marrow within can restore [the flesh] outside it,¹⁹ but the expression HE WHO TOUCHES stated [in the Mishnah] means also overshadowing.²⁰ But surely if the marrow within can restore [the flesh] outside it, why is it that the thigh-bone of a carcass or of a dead reptile, if not pierced, is clean?²¹ — R. Benjamin b. Giddal

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said in the name of R. Johanan. We are dealing here with an olive's bulk of marrow that shakes about²² [in the bone]; so that with regard to a corpse²³ the uncleanness breaks through and rises upwards, but with regard to a carcass, since the marrow shakes about within,²⁴ if the bone was pierced, it does [convey uncleanness], but if it was not pierced, it does not [convey uncleanness].

R. Abin (others say R. Jose b. Abin) said: We have also learnt the same:²⁵ If a man touched one half-olive's bulk [of a corpse] and [at the same time] overshadowed another half-olive's bulk²⁶ or the other half-olive's bulk overshadowed him,²⁷ he is unclean. Now if you hold that they²⁸ fall within one category then it is quite right that they combine [to render the person unclean]; but if you hold that they fall within two categories, can they in any way combine? Surely, we have learnt: This is the general rule: All [means of conveying uncleanness] which fall within one category combine to convey uncleanness, but all which fall within two categories do not [combine to] convey uncleanness.²⁹ What do you say then? That they fall within one category? Read the following clause: But

(1) Which was rendered Piggul (v. Glos.) in the course of the offering, or whose meat became Nothar, i.e., was left over beyond the time prescribed for eating. The Rabbis, in order to prevent such abuses arising out of the negligence of the priest, decreed that sacrificial meat which was Piggul or Nothar shall render the hands unclean (v. Pes. 120b). This decree clearly applied to those parts of the sacrifice which were edible; therefore it did not apply to marrowless bones, but it did apply to a marrowbone for then the bone serves as a holder for the marrow within it.

(2) The bone of a carcass or of a reptile is in itself not unclean (v. supra 77b); it is, however, unclean because it serves as a 'protection' to the marrow that is within it. And this is so only if the marrow within was accessible, i.e., the bone must be pierced so as to allow a hair at least to reach the marrow.

(3) Lev. XI, 39.

(4) Ibid. 40.

(5) Since presumably there is not within the bone an air-space of one cubic-handbreadth the

uncleanness within it breaks through its enclosure and spreads in the house or 'tent'. Cf. supra 71a, and Ber. 19b.

(6) And even if the marrow of a bone in the living animal has entirely wasted away, and the flesh around it has gone, the bone is still regarded as a proper limb, for it is possible for new marrow to form in the bone and to restore the flesh around it.

(7) Neither of marrow nor of flesh.

(8) For to regard the bone as a holder for the flesh that is Nothar (v. Glos.) there must be at least an olive's bulk either of marrow within it or of flesh upon it.

(9) The bone is clearly a protection for the marrow that is within it, and it has been established (supra 117b, in the very first ruling of this chapter) that a protection can be included and reckoned together with the foodstuff only to convey the light uncleanness i.e., to render other foodstuffs unclean, but not to convey the grave uncleanness, i.e., to render the person that touches it unclean.

(10) Which deals with the thigh-bone of a corpse.

(11) Which deals with the thigh-bone of consecrated animals and of a carcass or reptile.

(12) Therefore if there was not an olive's bulk of marrow within the bone, it cannot convey uncleanness by 'overshadowing'. i.e., It cannot render unclean men and vessels that are in the same 'tent' or under the same roof.

(13) It is regarded as the meat itself and so renders the hands unclean.

(14) V. Pes. 83a.

(15) Lit., a stand for'.

(16) In which case there is no hope of the limb being restored by the formation of new marrow and flesh. Hence as there is not an olive's bulk of marrow now in the bone, neither is there any prospect for the bone to form new marrow, it cannot convey uncleanness by overshadowing.

(17) Although it does not now contain the requisite quantity of marrow, since in a portion of the bone there is a continuous strip of marrow, it will be invested in time with marrow and flesh, and it therefore conveys uncleanness as the corpse itself.

(18) If a long strip of the bark of the tree is removed, the tree will in no way be affected by it, but if a strip around the circumference of the tree is removed, the tree will soon wither.

(19) I.e., even if there was not an olive's bulk of marrow within the bone, it would still convey uncleanness as a corpse, for the limb would, in time, be restored.

(20) So that the original assumption at the outset that the Tanna of our Mishnah excluded uncleanness by overshadowing was incorrect.

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(21) It is surely regarded as a whole limb, for even if it has no marrow or flesh at present, it will be invested with these later on; of what avail is it, therefore, that the bone is stopped up?

(22) I.e., it is dried up and shriveled so that it shakes about within the bone; in such a case the limb cannot be restored.

(23) Since there is the requisite quantity of marrow within the bone it is immaterial whether it is stopped up or not, for the uncleanness breaks through. With regard to consecrated meat, too, as the bone should as a holder for an olive's bulk of marrow which was Nothar, it conveys uncleanness.

(24) And since it cannot restore the flesh on the outside, it cannot then be considered as a limb; it therefore requires the minimum standard of an olive's bulk which must be accessible.

(25) Ohol. III, 2. The Tanna in the following Mishnah clearly holds the view that the expression 'contact' means also 'overshadowing', and that these two forms of uncleanness fall within one category.

(26) E.g. one hand of the man was touching one half-olive's bulk while the other hand was directly above and overshadowing the second half-olive's bulk.

(27) E.g. the second half-olive's bulk was stuck on a chip which was inserted in the wall and the man stood directly underneath it.

(28) Sc., uncleanness conveyed by contact and by overshadowing.

(29) Ohol. *ibid.*

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if he touched one half-olive's bulk and some other thing overshadowed both him and another half-olive's bulk,¹ he is clean. Now if they fall within one category why is he clean?² But does not this clause conflict with the first clause?³ —

R. Zera answered: We are dealing there [in the first clause] with uncleanness that was confined between two cupboards between which there was not a handbreadth's space, in which case [overshadowing] is regarded as actual contact.⁴ Who then is the Tanna that includes 'overshadowing' in the term 'he who touches'? — It is R. Jose. For it was taught: R. Jose says. A ladleful of corpse-moulds conveys uncleanness by contact, by carrying, and by overshadowing. Now it is

clear [that a person is rendered unclean] by carrying and by overshadowing, for he carries the whole quantity and overshadows the whole quantity, but with regard to uncleanness by contact, he surely does not touch the whole quantity!⁶ One must say, therefore, that the expression 'contact' means 'overshadowing'. But does it not expressly state 'by contact' as well as 'by overshadowing'?

Abaye suggested, [To overshadow uncleanness] within a handbreadth thereof is termed 'overshadowing by contact', but more than a handbreadth away it is termed 'plain overshadowing'.⁷ Raba said: Even more than a handbreadth away, it is also termed overshadowing by contact'; but what is meant by 'plain overshadowing'? Where there is a projection.⁸

Raba said: Whence do I derive this?⁹ From what was taught [in the following Baraita]: R. Jose says. The woven cords of beds and the lattice-work of windows serve as partitions between the house and the upper room to prevent the passage of uncleanness to the other side.¹⁰ If these were spread over a corpse, being suspended in the air, whatever touches¹¹ directly over a mesh is unclean but whatever is not directly over a mesh is clean. Now what are the circumstances? If [they were suspended] within a handbreadth [from the corpse], why does that which was not directly over a mesh remain clean? Surely it is nothing else but the corpse in its shroud, and the corpse in its shroud conveys uncleanness!¹² They must then [have been suspended] more than a handbreadth away [from the corpse], nevertheless the expression 'whatever touches' is used! —

Abaye said: In fact [they were suspended] within a handbreadth [from the corpse], but as for your objection, 'Surely it is nothing else but the corpse in its shroud!' [I reply that] with regard to the corpse in its shroud

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a man certainly ignores [the existence of the shroud],¹³ but he does not ignore the existence of these. But is this not a case of concealed uncleanness¹⁴ which [according to established law] breaks through and rises upwards? —

R. Jose is of the opinion that concealed uncleanness cannot break through and rise upwards. Whence do you know this?¹⁵ From [the following Mishnah] which we learnt:¹⁶ If a drawer in a cupboard had the capacity of a [cubic] handbreadth within,¹⁷ and the opening [of the cupboard] was less than a handbreadth [square], and there was some uncleanness in it, the house becomes unclean;¹⁸ if there was some uncleanness in the house, what is in the drawer remains clean, for the uncleanness must come forth [eventually] but need not come in at all.

R. Jose declares [the house] clean, for one could take out the uncleanness by halves or burn it in its place.¹⁹ And the next clause reads thus: If one set [the cupboard] in the doorway of the house and it [the cupboard] opened outwards, and there was some uncleanness in it, the house remains clean;²⁰ if there was some uncleanness in the house, what is in [the cupboard] remains clean.

(1) E.g., both the man and the second half-olive's bulk were directly underneath and overshadowed by a plank.

(2) Should not the contact and the overshadowing, each in connection with a half-olive's bulk of a corpse, combine to render the person unclean?

(3) I.e., there is a contradiction in this Mishnah itself between the first clause and the next one.

(4) For it is established law that uncleanness which is confined or wedged in — i.e., there is not the air-space of a handbreadth on all sides — breaks through its confines and rises, as it were, in a column directly above, so that whoever passes at any height whatsoever over the uncleanness actually comes into contact with the column of uncleanness and is rendered unclean.

(5) I.e., the earth of a decomposed body found in a coffin.

(6) For the corpse-mould is composed of many particles, and when a person touches a part thereof he cannot be said to have touched the

whole ladleful, in which case he should not be rendered unclean by contact therewith.

(7) The terms 'contact' and 'overshadowing' employed in the foregoing Baraita are both to be understood in the sense of overshadowing, but Abaye draws a distinction between two modes of overshadowing. It must be observed that Abaye's suggestion is in no wise in support of R. Johanan's contention that the Tanna of our Mishnah is R. Jose and that the expression in our Mishnah HE WHO TOUCHES includes overshadowing, for according to him only overshadowing within a handbreadth from the unclean matter can be referred to by the term 'touch', accordingly our Mishnah does exclude plain overshadowing so that the difficulty propounded at the beginning of the argument stands. Of course Abaye himself has already explained the Mishnah to his satisfaction as stated above, supra p. 701.

(8) I.e., where the person and the uncleanness are side by side, but some projection overshadows both, forming a 'tent' or roof over both.

(9) That whatsoever overshadows more than the distance of a handbreadth away from the uncleanness is still regarded as 'overshadowing by contact' according to R. Jose, and is implied in the term 'touch'.

(10) If these networks are stretched out across the lower room forming a ceiling thereto, they become forthwith part of the structure of the room and as such cannot contract uncleanness. Moreover they serve as a partition and prevent the uncleanness from passing into the room above, for the meshes or holes in the network do not give passage to the uncleanness since there is no opening a handbreadth square in it. Consequently whatsoever happens to be in the upper room, even that which is directly over a hole in the net, remains clean.

(11) I.e., happens to be directly over one of the holes in the net. In this case the network is in no way intended as a ceiling, consequently whatsoever directly overshadows the corpse becomes unclean, but whatsoever is not directly over a hole but over a bar or thread of the net does not become unclean, for in this respect the threads of the net, inasmuch as they do not contract uncleanness, form a partition to prevent the uncleanness from passing upwards.

(12) The network, since it is so close to the corpse, can almost be regarded as the shroud of the dead, and the shroud of the dead surely cannot prevent the uncleanness of the corpse from spreading!

(13) I.e., he mentally ignores the separate existence of the shroud as a garment but looks upon it as part of the corpse; this, however, cannot be said with regard to the network.

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(14) I.e., uncleanness over which there is not the space of one handbreadth. V. supra 71a and Ohol. XIV, 6.

(15) That according to R. Jose concealed uncleanness cannot break through.

(16) Ohol. IV, 2, 3.

(17) So that any uncleanness inside it would not be regarded as concealed uncleanness.

(18) By Rabbinic decree everything in the house becomes unclean forthwith, even while the uncleanness is still shut-up in the drawer, because eventually the uncleanness will be brought forth and then it will certainly render everything in the house unclean. Cf. Ohol. VII, 3; Bez. 101.

(19) It is not inevitable that the house be tendered unclean, for the uncleanness can either be destroyed in the drawer, or be brought out in such quantities as does not render unclean.

(20) For the uncleanness will not pass through the house at all and as there was the space of a cubic handbreadth in the cupboard the uncleanness in it cannot break through.

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And in connection with this it was taught that R. Jose declares [the house] clean. Now to which clause [does R. Jose refer]? If to the last clause—surely the first Tanna [in that case] also declares [the house] clean! It must therefore [be this]. The first Tanna had said: ‘If there was some uncleanness in it the house becomes unclean’, either by virtue of the fact that the uncleanness must come forth eventually, or by virtue of the rule that concealed uncleanness breaks through.¹ Whereupon R. Jose said to him: As for your argument, ‘The uncleanness must come forth eventually’, [I reply that] one could take out the uncleanness by halves, or burn it in its place; and as for your ruling, ‘Concealed uncleanness breaks through’, [I maintain that] concealed uncleanness does not break through. I can point out a contradiction in the views of R. Jose. For we have learnt:² If a dog ate the flesh of a corpse and died³ and lay upon the threshold:⁴ R. Meir says, If its neck was one handbreadth wide, it brings the uncleanness [into the house];⁵ and if not, it does not bring in the uncleanness.⁶

R. Jose says. We must see [where the uncleanness lies]: if it⁷ lies opposite the lintel and inwards,⁸ the house is unclean;⁹ but if opposite the lintel and outwards, the house is clean. R. Eleazar says. If its mouth lies inside,¹⁰ the house remains clean; but if the mouth lies outside,¹⁰ the house is unclean, because the uncleanness passes out by way of its lower parts.¹¹ R. Judah b. Bathyra says. In all circumstances¹² the house is unclean. Now presumably R. Jose deals with the case where its neck was not one handbreadth wide;¹³ hence you can deduce [that he holds], concealed uncleanness breaks through! —

Said Raba: He [R. Jose] means to say: ‘We must consider the space in connection with the uncleanness’;¹⁴ and R. Jose consequently differs on two points, saying to R. Meir thus: As for your saying: ‘If its neck was one handbreadth wide it brings in the uncleanness’, [I maintain that] we must consider only the space; and as for your saying, [If it lies] anywhere upon the threshold¹⁵ the house is unclean, [I maintain that] if it lies on the inside of the lintel the house is unclean, but if on the outside of the lintel the house remains clean.¹⁶ R. Aha the son of Raba actually quotes the Mishnah with these words: R. Jose says. We must consider the space in connection with the uncleanness.

And who is the Tanna that disagrees with R. Jose?¹⁷ — It is R. Simeon. For it was taught: R. Simeon says.

(1) I.e., R. Jose had heard the first Tanna declare the house unclean in every case to which one of the reasons stated in the text applies. E.g., (in the case that is inferred from the last clause) where there was not the space of a cubic handbreadth in the drawer, even though the cupboard stood in the doorway of the house, the house is unclean because of concealed uncleanness; or, the case quoted in the first clause, the house is unclean for the uncleanness will eventually pass through.

(2) Ohol. XI, 7.

(3) If alive there would be no question at all of uncleanness, for, as already stated (supra 71a),

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uncleanness that is swallowed within a living being cannot render unclean.

(4) With its head pointing inside the house.

(5) Since the width of the neck is one handbreadth (even though it is not one handbreadth of space but consists of flesh, vertebrae, arteries, etc.) the uppermost side of the neck overshadows as a 'tent' the uncleanness, and seeing that the 'tent' extends into the house it thus leads in the uncleanness.

(6) For a space with one of its dimensions less than a handbreadth cannot be regarded as a tent with regard to uncleanness. V. Ohol. III, 7.

(7) Sc., that part of the dog in which the uncleanness happens to be.

(8) I.e., the inner side of the lintel so that the house overshadows the uncleanness.

(9) Presumably even though the dog's neck was not one handbreadth wide, for the uncleanness concealed within breaks through, so that the house overshadows the uncleanness.

(10) The uncleanness being in that part of the dog's carcass which is lying outside.

(11) And therefore one may regard the uncleanness in the dog as extending along the lower parts of the animal (for by this way it would have been evacuated) into the house.

(12) Whether the neck was one handbreadth wide or not, and whether the actual uncleanness lay on the inside of the lintel or not, and whether the mouth of the dog lay inside or not.

(13) V. supra n. 8.

(14) Where there is in the neck a space of one handbreadth, the uppermost side of the neck would serve as a 'tent' and would lead the uncleanness into the house. Where, however, there is no space of a handbreadth in the neck, even though the neck in which the uncleanness lies is entirely within the house, the house is clean, for the uncleanness is concealed and cannot break through.

(15) Even if it lies on that part of the threshold which is outside of the lintel.

(16) R. Jose therefore is in every respect less strict than R. Meir, and not, as was previously assumed, more so.

(17) I.e., who is it that holds, in opposition to R. Jose, that overshadowing is in no way included in the expression 'he who touches', for contact and overshadowing are separate categories of uncleanness.

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There are three matters of uncleanness issuing from a corpse which convey uncleanness by two means but not by the

third,¹ and these are they: a ladleful of corpse-mould, a barley's bulk of bone, and the covering stone and side stones of the grave.² A ladleful of corpse-mould conveys uncleanness by carrying and by overshadowing but not by contact;³ [uncleanness by] contact, however, is to be found with each of the others. A barley's bulk of bone conveys uncleanness by carrying and by contact but not by overshadowing;⁴ [uncleanness by] overshadowing, however, is to be found with each of the others. The covering stone and side stones of the grave convey uncleanness by contact and by overshadowing but not by carrying;⁴ [uncleanness by] carrying, however, is to be found with each of the others.

A THIGH-BONE OF A CARCASS OR OF A [DEAD] REPTILE, etc. Our Rabbis taught: It is written: [He that toucheth] the carcass thereof,⁵ but not a stopped up thigh-bone. I might think [that the same is the case] even if it was pierced, the verse therefore says: He that toucheth... shall be unclean,⁵ that is,⁶ whatever can be touched is unclean⁷ but whatever cannot be touched is clean. R. Zera said to Abaye. In that case a carcass with the hide still upon it should not convey uncleanness?⁸ — [He replied,] Just go and see how many apertures there are in it!⁹ R. Papa said to Raba. In that case the kidney [of a carcass], so long as it is surrounded with fat, should not convey uncleanness?¹⁰ — [He replied:] Just go and see how many fibers run through it!¹¹

R. Oshaia raised the question. What is the position if a man intended to pierce [the bone] but did not pierce it? Does the absence of piercing make it incomplete,¹² or not? He later answered the question himself: the absence of piercing does not make it incomplete.¹³

MISHNAH. THE EGG OF A REPTILE IN WHICH THERE HAS FORMED AN EMBRYO

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IS CLEAN;¹⁴ IF IT WAS PIERCED, HOWEVER SMALL THE HOLE WAS, IT IS UNCLEAN.¹⁵ WITH REGARD TO A MOUSE WHICH IS HALF FLESH AND HALF EARTH.¹⁶ IF A MAN TOUCHED THE FLESH HE BECOMES UNCLEAN, BUT IF HE TOUCHED THE EARTH HE REMAINS CLEAN. R. JUDAH SAYS, EVEN IF HE TOUCHED THE EARTH THAT IS OVER AGAINST THE FLESH HE BECOMES UNCLEAN.

GEMARA. Our Rabbis taught: The unclean¹⁷ includes the egg of a reptile and the thigh-bone of a reptile. I might think [that it is the same] even if there had not formed an embryo in it, the verse therefore adds: The creeping things,¹⁷ that is, just as the creeping thing is fully formed so the reptile's egg must also be fully formed. I might think [that it is the same] even if they had not been pierced, the verse therefore states: Whosoever doth touch them... shall be unclean,¹⁷ that is, whatever can be touched is unclean, but whatever cannot be touched is clean. How much must be pierced? A hairbreadth, for then it could be touched with a hair.¹⁸

WITH REGARD TO A MOUSE WHICH IS HALF FLESH, etc. R. Joshua the son of Levi said, provided the entire length [of the creature] had developed.¹⁹ Others, however, report this statement in reference to the last clause thus: R. JUDAH SAYS, EVEN IF HE TOUCHED THE EARTH THAT IS OVER AGAINST THE FLESH HE BECOMES UNCLEAN. Thereupon R. Joshua the son of Levi said, provided the entire length [of the creature] had been developed. He who reports it in reference to the first clause will with more reason apply it also to the last clause,²⁰ but he who reports it in reference to the last clause will hold that in the first clause even though the entire length [of the creature] had not been developed [whosoever touches the fleshy part thereof becomes unclean].

Our Rabbis taught: Since Scripture mentioned 'the mouse'²¹ I would have said that it included the sea-mouse for it bears the name 'mouse'. There is, however, an argument [against this]: [Scripture] declared the weasel unclean and the mouse unclean, therefore as the weasel refers only to those that live upon the land²² so the mouse refers only to those that live upon the land. Or you might argue in this way: [Scripture] declared the weasel unclean and the mouse unclean, therefore as the weasel refers to every creature which bears the name weasel, so the mouse refers to every creature which bears the name mouse, and so it will include the sea-mouse since it bears the name mouse! The text therefore teaches: Upon the earth.²³ But if I had only the expression 'upon the earth' to go by, I might say that while upon the earth it²⁴ can render unclean, but if it went down into the sea it²⁴ cannot render anything unclean!

(1) The three means of conveying uncleanness are: by contact, by carrying, and by overshadowing. With regards to the three matters stated, only two of these means apply, the actual two varying with each case, but not all three.

(2) V. supra p. 397, n. 7.

(3) This clearly conflicts with the aforementioned view of R. Jose, supra p. 703.

(4) This is a traditional law and not derived from the exposition of a verse, but v. Tosaf. s.v. עצם, and s.v. גולל.

(5) Lev. XI, 39.

(6) According to Rashi the implication is derived from the superfluous 'Yod' in the word yitma, shall be unclean. V. however, Shittah Mekuhbezeth, n. 9.

(7) If the flesh, or, as in this case, the marrow, that is inside can be touched from the outside, then the outer covering serves as a protection to what is inside, and as such conveys the uncleanness.

(8) Since one cannot touch the flesh directly and the hide itself is clean, v. supra 124b.

(9) E.g., the nose and the mouth which give direct access to the flesh.

(10) For the fat itself is clean, v. Pes. 231.

(11) And the fibers are accounted as flesh.

(12) And what is incomplete does not convey uncleanness.

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(13) And therefore since there was a clear intention to pierce it, it conveys uncleanness. According to old sources the reading is, 'The absence of piercing makes it incomplete'; for which see Sh. Mek., n. 5, and Maim. Yad, Aboth Hatumeah, II, 12.

(14) And if a man touched the shell he remains clean since the developed embryo within cannot be touched at all.

(15) And contact with the shell would render the person unclean, for in this case the shell serves as a protection to foodstuff and as such conveys uncleanness.

(16) According to the Rabbis, there exists a kind of mouse which is generated from the earth itself; v. Lewysohn, Zoologie des Talmuds, p. 345. Cf. also Sanh. 91a. In the process of generation there would be a time when it is half flesh and half earth.

(17) Lev. XI, 31: These are the unclean amongst all the creeping things: whosoever doth touch them, when they are dead, shall be unclean until the even.

(18) For it is established law that if a person touched the hair of an unclean body or if by his hair he touched an unclean body, in either case he becomes unclean. V. Rashi a.l.

(19) If the creature had already developed in its entire length from head to tail, even if only in half the width of its body, whosoever touches the fleshy part which has already developed becomes unclean.

(20) For had it not developed in its entire length R. Judah surely would not have said that whosoever touched the earth thereof would become unclean.

(21) Lev. XI, 29: And these are they which are unclean to you among the creeping things that creep upon the earth: the weasel, and the mouse, and the toad after its kind.

(22) For there are no weasels, nor any creatures by the name of weasel, that live in the sea.

(23) Ibid. This serves to exclude those that live in the sea.

(24) Sc., the mouse, be it land-mouse or sea-mouse.

and half earth since it does not breed.⁴ There is, however, a good argument [against this]: [Scripture] declared the weasel unclean and the mouse unclean, therefore as the weasel refers to all that bear the name weasel, so the mouse refers to all that bear the name mouse, and [in this way] I include the mouse which is half flesh and half earth. Or you might argue in this way: As the weasel breeds so the mouse [includes all species that] breed, [and so I would exclude the mouse which is half flesh and half earth]! The text therefore teaches. Among the creeping things.⁵

A certain Rabbi said to Raba: Perhaps the expression 'among the creeping things' includes the mouse which is half flesh and half earth, and the expression 'that creep' signifies all that creep, thus including the sea-mouse, and as for the expression 'upon the earth', it would be interpreted as follows: While upon earth it⁶ can render unclean, but if it went down into the sea it cannot render anything unclean? — He replied: Since you regard the sea as a place of uncleanness, then it is all one, whether here or there.⁷ But is not the expression 'upon the earth' required to exclude a floating uncleanness where there is a doubt [concerning contact]?⁸ For R. Isaac b. Abdimi stated: The expression 'upon the earth' excludes a floating uncleanness concerning which there is a doubt! — 'Upon the earth' is written twice.⁹

Our Rabbis taught: The toad after its kind,¹⁰ includes the 'arod,¹¹ the ben-nephilin,¹² and the salamander.¹³ When R. Akiba read this verse he used to say: 'How manifold are Thy works, O Lord!¹⁴ Thou hast creatures that live in the sea and Thou hast creatures that live upon the dry land; if those of the sea were to come up upon the dry land they would straightway die, and if those of the dry land were to go down into the sea they would straightway die. Thou hast creatures that live in fire and Thou hast creatures that live in the air; if those of the fire were to come up

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The text therefore teaches: That creep¹ signifies, wherever it creeps² [it renders unclean]. But perhaps it is not so but that the expression 'that creep' signifies, all that breed³ can render unclean, but those that do not breed cannot render unclean, and so I would exclude the mouse which is half flesh

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into the air they would straightway die, and if those of the air were to go down into the fire they would straightway die. How manifold are Thy works, O Lord!’

Our Rabbis taught: Every creature that is on the dry land is also to be found in the sea, excepting the weasel. R. Zera said: Where is there proof for this from Scripture? Give ear, all ye inhabitants of the world.¹⁵

R. Huna the son of R. Joshua said. The beavers around Naresh¹⁶ are not land [creatures].¹⁷ R. Papa said, The ban upon Naresh, its fat, its hide, and its tail!¹⁸ O Land, land, land, hear the word of the Lord.¹⁹ Said R. Papa. Yet the inhabitants of Naresh would not hear the word of the Lord. R. Giddal said in the name of Rab, If an inhabitant of Naresh has kissed you then count your teeth.²⁰ If a man of Nehar Pekod accompanies you it is because of the fine garments he sees on you.²¹ If a Pumbedithan accompanies you then change your quarters.²²

R. Huna b. Torta said: I once went to Wa'ad²³ and saw a snake wrapped round a toad; after some days there came forth an ‘arod from between them. When I came before R. Simeon the pious, [and related this to him,] he said to me: The Holy One, blessed be He, said: They have produced a new creature which I had not created into my world, I too will bring upon them a creature which I had not created in my world.²⁴ (But has not a Master said,²⁵ All creatures whose manner of copulation is the same and whose period of gestation is the same can bear young from each other and suckle each other, but all creatures whose manner of copulation is not the same and whose period of gestation is not the same cannot bear young from each other nor suckle each other?²⁶ — Rab said: It was a miracle within a miracle.²⁷ But this is for chastisement!²⁸ — It was a micracle²⁹ within a miracle even for chastisement!)

MISHNAH. LIMBS³⁰ OR PIECES OF FLESH WHICH HANG LOOSE FROM THE [LIVING] ANIMAL ARE RENDERED UNCLEAN IN RESPECT OF FOOD UNCLEANNESS WHILST THEY ARE IN THEIR PLACE.³¹ AND REQUIRE TO BE RENDERED SUSCEPTIBLE TO UNCLEANNESS.³²

(1) Ibid.

(2) In the light of this interpretation it could not have been maintained that a mouse cannot render unclean if it fell into the sea and there came into contact with some object. Consequently the term ‘upon the earth’ must be explained with regard to species, thus only land species can render unclean but not the sea species.

(3) Heb. שרץ might also mean to propagate, breed; cf. Ex. I, 7. Rashi, however, explains the word in the sense that the creature is the product of copulation of the sexes, which is not the case with the mouse that is generated by the earth itself. In some MSS. of Rashi this explanation is not found.

(4) Consequently the expression ‘upon the earth’ would signify that all creatures, whether land or sea creatures, if they have fallen into the sea, cannot render anything unclean.

(5) Lev. XI, 29. This would include even the mouse generated by the earth.

(6) Sc., any mouse, whether land-mouse or sea-mouse, or the mouse generated from the earth.

(7) I.e., a breeding place for species that can render unclean. Since it has been established that the sea-mouse can render unclean, there is no sufficient reason, indeed it is illogical to limit such uncleanness to the time when it creeps upon the land.

(8) I.e., if a dead reptile was floating upon the water and there arose a doubt as to whether or not it had come into contact with some object, even if the doubt arose in a private domain (in which case the established rule is that the state of doubt is resolved according to its more stringent aspect. i.e., unclean), the object remains clean. This is deduced from the strict interpretation of the expression ‘upon the earth’. V. Nazir 64a.

(9) Ibid. XI, 29 and 41.

(10) Lev. XI. 29.

(11) ערוך, a species of lizard; a cross between a snake and a toad. ‘The water-snake’ according to Lewysohn, op. cit. pp. 241-2.

(12) בגן נפילין or נפילין, the skink; so Lewysohn, p. 225.

(13) A kind of lizard which was supposed to exist in fire without being burnt; v. Hag. end.

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(14) Ps. CIV, 24.

(15) Ibid. XLIX, 2. 'The world' is expressed by the rare word **הלד** (heled) which is similar to the word for the weasel (holed). The world (heled) is the specific habitation of the weasel (holed), for the latter is not to be found in the sea.

(16) Identical with Nahras, on the canal of the same name, on the East bank of the Euphrates.

(17) So according to Rashi. Tosaf., however, gives an entirely different rendering: 'The inhabitants of Bibri and of Naresh are not fit for human society' (i.e., they are in every way wicked, see following statement of R. Papa). Accordingly Bibri (Be-Bari) is taken as the town close to Naresh; cf. 'Er. 56a and Sot. 10a. V. Tosaf. a.l., and Lewysohn, op. cit. p. 98. [Obermeyer p. 308 renders: Be-Bari and Naresh are not accounted as (inhabited) settlements. They are, that is, sparsely inhabited and infested consequently with wild animals.]¹

(18) The inhabitants of Naresh, both great and small, all without exception are wicked, and should be put under the ban. The fat, the hide, and the tail, indicate the various sections of the community.

(19) Jer. XXII, 29.

(20) For they are all thieves and insincere in their profession of friendship.

(21) He will steal it from you at the first opportunity.

(22) That he may not rob you.

(23) The name of a certain place whose inhabitants used to engage in crossbreeding animals. A variant reading is **יער**, 'a forest'.

(24) Sc. the 'arod whose bite is deadly; cf. Ber. 331.

(25) Bek. 8a.

(26) The periods of gestation of a snake and a toad differ greatly; with the latter it is six months, with the former seven years, cf. Bek. 8a, consequently they cannot be crossed.

(27) First that each should leave its own kind, and secondly that these two kinds should bear from each other.

(28) God surely would not perform miracles for the purpose of chastisement.

(29) So MS.M. Cur. edd., 'what is the meaning of a miracle within a miracle? For the purpose of punishment.'

(30) I.e., pieces consisting of bones, flesh and sinews. A limb entirely severed from the living animal renders unclean men and vessels like a carcass, whereas a piece of flesh entirely severed from the animal has no uncleanness whatsoever, v. infra 128b.

(31) Although they are not severed from the animal and the animal whilst alive cannot contract or convey uncleanness, they are in this

respect regarded as detached from the animal, provided they were expressly intended to serve as food (for a gentile, cf. 'Uk. III, 2), so as to contract uncleanness like ordinary foodstuffs and also to convey it.

(32) By being moistened by water or one of the seven liquids (v. Maksh. VI, 4) at any time after they have been torn loose.

Chullin 127b

IF THE ANIMAL WAS SLAUGHTERED THEY HAVE BY THE BLOOD [OF THE SLAUGHTERING] BECOME SUSCEPTIBLE TO UNCLEANNESS:¹ SO R. MEIR. R. SIMEON SAYS, THEY HAVE NOT BECOME SUSCEPTIBLE TO UNCLEANNESS. IF THE ANIMAL DIED. THE FLESH REQUIRES TO BE RENDERED SUSCEPTIBLE TO UNCLEANNESS, AND THE LIMB IS RENDERED UNCLEAN AS A LIMB SEVERED FROM THE LIVING CREATURE, BUT IS NOT RENDERED UNCLEAN AS THE LIMB OF A CARCASS:² SO R. MEIR. R. SIMEON DECLARES IT CLEAN.

GEMARA. They are rendered unclean in respect of **FOOD UNCLEANNESS** but not in respect of **nebelah uncleanness.**³ Now what are the circumstances? If they can be restored⁴ they should not be rendered unclean even in respect of food uncleanness, and if they cannot be restored they should be then rendered unclean also in respect of **nebelah uncleanness!** — In fact they cannot be restored, but with regard to **nebelah Uncleanness** it is different, for the Divine Law says. And if there fall,⁵ that is, they must absolutely fall away [from the body].⁶ There was also taught [a Baraita] to this effect: 'With regard to the limbs or the pieces of flesh which hang loose from the animal and are attached by a hairbreadth, I might have said that they should convey **nebelah uncleanness**, the text therefore states. "And if there fall", that is, they must absolutely fall away [from the body]'; nevertheless, they are rendered unclean in respect of **food uncleanness.**⁷

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This supports R. Hiyya b. Ashi, for R. Hiyya b. Ashi said in the name of Samuel: Figs which had shriveled up on the branch are rendered unclean in respect of food uncleanness, and he who plucks them on the Sabbath is liable to bring a sin-offering.⁸ Shall we say that the following also supports him? It was taught: Vegetables, such as cabbages and pumpkins, which had shriveled up on the stem,⁹ are not rendered unclean in respect of food uncleanness. If they were cut down and dried, they are rendered unclean in respect of food uncleanness. 'If they were cut down and dried'. But this is unthinkable, for they are then like wood!

R. Isaac, however, explained that it means: If they were cut down in order to be dried.¹⁰ Now this reasoning applies only to cabbages and pumpkins, for these no sooner have they become dry than they are uneatable: but other fruits [even though they shriveled up on the stem] are rendered unclean [in respect of food uncleanness]. And what are the facts [in the case of the shriveled-up cabbages and pumpkins]? If both they and their stems dried up, it is obvious;¹¹ it must be then that only they shriveled up but not their stems!¹² — [It is not so]. In fact both they and their stems had dried up, but it was necessary to teach that if one cut them down in order to dry them [they are still unclean in respect of food uncleanness].

Come and hear: If a branch of a tree broke off with fruits upon it they are regarded as plucked. If they¹³ had dried up they are regarded as attached, presumably as the one is regarded as plucked for all purposes,¹⁴ so the other is regarded as attached for all purposes!¹⁴ — Is this an argument? One means one thing, and the other another.¹⁵

IF THE ANIMAL WAS SLAUGHTERED, etc. What is the issue between them?¹⁶ — Rabbah said: They differ as to whether the animal can be regarded as serving as a

handle to a limb;¹⁷ one¹⁸ holds that the animal can be regarded as a handle to a limb,¹⁹ and the other²⁰ holds that the animal cannot be regarded as a handle to a limb.

Abaye said: They differ as to the ruling in the case where by taking hold of the smaller part of a thing the greater part does not come away with it; one¹⁸ is of the opinion that where by taking hold of the smaller part of a thing the greater part does not come away with it, it is regarded like it,²¹ but the other²⁰ is of the opinion that where by taking hold of the smaller part of a thing the greater part does not come away with it, it is not regarded like it.

R. Johanan also maintains that they differ as to the ruling in the case where by taking hold of the smaller part of a thing the greater part does not come away with it. For R. Johanan pointed out a contradiction in the views of R. Meir. Did R. Meir say, where by taking hold of the smaller part of a thing the greater part would not come away with it, it is to be regarded like it? But there is a contradiction to it for we have learnt:²² If a foodstuff [of Terumah] was divided, but was still attached in part.

(1) For at the slaughtering the limbs and pieces of flesh are not regarded as having fallen off, so that although the slaughtering cannot render the limbs and flesh fit for food it can render them clean that they be not nebelah, and at the same time it renders them susceptible to receive uncleanness by the moistening by the blood. V. supra 33a.

(2) For at death the limbs and pieces of flesh are regarded as having fallen off before, i.e., from the living animal, and therefore the flesh is entirely free from uncleanness (v. p. 714, n. 12) whereas the limbs convey uncleanness as limbs severed from a living animal but not as limbs severed from a carcass. For the distinction v. Gemara infra.

(3) I.e., the limb does not render men and vessels unclean.

(4) I.e., the flesh or the limb hanging from the body could be reset and bound up with the body so as to heal and recover completely.

(5) Lev. XI, 37.

(6) In order to be deemed unclean like nebelah.

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(7) Though in respect of nebelah uncleanness they are considered attached to the animal.

(8) Thus although with regard to Sabbath the figs are regarded as still upon the tree, with regard to food uncleanness they are regarded as fallen off.

(9) I.e., during growth.

(10) Although they were intended to be dried and used as fuel, nevertheless so long as they are still moist they are rendered unclean in respect of food uncleanness.

(11) For even with regard to the laws of Sabbath these vegetables would be regarded as plucked, consequently only these do not convey food uncleanness, since they are as wood, but other vegetables do. Hence it was unnecessary for the Baraitha to state these obvious rules.

(12) In which case with regard to the laws of Sabbath they would be regarded as unplucked, nevertheless with regard to uncleanness they are considered plucked and convey food uncleanness, thus supporting Samuel's view.

(13) In the case where the tree had not split but the fruits had dried upon the tree.

(14) I.e., both as regards the laws of Sabbath and uncleanness, thus conflicting with Samuel, who distinguishes between these laws.

(15) In other words, 'regarded as attached' has reference only to the laws of Sabbath but not to uncleanness, thus in agreement with Samuel.

(16) R. Meir and R. Simeon in our Mishnah.

(17) Both agree that moistening the handle of foodstuffs renders the whole foodstuff susceptible to uncleanness, but the question is whether the major portion of a thing can in any way be said to serve as a handle to the lesser portion, so that by moistening the bulk the handle is regarded as made susceptible to uncleanness.

(18) R. Meir.

(19) So when the animal was rendered susceptible to uncleanness the hanging limb was likewise rendered susceptible.

(20) R. Simeon.

(21) I.e., the smaller part is still considered as part of the whole. It is agreed to by all that the animal cannot serve as a handle to the limb, but R. Meir and R. Simeon differ in this: R. Meir maintains that whatever still hangs on to the whole is regarded as part of the whole; for, granted that the hanging limb cannot pull with it the rest of the animal, the animal when taken up would certainly take with it this hanging limb. R. Simeon, however, does not accept this argument.

(22) T. Y. III, 1. Cf. variant text in Tosaf. 128a, s.v. רבי.

Chullin 128a

R. Meir says: If by taking hold of the smaller part the greater part comes away with it, it is regarded like it;¹ otherwise it is not regarded like it.² Whereupon R. Johanan suggested that he in this case changed his opinion!³ But what was [R. Johanan's] difficulty? perhaps R. Meir distinguishes between the uncleanness of a Tebul Yom⁴ and other uncleannesses? — [This surely is not the case for] it was taught: Rabbi says: It is all one whether the uncleanness was that of a Tebul Yom or any other uncleanness.⁵ But perhaps Rabbi draws no distinction [between the uncleannesses] but R. Meir does? —

Said R. Josiah. This is what R. Johanan meant to say. According to Rabbi's view he [R. Meir] in this case changed his opinion. Raba said: They differ as to whether the law of handles applies only in respect of conveying the uncleanness but not in respect of rendering [the bulk] susceptible to uncleanness [or whether it applies to both];⁶ one⁷ holds that the law of handles applies only in respect of conveying the uncleanness but not in respect of rendering [the bulk] susceptible to uncleanness, but the others hold that the law of handles applies both in respect of conveying the uncleanness and of rendering [the bulk] susceptible to uncleanness.

R. Papa said: They differ as to the ruling in the case where [the limb] was rendered susceptible [to uncleanness] before any intention [was formed of using it as food].⁹ For it was taught: R. Judah said: R. Akiba used to teach as follows: The forbidden fat of a slaughtered animal, in villages,¹⁰ needs intention [to be used for food], but does not need to be made susceptible to uncleanness, since it has already¹¹ been made susceptible by the slaughtering. Thereupon I said to him: Master, did you not teach us that if a man gathered endives, washed them for [feeding] cattle, and then determined to use

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them as food for man, they again need [to be moistened in order] to be rendered susceptible to uncleanness?¹²

R. Akiba then retracted and taught according to R. Judah. The one⁸ accepts the original [teaching of R. Akiba].¹³ the other⁷ [the teaching] after he retracted. R. Aha the son of R. Ika said: They differ in the case where the blood was wiped away [from the limb] between the cutting of the first and second organs [of the throat];¹⁴ one¹⁵ maintains that the term Shechitah applies to the entire process of slaughtering from beginning to end, consequently this [blood that was upon the limb] was the blood of slaughtering; the other¹⁶ maintains that the term Shechitah applies only to the last stage of the slaughtering, consequently this [blood that was upon the limb] was the blood of a wound.¹⁷

R. Ashi said: They differ as to whether the slaughtering only and not the blood renders susceptible to uncleanness.¹⁸

Rabbah raised the following question: Can the living animal serve as a handle to the limb or not?¹⁹ — It is undecided.

Abaye said: Behold they have said:²⁰ If a man planted a cucumber in a plant-pot and it grew and spread outside the pot, it is clean.²¹ Said R. Simeon: How does this come²² to be clean? Rather what is unclean²³ remains unclean and what is clean²⁴ remains clean. Now, asked Abaye, [according to R. Simeon] can it²⁴ serve as a handle to the rest?²⁵ — It is undecided.

R. Jeremiah said: Behold they have said that if a man bowed down to half a pumpkin he has thereby rendered it forbidden.²⁶ Now, asked R. Jeremiah,

(1) And if a Tebul Yom (i.e., one who has immersed himself by day but is not regarded as absolutely clean until sunset) touched either part,

the whole is rendered invalid (i.e., it is unclean, but it cannot convey the uncleanness).

(2) And only the part touched by the Tebul Yom is rendered invalid but not the other.

(3) R. Meir in the case of the Tebul Yom adopted a different view, but generally he is of the opinion that where by taking hold of the smaller part the greater part does not come away with it, the former is regarded as part of the whole (Rashi).

(4) V. n. 2. In the case of a Tebul Yom R. Meir adopts a less strict view, since the uncleanness of such a person is only Rabbinic. So Rashi, but v. Glos. of R. Akiba Eger in the margin of the folio.

(5) I.e., what is regarded as contact with the whole in the case of other sources of uncleanness is also regarded as contact with the whole by a Tebul Yom

(6) They both, however, agree that the animal can serve as a handle to the limb.

(7) R. Simeon.

(8) R. Meir.

(9) Since the limb was hanging loose from the living animal it is forbidden, even after the slaughtering, to be eaten by all, Jew and gentile alike; consequently it is not regarded as a foodstuff unless an express intention was formed to that effect. In this case, however, at the time of slaughtering when the animal was rendered susceptible to uncleanness by the blood, no such intention was expressed. Later when it is intended to be used as food the question arises whether the first moistening has effectively rendered it susceptible to uncleanness or not. They both, however, agree that a part can serve as a handle both for the purposes of uncleanness and of rendering aught susceptible to uncleanness.

(10) In villages fat was not counted as a foodstuff for it was not usually eaten, either because the villagers could not afford to buy it, or because there was no need for it because of their abundant supply of meat.

(11) Prior to the intention.

(12) For the first washing by water, since it preceded the intention to use them as a foodstuff, will not serve to render them susceptible to uncleanness.

(13) That moistening by water of any matter, even before the intention was formed to use it as a foodstuff, renders it susceptible to uncleanness.

(14) They both hold that although the animal serves as a handle to the limb, it can only serve as such for the purposes of uncleanness but not for the purpose of rendering the limb susceptible to uncleanness; in other words the limb must itself be moistened. Now in this case some blood of the slaughtering splashed upon this loose limb but it was wiped off before the slaughtering was completed.

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(15) R. Meir.

(16) R. Simeon.

(17) Which cannot render aught susceptible to uncleanness; v. supra 35b.

(18) It is agreed by all that the animal cannot serve as a handle to the limb for the purpose of rendering it susceptible to uncleanness; it is therefore suggested that the limb was splashed with the blood of the slaughtering which was not wiped off at all. R. Simeon nevertheless maintains that the limb was not thereby rendered susceptible, for he holds that it is the act of slaughtering and not the blood which renders the animal susceptible to uncleanness, and this being so, the act of slaughtering must be a valid act such as renders the animal fit for food, which is not the case with regard to this limb.

(19) This question is founded upon the view of R. Meir who, on Rabbah's interpretation, holds that the slaughtered animal serves as a handle to the loose limb. If it is held that the living animal can also serve as a handle to the loose limb, then the position would be that if unclean matter came into contact with the body of the animal, although it could not itself contract uncleanness thereby for it is alive, it could nevertheless act as a 'handle' to convey the uncleanness to the loose limb (provided the limb was first moistened by water).

(20) 'Uk. II, 9.

(21) Whatsoever is planted in a plant-pot which is not perforated is not regarded as attached to the soil in any way; it is therefore susceptible to contract uncleanness, or if the plant was unclean before planting, it retains the uncleanness (which is not the case if the plant was planted in the ground). If, however part of the growth of the plant spread outside the pot this part clearly draws nourishment from the earth and the effect is that the whole plant, even that which is inside the pot, is insusceptible to uncleanness, or if the plant, before planting, was unclean, it is now clean.

(22) Lit., 'what is the nature of this'?

(23) Sc., that which is inside the pot, for it is not regarded as attached to the soil.

(24) Sc., that which is outside the pot, and which draws sustenance from the soil and so is regarded as attached to the soil.

(25) To convey uncleanness to what is inside the pot although it itself cannot contract uncleanness.

(26) Inasmuch as it is forbidden to derive any benefit whatsoever from the object worshipped, the half pumpkin is no longer, according to the view of R. Simeon infra 129a, regarded as a foodstuff, and so cannot contract uncleanness.

Chullin 128b

can it serve as a handle to the other [half]?¹
— It is undecided.

R. Papa said: Behold they have said,² If a branch of a fig-tree was broken off but it was still attached by the bark, [and unclean matter came into contact with it.] R. Judah declares it to be clean;³ but the Sages say. If it can live,⁴ it is clean; but if not, it is unclean. Now, asked R. Papa, can it serve as a handle to the rest?⁵ — It is undecided.

R. Zera said: Behold they have said,⁶ As to a stone that is in a corner,⁷ when it must be taken out⁸ the whole of it must be taken out, and when [the house] must be pulled down⁹ a man need pull down only his own [half of the stone] but leaves his neighbor's [half]. Now, asked R. Zera, can it serve as a handle to the rest?¹⁰ — It is undecided.

IF THE ANIMAL DIED. What difference is there between a limb torn from a living animal and a limb torn from a dead animal?
— The difference is where some flesh is severed from the limb; for flesh severed from the limb torn from a living animal is not rendered unclean, but [flesh severed] from the limb torn from a dead animal is rendered unclean. And where is there proof in Scripture that a limb torn away from a living animal renders unclean? —

Rab Judah said in the name of Rab: It is written: And if there die of the beasts.¹¹ But surely this verse is required for the other teaching of Rab Judah in the name of Rab; for Rab Judah said in the name of Rab, (others say: It was so taught in a Baraitha). It is written: And if there die of the beasts, [he that toucheth the carcass thereof shall be unclean,] that is to say, some beasts render unclean and some do not, and which are they [that do] not render unclean? They are Trefah animals that have been slaughtered.¹²
— If that were so, Scripture should have

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stated ‘of beasts’; why does it state ‘of the beasts’? You may therefore infer two results from it. Then in that case even flesh [severed from the living animal] should also [render unclean], should it not? — You cannot say so, for it has been taught: I might think that flesh severed from the living animal should also be unclean, Scripture therefore states: And if there die of the beasts: as death cannot be replaced so everything that [is severed and] cannot be replaced [renders unclean]; so R. Jose [the Galilean].

R. Akiba says. It is written: ‘The beasts’: as the beast is made up of veins and bones so everything [severed] must be made up of veins and bones [in order to render unclean]. Rabbi says: ‘The beasts’: as the beast is made up of flesh and veins and bones so everything [severed] must be made up of flesh and veins and bones [in order to render unclean].

Wherein is there a difference between Rabbi and R. Akiba? — In the case of the nethermost joint [of the leg].¹³ And wherein is there a difference between R. Akiba and R. Jose the Galilean? — R. Papa answered: In the case of the kidney and the upper lip.¹⁴ The same has also been taught with regard to creeping things, viz., I might think that flesh severed from [living] creeping things should also be unclean, Scripture therefore states. When they are dead:¹⁵ as death cannot be replaced so everything that [is severed and] cannot be replaced [renders unclean]; so R. Jose the Galilean.

R. Akiba says. It is written: The creeping things:¹⁵ as the creeping thing is made up of veins and bones so everything [severed] must be made up of veins and bones [in order to render unclean]. Rabbi says: ‘The creeping things’: as the creeping thing is made up of flesh and veins and bones so everything [severed] must be made up of flesh and veins and bones.

Between Rabbi and R. Akiba there is a difference with regard to the nethermost joint [of the leg]; and between R. Akiba and R. Jose the Galilean there is a difference with regard to the kidney and the upper lip. Now both teachings were necessary. For if it had been taught only with regard to beasts I should have said that the reason [why the flesh torn from] the living beast does not render unclean was that [the beast when dead] does not render unclean by a lentil's bulk thereof,¹⁶ but in the case of a creeping thing, since [when dead] it renders Unclean by a lentil's bulk thereof, I should have said that the flesh of the living [creeping thing] should render Unclean. And if it had been taught only with regard to creeping things. I should have said that the reason [why the flesh torn from] the living creeping thing does not render unclean was that creeping things do not convey uncleanness by carrying, but in the case of beasts, since they do convey uncleanness by carrying. I should have said that even [the flesh torn from] the living beast should render unclean. Therefore both teachings were necessary.

Our Rabbis taught: Where a man cut off an olive's bulk¹⁷ of flesh from a limb that was severed from a living animal, if he first cut it off and then intended it as food,¹⁸ it is clean;¹⁹ but if he first intended it as food and then cut it off, it is unclean.²⁰

R. Assi was once absent from the Beth Hamidrash. He later met R. Zera and asked him, ‘What was said in the Beth Hamidrash?’ Said the other, ‘And what was your difficulty?’ He said: ‘Well, it has been stated: "If he first intended it as food and then cut it off, it is unclean"’.

(1) I.e., if unclean matter came into contact with the forbidden half, can it, seeing that it cannot contract uncleanness itself, serve as a handle to convey the uncleanness to the other half or not?

(2) ‘Uk. III, 8.

(3) For it is still regarded as part of the tree and therefore cannot contract uncleanness.

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(4) I.e., if when tied to the tree it can produce fruit.

(5) I.e., can this branch which has been tied to the tree and continues to produce fruit, (in which case it cannot contract uncleanness itself,) serve as a handle, if unclean matter came into contact with it, to convey the uncleanness to a smaller branch broken away from it and which cannot live and produce fruit? This is the first interpretation of Rashi, and it is on all fours with the previous questions that were raised. A simpler interpretation is: can the tree, which does not contract uncleanness, convey the uncleanness which came into contact with it to the branch which has broken away and which cannot revive even when tied to the tree?

(6) Neg. XIII, 2.

(7) I.e., a stone which forms part of two adjoining houses and which was infected with some leprous disease. Cf. Lev.

XIV, 33ff: if the plague had spread after the house had been shut up for seven days the infected stones must be removed and replaced by others, and if after a further period of seven days the plague appears upon the new stones then the entire house must be pulled down.

(8) Viz., after the first seven days.

(9) Viz., after the second period of seven days.

(10) It is established that stones infected with the plague render everything in the 'tent', i.e., under the same roof-space unclean; cf. Lev. XIV, 36. 46. The question, therefore, is: can the other half of the stone which remains, i.e., his neighbor's half, since it is clean itself, serve as a handle in order that the uncleanness may pass from his house into his neighbor's house.

(11) Lev. XI, 39. The exposition is inferred from the Heb. *בְּגֵן הַבְּהֵמָה*, 'of the beasts', i.e., a part thereof. Thus a limb that has died (i.e., torn away from the beast) renders unclean.

(12) In this case the expression *בְּגֵן הַבְּהֵמָה*, 'of the beasts', means among beasts; thus some beasts render unclean and some do not.

(13) Sc., the metatarsus or the metacarpus; these consist entirely of bones and veins without flesh. According to R. Akiba, these are limbs and if severed from the living beast render unclean, and so too according to R. Jose; but according to Rabbi these are not limbs.

(14) These are without bones, but obviously once cut away the animal cannot get another kidney or upper lip. According to R. Jose's definition these are regarded as limbs, but not so according to R. Akiba's definition.

(15) Lev. XI, 31.

(16) There must be at least an olive's bulk thereof.

(17) The words 'an olive's bulk' are omitted in MS.M. and other MSS. Rashi apparently also

adopts the reading without these words and he quotes the Tosef. in support. The reason for the omission is, that for a foodstuff to contract uncleanness and to convey uncleanness, there must be at least an egg's bulk.

(18) For a gentile.

(19) For a morsel of flesh which has been cut away from a limb that was severed from a living animal has no uncleanness of its own; and at the moment that this morsel comes to be regarded as a foodstuff it was then separated from the limb or from any source of uncleanness, hence it is clean.

(20) Inasmuch as this morsel was regarded as a foodstuff whilst still joined to the limb, it has always borne uncleanness; for when joined to the limb it bore the graver uncleanness (which can render men and vessels unclean), and when separated from it, it thereby loses the graver uncleanness but bears the lighter uncleanness (which can render unclean only foodstuffs and liquids) because of its contact with the limb.

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But it had only [made] covert [contact with] uncleanness; and covert [contact with] uncleanness does not render unclean? Said the other, 'I, too, had this difficulty and I put it to R. Abba b. Memel, and he told me that this ruling was in accordance with R. Meir's view who maintains that covert [contact with] Uncleanness does render unclean'. He said: 'Indeed on many occasions he told me that too, but I replied to him that R. Meir surely made a distinction between that which needed to be rendered susceptible [to uncleanness by a liquid] and that which did not need to be so rendered susceptible',² Raba said: But what was the objection, perhaps it was rendered susceptible to uncleanness?³ Whereupon Rabbah son of Hanan asked Raba: Why is it at all necessary that it be rendered susceptible? Originally⁴ it conveyed the graver uncleanness!⁵ — He replied. But then it served only as wood.⁶

Abaye said: Behold they have said⁷ that if a man especially set aside a lump of leaven to be used as a seat, he has thereby nullified it.⁸ The uncleanness thereof [I say] is not decreed by the law of the Torah; for should you say it is so by the law of the Torah then

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we should have a case of foodstuffs being able to convey the graver uncleanness [later on]!⁹ — [No. Not necessarily so]. For it now serves as wood.¹⁰

Abaye said: Behold they have said that foodstuffs used as offerings to idols render unclean [men and vessels that are] in the same tent.¹¹ This uncleanness [I say] is not decreed by the law of the Torah; for should you say it is so by the law of the Torah then we should have a case of foodstuffs being able to convey the graver uncleanness [later on]! — [No. Not necessarily so]. For they now serve as wood.¹²

Abaye said: Behold they have stated that foodstuffs that adhere closely [to vessels] are like the vessels themselves.¹³ The uncleanness [in such a case I say] is not decreed by the law of the Torah; for should you say it is so by the law of the Torah then we should have a case of foodstuffs being able to convey the graver uncleanness [later on]! — [No. Not necessarily so]. For they now serve as wood.

R. Papa said to Raba: In view of that which has been taught¹⁴ viz.: The forbidden fat of a carcass [of a clean animal], in villages,¹⁵ needs the intention [to be used as food] and also needs to be made susceptible to uncleanness, [I say] the uncleanness that [the fat] conveys by reason of the kidney within it,¹⁶ is not decreed by the law of the Torah; for should you say it is so by the law of the Torah then we should have a case of foodstuffs being able to convey the graver uncleanness!¹⁷ — [No, not necessarily so]. For it now serves as wood.¹⁸

R. Mattenah said: Behold they have spoken of a house roofed with stalks;¹⁹ the uncleanness thereof²⁰ [I say] is not decreed by the law of the Torah; for should you say that it is so by the law of the Torah then we should have a case of stalks conveying the graver uncleanness! — [No, not necessarily so]. For they now serve as wood.

R. SIMEON DECLARES IT CLEAN. But whichever view you take [it is difficult]: If at death the limb is considered as already fallen off then it should be unclean as a limb severed from a living animal, and if at death it is not considered as already fallen off then it should be unclean as a limb severed from a carcass! — R. Simeon refers to the first clause [which reads]: **LIMBS OR PIECES OF FLESH WHICH HANG LOOSE FROM THE [LIVING] ANIMAL ARE UNCLEAN IN RESPECT OF FOOD UNCLEANNESS WHILST THEY ARE IN THEIR PLACE, AND REQUIRE TO BE RENDERED SUSCEPTIBLE TO UNCLEANNESS.** But R. Simeon declares them clean.

R. Assi said in the name of R. Johanan. What is the reason for R. Simeon's view? Because Scripture says. All food therein which may be eaten;²¹ therefore, food which you may give others²² to eat is termed food, but food which you may not give

(1) The contact between the morsel and the limb was made only at the place where subsequently the severance is to be made, and that contact was not exposed. Cf. supra 72b.

(2) R. Meir would agree that where after severance from the limb the part has to be rendered susceptible to uncleanness by water or some other liquid, as is the case here (cf. the Mishnah supra 127a bot.), the covert contact with the uncleanness would not render unclean. Contrast the case stated supra 72b, where the fetus in the womb was already rendered susceptible to uncleanness by the slaughtering of its dam before the unclean protruding limb was cut off.

(3) I.e., the morsel before it was severed from the limb was moistened with water.

(4) Lit., 'together with its father'.

(5) The morsel when joined to the limb was regarded as a primary source of uncleanness to convey the graver uncleanness, and it is established that whatsoever will convey the graver uncleanness later on does not require to be rendered susceptible to uncleanness by water, v. supra 121a; how much more so this morsel which in the past did convey the graver uncleanness!

(6) I.e., it had no individual character but formed together with the bones and sinews an entire limb.

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It is only now on being severed from the limb that it assumes a new character, viz., that of a foodstuff, and like all foodstuffs it requires moistening in order to be rendered susceptible to uncleanness.

(7) Pes. 45b.

(8) I.e., it no longer counts as leaven and by using it on the Passover one does not transgress the prohibition of Ex. XII, 19, for it is no longer a foodstuff but converted into a seat. As a seat it would contract Midras uncleanness (which is a grave uncleanness) if a man that has an issue sat upon it.

(9) Which would conflict with the principle laid down supra 121a, quoted supra p. 725, n. 5.

(10) When converted into a seat it has lost all the characteristics of a foodstuff and has become quite a new article, and as such can convey the graver uncleanness. Accordingly the uncleanness spoken of can well be by the law of the Torah.

(11) The words 'men and vessels that are in the same tent' are omitted in MS.M. Cf. Tosaf. supra 13b s.v. תקרובת.

(12) Since it has been used for idolatrous purposes it is forbidden for all purposes, consequently it has lost its character as a foodstuff, and it is on all fours with any article that has been worshipped.

(13) E.g., pieces of dough found in the cracks of the kneading vessels are regarded as part of the vessel and, if unclean, can render unclean men and vessels. Cf. Pes. 45a, 46a.

(14) The reference given in the margin is to 'Uk. III, 3, but it is not to be found in the Mishnah in the form quoted. V. Tosaf. Nid. 50b s.v. ג"ל.

(15) Where the fat is rarely eaten even by gentiles; v. supra p. 719, n. 5.

(16) The fat of a carcass cannot convey uncleanness as nebelah save that which encloses the kidney, and that is because of the kidney that is inside it; v. supra 126b.

(17) And this cannot be for then it would not need to be made susceptible to uncleanness, in accordance with the rule quoted, supra 121a.

(18) The fat that encloses the kidney conveys uncleanness not by virtue of its being a foodstuff but, on the contrary, rather as a bone or wood which serves as a protection to the kidney which is nebelah.

(19) So MS.M. and Rashi. The text in cur. edd. reads: 'If a house was roofed with stalks they become clean'. V. Rashi s.v. שומארו.

(20) The stalks, although they contain grain, can no longer be regarded as foodstuffs but form the roof of the house; and if the house was stricken with a leprous plague, this roof as well as the walls and the rest of the house would be unclean and render men and vessels unclean.

(21) Lev. XI, 34.

(22) Sc. gentiles.

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others to eat is not termed food.¹ R. Zera said to R. Assi, perhaps the reason for R. Simeon's view there [in the first clause] is: since it is attached it is regarded as one with it.² For we have learnt:³ If a branch of a fig-tree was broken off but it was still attached by the bark, [and unclean matter came into contact with it.] R. Judah declares it to be clean;⁴ but the Sages say, if it can live,⁵ it is clean; but if not, it is unclean. And when we asked you the reason for R. Judah's view you told us that being still attached, it is regarded as one with it! —

We must say that it⁶ refers to the middle clause [which reads]: **IF THE ANIMAL WAS SLAUGHTERED THEY HAVE, BY THE BLOOD [OF THE SLAUGHTERING], BECOME SUSCEPTIBLE TO UNCLEANNESS: SO R. MEIR. R. SIMEON SAYS, THEY HAVE NOT BECOME SUSCEPTIBLE TO UNCLEANNESS.** Thereupon R. Johanan said: What is the reason for R. Simeon's view? Because Scripture says: All food therein which may be eaten'; therefore, food which you may give others to eat is termed food, but food which you may not give others to eat is not termed food. But perhaps the reason for R. Simeon's view there is that given by Rabbah⁷ or R. Johanan!⁸ —

Indeed we must say, it⁶ refers to the last clause, but [R. Simeon differs] not with regard to the limbs⁹ but only with regard to the pieces of flesh. Thus, **IF THE ANIMAL DIED THE FLESH REQUIRES TO BE RENDERED SUSCEPTIBLE TO UNCLEANNESS;... R. SIMEON DECLARES IT CLEAN.** Thereupon R. Johanan said: What is the reason for R. Simeon's view?¹⁰ Because Scripture says: 'All food therein which may be eaten'; therefore, food which you may give others to

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eat is termed food, but food which you may not give others to eat is not termed food.

MISHNAH. LIMBS OR PIECES OF FLESH WHICH HANG LOOSE FROM A MAN ARE CLEAN. IF THE MAN DIED. THE FLESH IS CLEAN;¹¹ THE LIMB IS UNCLEAN AS A LIMB SEVERED FROM THE LIVING BODY BUT IS NOT UNCLEAN AS A LIMB SEVERED FROM A CORPSE;¹² SO R. MEIR. R. SIMEON DECLARES IT CLEAN.

GEMARA. Whichever view R. Simeon takes [it is difficult]: If at death the limb is considered as already fallen off, then it should be unclean as a limb severed from the living body, and if at death it is not considered as already fallen off, then it should be unclean as a limb severed from a corpse! —

R. Simeon refers to the law in general.¹³ For the first Tanna had stated: **THE LIMB IS UNCLEAN AS A LIMB SEVERED FROM THE LIVING BODY BUT IS NOT UNCLEAN AS A LIMB SEVERED FROM A CORPSE**, and this clearly shows that the law in general is that a limb¹⁴ severed from a corpse is unclean; thereupon R. Simeon said to him that in general a limb¹⁴ severed from a corpse is not unclean. For it has been taught: R. Eliezer said: I have heard that a limb severed from the living body is unclean.

Said to him R. Joshua. [Do you mean only] from the living body and not from a corpse? Surely it is all the more so: for if a limb severed from the living body which is clean, is unclean, how much more is a limb severed from a corpse unclean! In like manner we find it stated in the Scroll of Fasts:¹⁵ ‘On the minor Passover no mourning is allowed’. Does this mean that on the major festival¹⁶ mourning is allowed? Surely it is all the more so [on the major festival]; similarly here it is all the more so [with regard to the limb severed from the corpse]! He replied: So have I heard.¹⁷

What difference is there between a limb severed from the living body and a limb severed from a corpse?¹⁸ — The difference is with regard to an olive's bulk of flesh or a barleycorn's bulk of bone cut away from the limb that was severed¹⁹ (from the living body).²⁰ For we have learnt: If an olive's bulk of flesh was cut away from a limb that was severed from the living body. R. Eliezer declares it unclean; but R. Nehunia b. Hakaneh and R. Joshua declare it clean. If a barleycorn's bulk of bone broke away from a limb that was severed from the living body. R. Nehunia b. Hakaneh declares it unclean; but R. Eliezer and R. Joshua declare it clean.²¹ Now that you have come to this,²² you can also say that the difference between the first Tanna and R. Simeon is with regard to an olive's bulk of flesh or a barleycorn's bulk of bone.²³

(1) And a limb severed from a living animal is forbidden even unto gentiles; this being one of the Seven Commandments given to the sons of Noah, cf. Sanh. 56a.

(2) Lit., ‘since it is attached, it is attached’. I.e., as long as it is joined to the living animal, however slender the attachment may be, it is still regarded as part of the living animal and as such cannot be unclean.

(3) ‘Uk. III; 8; v. supra p. 721.

(4) For as long as it is joined to the tree, no matter how slightly, it is regarded as part of the tree, and therefore cannot contract uncleanness since the tree is attached to the soil.

(5) I.e., if when fastened to the tree the branch can continue to produce fruit.

(6) Sc., R. Johanan's explanation of R. Simeon's view derived from the interpretation of the verse in Lev. XI, 34.

(7) V. supra 127b, where Rabbah suggested as the reason for R. Simeon's view the principle that the animal cannot serve as a handle to a limb. In some texts the reading is Raba, and his explanation of R. Simeon's view is that in no circumstances can a handle serve as the means of rendering the rest susceptible to uncleanness (cf. supra 128a).

(8) According to R. Johanan the reason for R. Simeon's view is that he holds that where by taking hold of the smaller part the greater part would not come away with it the former cannot

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be regarded as one with the latter (cf. supra 127b).

(9) The limb is certainly unclean, whether as a limb severed from the living animal or as a limb from a carcass.

(10) That the pieces of flesh even though moistened by water do not contract uncleanness.

(11) The flesh which was hanging loose is clean for it is regarded as having fallen off before death, and this Tanna holds the view that flesh (not a limb) severed from the living body is clean.

(12) For the distinction between these two v. Gemara infra.

(13) And he holds that a limb (entirely without flesh) severed from a corpse does not convey uncleanness!

(14) With no flesh at all upon it.

(15) To commemorate joyous events in the history of the Jewish people there was drawn up a list of days on which fasting, and in some cases also mourning, was forbidden. See further J.E. VIII, p. 427, and also S. Zeitlin, *Megillat Taanit*, 1922.

(16) The festival of Passover in the month of Nisan as opposed to the minor festival, or Second Passover, in the month of Iyar (cf. Num. IX, 11).

(17) That a limb from a corpse which contains neither an olive's bulk of flesh nor a barleycorn's bulk of bone is not unclean.

(18) Seeing that the first Tanna (sc. R. Meir) in our Mishnah makes such a distinction.

(19) If such was cut away from the limb severed from the living body it is clean, but if from the limb severed from the corpse it is unclean. This view of R. Meir accords entirely with the view of R. Joshua as stated in the Mishnah 'Ed., and in the foregoing Baraitha.

(20) These words in brackets are obviously to be deleted. V. Glos. of Strashun a.l.

(21) 'Ed. VI, 3. For the arguments and reasons adduced by these Rabbis in support of their views v. Mishnah there.

(22) I.e., having introduced the olive's bulk of flesh and the barleycorn's bulk of bone in the argument.

(23) Both the first Tanna and R. Simeon are of the opinion that the limb (even without flesh) of a corpse is unclean, but they differ with regard to an olive's bulk of flesh or a barleycorn's bulk of bone cut away from a limb that was severed from the living body. R. Simeon considers each clean and is in accord with R. Joshua. The first Tanna, however, considers either the former clean and the latter unclean and so accords with R. Nehunia b. Hakaneh, or the former unclean and the latter clean and so accords with R. Eliezer.

CHAPTER X

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MISHNAH. THE LAW OF THE SHOULDER AND THE TWO CHEEKS AND THE MAW¹ IS IN FORCE BOTH WITHIN THE HOLY LAND AND OUTSIDE IT, BOTH DURING THE EXISTENCE OF THE TEMPLE AND AFTER IT, IN RESPECT OF UNCONSECRATED ANIMALS BUT NOT CONSECRATED ANIMALS. FOR IT MIGHT HAVE BEEN ARGUED THUS, IF UNCONSECRATED ANIMALS, WHICH ARE NOT SUBJECT TO THE LAW OF THE BREAST AND THE THIGH,² ARE SUBJECT TO THESE DUES, HOW MUCH MORE ARE CONSECRATED ANIMALS, WITH ARE SUBJECT TO THE LAW OF THE BREAST AND THE THIGH, SUBJECT ALSO TO THESE DUES! SCRIPTURE THEREFORE STATES, AND I HAVE GIVEN THEM UNTO AARON THE PRIEST AND UNTO HIS SONS AS A DUE FOR EVER;³ ONLY WHAT IS MENTIONED IN THIS PASSAGE SHALL BE HIS.⁴ ALL CONSECRATED ANIMALS WHICH HAD CONTRACTED A PERMANENT PHYSICAL BLEMISH BEFORE THEY WERE CONSECRATED⁵ AND HAVE BEEN REDEEMED⁶ ARE SUBJECT TO THE LAW OF THE FIRSTLING⁷ AND TO THESE DUES, AND LIKE UNCONSECRATED ANIMALS THEY MAY BE SHORN AND MAY BE PUT TO WORK,⁸ AND AFTER THEY HAVE BEEN REDEEMED THEIR YOUNG⁹ AND THEIR MILK ARE PERMITTED,¹⁰ AND HE WHO SLAUGHTERED THEM¹¹ OUTSIDE THE SANCTUARY IS NOT LIABLE, AND THEY¹¹ DO NOT RENDER WHAT WAS SUBSTITUTED FOR THEM [HOLY].¹² AND IF THEY DIED THEY MAY BE REDEEMED.¹³ THE FIRSTLING¹⁴ AND THE TITHE OF CATTLE¹⁴ ARE EXCEPTED. ALL [CONSECRATED ANIMALS] WHICH HAD CONTRACTED A PERMANENT BLEMISH AFTER THEY WERE CONSECRATED, OR IF THEY HAD CONTRACTED A PASSING BLEMISH BEFORE THEY WERE

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CONSECRATED AND SUBSEQUENTLY [AFTER CONSECRATION] CONTRACTED A PERMANENT BLEMISH, AND HAVE BEEN REDEEMED,¹⁵ ARE EXEMPT FROM THE LAW OF THE FIRSTLING, AND FROM THESE DUES, AND THEY MAY NOT, LIKE UNCONSECRATED ANIMALS, BE SHORN OR PUT TO WORK, AND [EVEN] AFTER THEY HAVE BEEN REDEEMED THEIR YOUNG¹⁶ AND THEIR MILK ARE FORBIDDEN, AND HE WHO SLAUGHTERED THEM OUTSIDE THE SANCTUARY IS LIABLE,¹⁷ AND THEY¹⁸ RENDER WHAT WAS SUBSTITUTED FOR THEM [HOLY], AND IF THEY DIED THEY MUST BE BURIED.¹⁹

GEMARA. The reason²⁰ is that Scripture stated them,²¹ but without it I should have argued that consecrated animals are subject to these dues; but surely the argument [of the Mishnah] can be refuted thus: That is so²² of unconsecrated animals since they are [also] subject to the law of the Firstling!²³ —

It²⁴ might have been inferred from male unconsecrated animals.²⁵ But [it can also be refuted thus]. That is so²² of males since they are [also] subject to the precept of the First of the Fleece!²⁶ —

It²⁴ might then have been inferred from he-goats. But [it might be argued,] that is so of he-goats since they [also] enter the stall to be tithed!²⁷ —

It might then have been inferred from old²⁸ [he-goats]. But [it might be argued,] that is so of old [he-goats] since they have in the past entered the stall to be tithed! —

It might then have been inferred from a bought or orphaned animal.²⁹ But [it might be argued,] that is so of bought or orphaned animals since their kind enters the stall to be tithed! — ‘Their kind’! you say; then it is the same with consecrated animals too, for their kind³⁰ enters the stall to be tithed.³¹ But can it not be inferred that unconsecrated animals

are subject to the precept of the breast and the thigh from the following a fortiori argument? Thus: if consecrated animals, which are not subject to the priestly dues, are subject to the precept of the breast and the thigh, how much more are unconsecrated animals which are subject to the priestly dues subject also to the precept of the breast and the thigh! The verse therefore reads: And this shall be the priests’ due;³² ‘this’, yes, but nothing else. Now the reason is that Scripture stated ‘this’, but without it I should have said that unconsecrated animals are subject to the precept of the breast and the thigh. But is not the rite of ‘waving’ essential?³³ And where can they be waved? Outside [the Sanctuary]? But it is written: Before the Lord.³³

(1) Deut. XVIII, 3: And this shall be the priests’ due from the people, from them that slaughter a slaughtering whether it be ox or sheep, that they shall give unto the priest the shoulder and the two cheeks and the maw.

(2) Lev. VII, 29ff. This law clearly refers to animal offerings only.

(3) Ibid. 34.

(4) Thus of consecrated animals the breast and the thigh only pertain to the priest but not the shoulder, etc.

(5) Such animals can only be regarded as consecrated for their value (קדושת דמים) for they are unfit for sacrifice by reason of their blemish.

(6) They are now like ordinary unconsecrated animals in every respect.

(7) And if they now bear a male firstling, even though the animal became pregnant before redemption, it belongs to the priest; cf. Num. XVIII, 15-28.

(8) But this is not so with consecrated animals which contracted a permanent blemish after consecration and have been redeemed. To such the provisions of Deut. XII, 15 apply; thus they are regarded as the gazelle and the hart and are exempt from the law of firstling and from the priestly dues; they may be slaughtered and eaten but may not be put to any labor; and their products, as wool, milk and young, are forbidden.

(9) Even though the animal became pregnant before it was redeemed and brought forth its young after redemption; cf. Bek. 14a.

(10) V. p. 732, n. 8.

(11) Even before they were redeemed.

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(12) For although the expression, 'A good for a bad or a bad for a good', in connection with the law of Substitution (Lev. XXVII, 10) has been interpreted to mean an unblemished for a blemished animal, this applies only to a consecrated animal that later suffered a blemish, but not to a blemished animal that was later consecrated; cf. Bek. 14b.

(13) Even though they are fit now only for dogs' food; for the rule (Bek. 15a), 'One must not redeem consecrated animals in order to feed dogs therewith', does not apply to these animals, since they were never regarded as consecrated themselves (קדושת הגוף), but only as consecrated for their value (קדושת דמים). Moreover this Tanna is of the opinion that whatsoever is consecrated for value only need not be made to stand when being redeemed, as is the case with animal offerings when being redeemed on account of a blemish (v. Lev. XXVII, 11,12).

(14) These are holy in all circumstances; for the male firstling is still holy even though born blemished; likewise the tenth beast is designated holy, whether it is blemished or not.

(15) These were themselves consecrated for sacrifice and the provisions of Deut. XII, 15 apply; v. supra p. 732, n. 8.

(16) It is assumed that the animal became pregnant before it was redeemed and brought forth its young after redemption; v. Bek. 14a.

(17) Even though because of their blemish they are not fit for sacrifice in the Sanctuary. In Bek. 16a the unfitness is explained as arising out of a slight blemish, e.g., a thin filmy veil over the eye, and the view adopted is that of R. Akiba who holds that a consecrated animal with such a blemish if already offered upon the altar must not be taken down.

(18) Before they were redeemed.

(19) V. supra p. 733, n. 5. For one must not redeem consecrated animals in order to feed dogs therewith; alternatively because they cannot stand while being redeemed.

(20) Why consecrated animals are not subject to the priestly dues of the shoulder and the two cheeks and the maw.

(21) Lev. VII, 34; V. Mishnah.

(22) Viz., that they are subject to the priestly dues.

(23) Whereas consecrated animals are not subject to the law of the Firstling, consequently they should neither be subject to the priestly dues.

(24) That consecrated animals, were it not for the express verse which excludes them, should also be subject to the priestly dues.

(25) These, being males, are not subject to the law of the Firstling, and yet are subject to the priestly dues; similarly consecrated animals although not

subject to the law of the Firstling should nevertheless be subject to the priestly dues.

(26) V. Deut. XVIII, 4. This law, however, does not apply to he-goats, nor to consecrated animals. Likewise the priestly dues should not apply to consecrated animals.

(27) I.e., are subject to the law of cattle tithe (cf. Lev. XXVII, 32); consecrated animals, however, are exempt from the cattle tithe.

(28) Which have passed through the gate for tithing. Such an animal is no more subject to the law of cattle tithe, yet is subject to the priestly dues; I would then say the same of consecrated animals.

(29) These are exempt from the cattle tithe, v. Bek. 55b, 57a. By 'orphaned' is meant a beast whose dam died whilst bearing it. The argument in the latter part of the prec. n. applies here too.

(30) I.e., unconsecrated animals.

(31) Hence the argument from bought and orphaned animals would have been conclusive to include consecrated animals within the law of the priestly dues; accordingly the verse quoted in the Mishnah is necessary to exclude them.

(32) Deut. XVIII, 3. No other dues but those mentioned in this verse are to be exacted from unconsecrated animals.

(33) Lev. VII, 30.

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Inside [the Sanctuary]? Then he is bringing what is unconsecrated into the Temple court.¹ It is therefore inapplicable; wherefore then do I require [the word] 'this'?² — For R. Hisda's teaching. For R. Hisda said: If a man destroyed or consumed the priestly dues [before they were given to the priest] he is not liable to make restitution.³ [To turn to] the main text: 'R. Hisda said: If a man destroyed or consumed the priestly dues [before they were given to the priest] he is not liable to make restitution'. For what reason? If you wish I can say, because it is written [the word] this; or if you prefer I can say, because it is property which has no definite claimant.⁴

An objection was raised: [The verse,] And this shall be the priests' due [Mishpat],⁵ teaches that the dues are a matter of right. What is the effect of this? Is it not that they can be claimed in court?⁶ — No, it is that

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they are to be distributed by the [advice of the] court.⁷ And this is in agreement with R. Samuel b. Nahmani; for R. Samuel b. Nahmani said in the name of R. Jonathan: Whence do we know that one should not give any dues to a priest an ‘am ha-arez?⁸ From the verse: Moreover he commanded the people that dwelt in Jerusalem to give the portion of the priests and the Levites, that they might hold fast to the law of the Lord,⁹ whosoever holds fast to the law of the Lord has a portion, and whosoever does not hold fast to the law of the Lord has no portion.

Come and hear: R. Judah b. Bathyra says: The expression ‘due’, [Mishpat], teaches that the dues are a matter of right. I might say that the breast and the thigh are also a matter of right, the text therefore states: And this.⁵ Now what is the effect of this rule? Is it that they are to be distributed by [the advice of] the court? Then surely the breast and thigh are also to be distributed by the [advice of the] court.¹⁰ It must therefore mean that they can be claimed in court!¹¹ — We are dealing here with the case where they had come into [the priest's] possession.¹² But if they had come into his possession already then this is obvious!¹³ They came into his possession unseparated,¹⁴ and this Tanna is of the opinion that priestly dues although not separated [from the bulk] are regarded as virtually separated.¹⁵

Come and hear: If a householder was travelling from place to place and is obliged to take the gleanings,¹⁶ the forgotten sheaf,¹⁷ or the corners of the field,¹⁶ or the Poor-man's Tithe,¹⁸ he may take them, and when he returns to his house he must make restitution;¹⁹ so R. Eliezer.²⁰ — R. Hisda said: They taught this Only as a rule of conduct for the pious.²¹ Said Raba: But the Tanna stated ‘he must make restitution’,²² how then can one say that this was stated here only as a rule of conduct for the pious? Moreover, can any objection be raised from the statement of R. Eliezer?²³ Indeed it was

from the following clause [that the objection was raised] viz., But the Sages say: He was a poor man at that time.²⁴ Now this is so only because he was a poor man, but had he been a rich man he would have had to make restitution; but why? Is this not a case of a man destroying or consuming the priestly dues?²⁵ Whereupon R. Hisda answered: They taught this only as a rule of conduct for the pious.

Come and hear: Whence do we know that if an owner consumed his produce without having separated the tithes,²⁶ or if a Levite consumed his tithe without having separated the priestly tithe therefrom,²⁶ he is exempt from making restitution?²⁷ Because Scripture says: And they shall not profane the holy things of the children of Israel, which they set apart unto the Lord;²⁸ thou²⁹ hast a right to them only after they have been set apart. It follows, however, that after they have been set apart, [if a man consumed them] he would be liable to make restitution; but why? Is this not a case of a man destroying or consuming the priestly gifts? — Here too [we must suppose that]

(1) And this is forbidden Biblically, v. Tosaf s.v. זָר.

(2) To exclude unconsecrated animals from the precept of the breast and the thigh seeing that the indispensability of the rite of ‘waving’ makes it inapplicable to them.

(3) The rule is derived from the word ‘this’ (v. infra), which implies that these portions if in existence must be given to the priest, but if destroyed there is no obligation to compensate the priest for them.

(4) For to every priest that claims them the owner could say that he proposed to give them to another priest.

(5) Deut. XVIII, 3. Heb. גִּזְשָׁפֵט. In this verse it is translated as ‘due’, but generally it means ‘judgment, right’. The use of this word in connection with these portions signifies that they are regarded as a legal right.

(6) Lit., ‘to collect them by (order of) the judges’. I.e., a priest can claim them in court from an owner who withholds them; thus conflicting with R. Hisda who regards these dues as property without any claimants.

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(7) I.e., the court guides the owner as to the distribution of his dues, that he should not give them to the unworthy.

(8) V. Glos. In general the ignorant and irreligious people.

(9) II Chron. XXXI, 4.

(10) For also these dues should not be given to an unworthy priest.

(11) I.e., a priest can claim the dues of the shoulder, the two cheeks and the maw from an owner; contra R. Hisda. This legal right was expressly excluded from the law of the breast and the thigh as any claim to them would hardly be contested, for, since they formed part of the atonement of the sacrifice, the owner would certainly not withhold them.

(12) The claim in connection with the dues of the shoulder, etc. referred to arises when they were stolen from the possession of the priest to whom they had already been given.

(13) That they can be claimed and recovered in court.

(14) The entire animal came into the possession of the priest and, as the dues have no particular owner, this priest acquired the property in them even though they had not yet been separated from the animal.

(15) This, however, cannot be said with regard to the dues of the breast and thigh, for these are not free to all priests but are restricted to that division of priests on duty in the Temple at the time of the sacrifice.

(16) Lev. XIX, 9.

(17) Deut. XXIV, 19.

(18) This was due in the third and sixth years of the Sabbatical cycle in lieu of the Second Tithe, and was to be distributed among the poor. Deut. XIV, 28, 29.

(19) He must pay for the amount he had consumed to the first poor man who claims it. This clearly conflicts with R. Hisda's teaching.

(20) Pe'ah V, 4.

(21) Strictly he is not bound to make any restitution, and his doing so is only in the nature of a pious and charitable act.

(22) Clearly a legal ruling!

(23) Surely not; for R. Hisda need not find himself in agreement with R. Eliezer seeing that R. Eliezer's view is disputed by the Sages. But see Tosaf. s.v. **סנה** at end.

(24) And therefore he need not make restitution.

(25) In which case R. Hisda expressly said that he need not make restitution for none could claim it from him.

(26) Lit., 'in a state of Tebel' (mixture).

(27) Even though he may be liable to death at the hands of Heaven for eating it, cf. Sanh. 83a.

(28) Lev. XXII, 15.

(29) Sc., the priest.

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they came into his possession unseparated [from the bulk],¹ and this Tanna is also of the opinion that priestly dues although not yet separated [from the bulk] are regarded as virtually separated.

Come and hear: If the king's officers seized the corn in a man's granary, if it was on account of a debt due from him he must give tithe for it,² but if it was by reason of confiscation³ he is under no obligation to give tithe for it! — There the case is different, because they confer some advantage on him.⁴

Come and hear: If a man said: 'Sell me the entrails of a cow', and among them were the priestly dues,⁵ he [the purchaser] must give them to a priest, and [the seller] need not allow any reduction in the purchase price on that account. But if he bought them from him by weight, he must give them to a priest and [the seller] must allow a reduction in the price on that account.⁶ But why?⁷ Is it not like the case of a man destroying or consuming the priestly dues? — There it is different, because they are actually in existence.

Come and hear: The following nine things are the property of the priest:⁸ Terumah,⁹ the Terumah of the tithe,¹⁰ the dough-offering,¹¹ the first of the fleece,¹² the dues,¹³ the [Terumah of the tithe of] dem'ai,¹⁴ the first-fruits,¹⁵ the principal and the added fifth.¹⁶ In what respect [are they considered the property of the priest]? Surely in that they can be claimed in court!¹⁷ — No, but as we have learnt:¹⁸ Why did they say that [the first-fruits] are the property of the priest? Because with them he may buy slaves, immovable property and unclean cattle, and a creditor can take them in payment of his debt, or a woman in payment of her

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kethubah,¹⁹ and [he may also buy with them] a scroll of the Law.²⁰

There was once a Levite who used to snatch the priestly dues.²¹ When this was reported to Rab, he said: Is it not enough for him that We do not take the dues from his own [slaughtering],²² but he must also snatch them? But what was Rab's view? If they [Levites] are included within the term 'the people'²³ we should exact the dues from them too; and if they are not included within the term 'the people' then the Divine Law has exempted them?²⁴ — Rab was in doubt whether they are included within the term 'the people' or not.²⁵

R. Papa was once sitting and reciting the above statement,²⁶ whereupon R. Idi b. Abin raised this objection against R. Papa. [It was taught:] The four gifts [assigned by the Torah] to the poor in a vineyard, namely the fallen grapes, the small clusters, the forgotten cluster, and the corner [of the vineyard], and the three in a cornfield, namely the gleanings, the forgotten sheaf, and the corners of the field, and the two in the fruit of the tree, namely the forgotten fruits and the corner of the tree — with regard of these, the owners have not the benefit of disposal;²⁷ and even from the poorest in Israel they are exacted.²⁸ With regard to the Poor-man's Tithe which is distributed in the house, the owner has the benefit of disposal, and it is exacted even from the poorest in Israel. The other priestly dues, such as the shoulder and the two cheeks and the maw, are not exacted from one priest in favor of another priest nor from one Levite in favor of another Levite.²⁹ 'The four gifts to the poor in the vineyard, namely the fallen grapes, the small clusters, the forgotten cluster, and the corner' — for it is written: And thou shalt not glean the small clusters of thy vineyard, neither shalt thou gather the fallen fruit of thy vineyard.³⁰ And it is written: When thou gatherest the grapes of thy vineyard thou shalt not glean the small

clusters after thee;³¹ and R. Levi said: 'After thee' implies that which is forgotten.³² As to the corner (of the vineyard] this is inferred by the use of the expression 'after thee' both here [with regard to a vineyard] and also with regard to the olive-tree; for it is written: When thou beatest thine olive-tree thou shalt not go over the boughs after thee,³³ and a Tanna of the School of R. Ishmael expressed it thus: Thou shalt not cut off the crown thereof.³⁴ 'The three in the cornfield, namely the gleanings.

(1) The whole produce having been entrusted to the priest's keeping, the priest forthwith acquired the property in the tithes, and whosoever deprives him of them must certainly make restitution.

(2) From other produce, just as when a man sells produce he must also give the tithe for it. This, however, shows that the tithe is claimable and that the obligation is enforced by the court; it cannot mean that the obligation is merely a religious one for then it would not be insisted upon that he give the tithe for it seeing that he has neither the produce nor its value.

(3) אגפרות V. Git. (Sonc. ed.) p. 190, n. 2.

(4) The obligation is therefore a religious one, yet he must give the tithe for it because he has this benefit that his debt has been cleared. V. supra p. 738, n. 9; and Tosaf. s.v. שאני.

(5) Sc., the maw.

(6) V. infra 132a. In the first case the transaction implicitly excluded the maw for it is common knowledge that the maw belongs to the priest, hence it was not included in the sale; in the second case, however, the maw was included in the weight sold, and since it was not the seller's to sell the price must be reduced to that extent.

(7) Why should the purchaser have to give the dues to the priest?

(8) And the priest may use them for any purpose whatsoever. This is only part of the list of twenty-four endowments bestowed upon the priests; v. infra 133b, and B.K. 110b. In point of fact there are fifteen priestly gifts which are the absolute property of the priest to be used for any purpose; but Rashi suggests that these fifteen are comprehended within the nine mentioned in the text; v. Rash s.v. תשעה. R. Han. reads 'seven', in the text; v. Tosaf. s.v. ג'.

(9) Cf. Num. XVIII, 12; v. Glos.

(10) To be given by the Levites; *ibid.* 26.

(11) *Ibid.* XV, 18-21.

(12) Deut. XVIII, 4.

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(13) Ibid. 3. Sc., the shoulder and the two cheeks and the maw.

(14) The produce bought from an 'am ha-arez was regarded as Dem'ai, doubtful, for he could not be trusted as to the separation of the tithes. They were trusted, however, with regard to the separation of the Terumah, for this had a higher degree of sanctity. Therefore the purchaser who scrupulously observes the law of tithing must separate from Dem'ai (a) 'the Terumah of the tithe', i.e., the portion due to the priest out of the First Tithe, and (b) the Second Tithe.

(15) Ex. XXIII, 19; and Deut. XXVI, 1ff.

(16) The restitution, (consisting of the principal and an additional fifth) that is to be made for robbery committed upon a proselyte who died without issue belongs to the priest. Cf. Num. V, 7, 8.

(17) Thus conflicting with R. Hisda's view.

(18) Bik. III, 12.

(19) Generally meaning the statutory sum that the husband undertakes to pay to his wife in the event of his death or of his divorcing her. V. Intro. to Kethuboth, Sonc. ed., p. xi.

(20) In the Mishnah Bik., the text reads 'as (the creditors may also do with) a scroll of the Law'. V. Rashi here s.v. ת"ו.

(21) From children who were carrying them to the priest's home.

(22) I.e., when he slaughters his own animal we do not compel him to give the dues to a priest. The tone of Rab's remark implies that this was a concession to them by the Rabbis.

(23) Deut. XVIII, 3: And this shall be the priests' due from the people.

(24) What then did Rah mean by suggesting that they were favored in that it was not insisted upon that they give the dues? V. supra n. 6, end.

(25) And therefore no priest could claim the dues from Levites without bringing evidence to prove they latter are subject to this law.

(26) That Rab was in doubt whether Levites were subject to this law or not.

(27) To give them to whomsoever he wishes, but they are to be left on the field free to all the poor, and the first poor person that collects them acquires them.

(28) If he is in possession of a field he is bound to leave these gifts for the poor.

(29) Tosef. Pe'ah II. The Gemara proceeds first to interpret this Baraitha, proving the Biblical source for each of these gifts to the poor, and later on reverts to the objection raised by R. Idi against R. Papa.

(30) Lev. XIX, 10: לא תועיל, Thou shalt not remove the עוללות i.e., the small clusters. פרט, i.e., single grapes that fall off during 'the grape gathering

(31) Deut. XXIV, 21.

(32) For the law of the forgotten sheaf or cluster applies only to what has been left 'after' i.e., behind one, but not to what is still in front of one; cf. Pe'ah VI, 4, and B.M. 12a

(33) Deut. XXIV 20.

(34) I.e., one must not remove the last berries from the extremities or corners' of the tree. By an inference made from the common expression 'after thee', the law of the 'corners stated in connection with the olive-tree applies also to a vineyard.

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the forgotten sheaf, and the corners of the field' — for it is written: And when ye reap the harvest of your land, thou shalt not wholly reap the corner of thy field; neither shalt thou gather the gleanings of thy harvest;¹ and it is written: When thou reapest thy harvest in thy field, and hast forgot a sheaf in the field, thou shalt not go back to fetch it.² 'The two in the fruit of the tree, namely the forgotten fruits and the corner [of the tree]' — for it is written: When thou beatest thine olive-tree thou shalt not go over the boughs after thee,³ and a Tanna of the School of R. Ishmael expressed it thus: Thou shalt not cut off the crown thereof; and the expression 'after thee' refers to the forgotten fruits. 'With regard to all of these the owners have not the benefit of disposal' — because the term 'leaving' is used in connection with them.⁴ 'And even from the poorest in Israel they are exacted' — for it is written: Neither shalt thou gather the gleanings of thy harvest; thou shalt leave them for the poor and the stranger: this is an admonition to a poor man [who himself owns a field] in regard to his own [gleanings].⁵ 'With regard to the poor-man's Tithe which is distributed in the house, the owner has the benefit of disposal' — because the term 'giving' is used in connection with it.⁶ 'And it is exacted even from the poorest in Israel' — for R. Ila'a said: An inference is to be made by means of the common expression 'for the stranger' from the other [dues to the poor]:⁷ as with the other dues there is an admonition

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to a poor man in regard to his own, so here [with regard to the Poor-man's Tithe] there is an admonition to a poor man in regard to his own. 'The other priestly dues, such as the shoulder, the two cheeks and the maw, are not exacted from one priest in favor of another priest, nor from one Levite in favor of another Levite' — it follows, however, that they may be exacted from a Levite in favor of a priest; apparently because they are included within the term 'the people'!⁸ — [It only stated,] 'Such as the shoulder', but not actually the shoulder; what is really meant is the First Tithe.⁹ But is not the First Tithe due to the Levite? —

The view expressed here is that of R. Eleazar b. 'Azariah; for it has been taught:¹⁰ Terumah belongs to the priest, the First Tithe to the Levite; so R. Akiba. R. Eleazar b. 'Azariah says. It belongs to the priest also.¹¹ But R. Eleazar b. 'Azariah said: 'to the priest also'! Did he say, to the priest and not to the Levite? — Yes, after Ezra had penalized them.¹² Perhaps Ezra had penalized them that one should not give it [the First Tithe] to them, but did he intend that it should be taken away from them?¹³ — We must therefore say, such as the shoulder', but not actually the shoulder; what is really meant is the first of the fleece.¹⁴

Come and hear: This is the general rule: Whatsoever is sacred,¹⁵ as Terumah, the Terumah of the Tithe, and the Dough-offering, is exacted from their hands,¹⁶ and whatsoever is not sacred, as the shoulder, the two cheeks and the maw, is not exacted from them!¹⁷ — [It states,] 'Such as the shoulder' but not actually the shoulder; what is meant is the First Tithe, and this refers [to the state of things] after Ezra had penalized them.¹⁸

Come and hear: If a man slaughtered an animal for a priest or for a gentile, he is exempt from the dues.¹⁹ It follows, does it not, that for a Levite or an Israelite he is

liable? — Say not, 'it follows that for a Levite or an Israelite he is liable', but rather, it follows that for an Israelite he is liable. But for a Levite [you say] he is exempt, in that case the Mishnah should have taught thus: If a man slaughtered an animal for a Levite or a gentile he is exempt from the dues!²⁰ Moreover it has been taught [in a Baraitha]: If a man slaughtered an animal for a priest or a gentile, he is exempt from the dues, but if he slaughtered for a Levite or an Israelite, he is liable. Surely this is a refutation of Rab's view! —

Rab can reply that it is a matter of dispute between Tannaim. For it has been taught:²¹ [Scripture says,] And he shall make atonement for the most holy place:²² this means [for transgression of the laws of uncleanness occurring in] the Holy of Holies; and the tent of meeting:²² this means in the Holy place; and the altar:²² this is to be taken in its usual sense;²³ he shall make atonement:²² this means [for transgression of the laws of uncleanness occurring in] the various Temple courts; and for the priests:²⁴ this is to be taken in its usual sense; and for all the people of the assembly:²⁴ this means the Israelites; he shall make atonement:²⁴ this means the Levites. And another [Baraitha] taught: He shall make atonement:²⁴ this means [heathen] slaves.²⁵ Surely then the Tannaim differ in this: one holds that they [the Levites] are included Under the term 'the people',²⁶ and the other holds that they are not included Under 'the people'.²⁷ And Rab?²⁸ If he agrees with the one Tanna he should have ruled accordingly, and if he agrees with the other Tanna he should have ruled accordingly? — Rab was in doubt whether to accept the ruling of the one Tanna or of the other. Meremar stated in a discourse: The law is in accordance with Rab's view;²⁹ and the law is also in accordance with R. Hisda's view.³⁰

'Ulla used to give the priestly dues to the daughter of a priest.³¹ Raba raised the

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following objection to ‘Ulla. We have learnt: The meal-offering of a priest's daughter is eaten,³² but the meal-offering of a priest may not be eaten. Now if you say that ‘priest’ includes a priest's daughter too, is it not written: And every meal-offering of the priest shall be wholly made to smoke; it shall not be eaten?³⁴ — He replied: Master,

(1) Lev. XXIII, 22.

(2) Deut. XXIV, 19.

(3) Ibid. 20. V. supra p. 741, n. 8.

(4) In some contexts the expression used is ‘thou shalt leave them for the poor’, e.g., Lev. XIX, 10, XXIII, 22; and in others the expression used is ‘it shall be for the stranger’, e.g., Deut. XXIV, 19, 20, 21. It is clear therefore that the poor man has a claim to them whilst they are in the field, hence there is no right for the owner of the field to collect them, bring them into his house and distribute them according to his discretion among the poor.

(5) In the Hebrew of the verse: Lev. XXIII, 22, ‘for the poor’ follows immediately upon the command to leave the gleanings, and the interpretation is, that it is for the poor, too’ to leave the gleanings.

(6) Cf. Deut. XXVI, 22.

(7) Cf. Lev. XXIII, 22, and Deut. *ibid.*

(8) This is in conflict with Rab who was in doubt about it.

(9) The expression ‘such as the shoulder’ was stated as an example of the priestly dues, but what was specially meant was the First Tithe (v. Num. XVIII, 21) which according to this teaching, could be taken away from the Levite in favor of the priest.

(10) Yeb. 86a; Keth. 26a; B.B. 81b.

(11) For although the Torah expressly granted the First Tithe to the Levites, the priests were not thereby excluded, for in twenty-four instances do we find priests described as Levites, e.g., Ezek. XLIV, 15.

(12) Because the Levites did not go up with him in the return to Judea from the Babylonian exile, Ezra deprived them of the tithe; v. Yeb. 86b. There is no express reference to this in the Books of Ezra or Nehemiah; v. Rashi s.v. בְּתָר. It has been suggested that Mal. III, 10: Bring ye the whole tithe into the Temple treasury, refers to this new institution of Ezra; for according to Jewish tradition, Malachi is identified with Ezra (v. Meg. 15a). Cf. Tosaf. Yeb. 86b, s.v. מִפְּנֵי.

(13) It surely was not intended that the Levites were bound to give the First Tithe of their own produce to the priests.

(14) This law (Deut. XVIII, 4) certainly applies to Levites too’ and the due is exacted from the Levite in favor of the priest.

(15) I.e., forbidden to non-priests.

(16) From the Levites in favor of the priests.

(17) This clearly shows that the Levites are not under any obligation to give the shoulder, etc. to the priests, obviously because they are not included under the term ‘the people’. Why then was Rab in doubt about it?

(18) The suggestion therefore is that although the Levites are not to be given the First Tithe any more, it is not to be exacted from their own produce in favor of the priest. With regard to the shoulder, however, the matter is still in doubt.

(19) Although the claim for these dues is usually made upon the slaughterer (v. infra 132b), in this case the slaughterer is exempt since the animal belonged to the priest or to the gentile. V. infra 132a.

(20) And needless to say that it is so where the animal belonged to a priest.

(21) Yoma 61a; Sheb. 23b; Men. 92a.

(22) Lev. XVI, 33. The bullock and the goat prescribed in the sacrificial service of the Day of Atonement make atonement for all transgressions of the rules of uncleanness occurring in the several parts of the Temple precincts, e.g., if any person entered the Temple court in a state of Levitical uncleanness; and the atonement is extended to include every section of the community. Cf. Sheb. 13b.

(23) I.e., if a priest whilst serving at the altar became unclean and stayed there for a period co-extensive with the time of one prostration, cf. Sheb. 16a.

(24) V. p. 744, n. 6.

(25) Who are also in need of atonement.

(26) Sc., the Tanna of the latter Baraitha. It is therefore unnecessary to have a special reference in the verse to include Levites, consequently the reference serves to include heathen slaves.

(27) Sc., the Tanna of the first Baraitha; it was therefore necessary to include Levites expressly.

(28) How is it that he was in doubt?

(29) That we do not exact the priestly dues from Levites.

(30) That whosoever destroys or consumes the priestly dues, before they ever came into the hand of the priest, is exempt from making restitution; v. supra 130b.

(31) Even though she is married to an Israelite; for the precept And they shall give unto the priest (Deut. XVIII, 3) includes every one of priestly stock, even females.

(32) Sot. 23a.

(33) The residue of her meal-offering, and so also of that of an Israelite, was eaten by the priests

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after that the handful, i.e., the memorial part thereof, had been burnt upon the altar.
(34) Lev. VI, 16.

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I borrow your own argument,¹ for in that passage are expressly mentioned Aaron and his sons.²

The school of R. Ishmael taught: unto the priest,³ but not unto the priest's daughter, for we may infer what is not explicitly stated from what is explicitly stated.⁴

The school of R. Eliezer b. Jacob taught: unto the priest,³ and even unto the priest's daughter, for we have here a limitation following a limitation,⁵ and the purpose of a double limitation is to extend the law.

R. Kahana used to eat [the priestly dues] on account of his wife.⁶ R. Papa used to eat them on account of his wife. R. Yemar used to eat them on account of his wife. R. Idi b. Abin used to eat them on account of his wife.

Rabina said: Meremar told me that the law was in accordance with Rab's view;⁷ that the law was in accordance with R. Hisda's view;⁷ that the law was in accordance with 'Ulla's view;⁸ and that the law was in accordance with the view of R. Adda b. Ahaba that if a Levite's daughter gave birth to a firstborn son the child is exempt from the payment of the five sela's.⁹

Our Rabbis taught:¹⁰ The law of the shoulder, the two cheeks and the maw applies to a hybrid and to a Koy.¹¹ R. Eliezer says, A hybrid, the offspring of a he-goat and a ewe, is subject to these dues; the offspring of a he-goat and a hind¹² is exempt from these dues. Let us consider the case. It has been established¹³ that with regard to the law of covering up the blood and also with regard to the priestly dues the dispute (between R. Eliezer and the Rabbis as to the Koy) can arise only in the case where a hart

covered a she-goat; for both R. Eliezer and the Rabbis are undecided whether or not to take into consideration the seed of the male parent, but they differ as to whether the term 'sheep' includes even that which is a sheep in part only: one¹⁴ maintains that the term 'sheep' includes even that which is a sheep in part only, the other¹⁵ maintains that we do not say that the term 'sheep' includes that which is a sheep in part only.

Now R. Eliezer's view that [the offspring of a he-goat and a hind] is exempt from dues is clear, for he holds that the term 'sheep' does not include even that which is a sheep in part only.¹⁶ According to the Rabbis however [it is difficult]; for granting that they hold the view that the term 'sheep' includes even that which is a sheep in part only, he [the priest] should only be entitled to half the dues,¹⁷ for as to the other half the owner could say to him, 'Bring proof that we do not take into consideration the seed of the male parent and then you can have it!' — R. Huna b. Hiyya answered that by 'subject' they meant subject to half the dues.¹⁸

R. Zera raised an objection. We have learnt: A Koy is in some ways similar to cattle, and in some ways similar to wild animals, and in some ways it is similar to wild animals and to cattle. Thus, its fat is forbidden like the fat of cattle; its blood must be covered up like the blood of wild animals. 'In some ways it is similar to cattle and to wild animals', for the blood and the sciatic nerve thereof are forbidden like [the blood and the sciatic nerve of] cattle and wild animals. It is subject to the law of the shoulder, the two cheeks and the maw, like cattle; R. Eliezer declares it exempt [from these dues].¹⁹ Now if it were so,²⁰ it should state that it is subject to half the dues only! — Since it states the rule with regard to its fat and its blood, in which case it could not have stated half, it therefore does not state half [even with regard to the dues].²¹

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When Rabin came [from Palestine] he reported in the name of R. Johanan that a Koy, according to the Rabbis, is subject to the whole of the dues. For it was taught: [Scripture could have stated] ‘ox’, wherefore does it state, whether it be ox?²² To include the hybrid. [Likewise it could have stated] ‘sheep’, wherefore does it state, whether it be sheep?²² To include the Koy. According to R. Eliezer what is the purpose of ‘whether’?²² — It is necessary in order to¹⁹ indicate disjunction.²³ Then whence do the Rabbis derive the principle of disjunction? — From the verse: From them that slaughter a slaughtering.²⁴ And to what purpose does R. Eliezer put this verse: From them that slaughter a slaughtering? — He requires it for Raba's teaching, for Raba said: The claim is made against the slaughterer.²⁵

MISHNAH. IF A FIRSTLING GOT MIXED UP WITH A HUNDRED OTHER ANIMALS AND A HUNDRED [AND ONE] PERSONS SLAUGHTERED THEM ALL,²⁶ THEY ARE ALL EXEMPT FROM THE DUES.²⁷ IF ONE PERSON SLAUGHTERED THEM ALL,²⁸ ONLY ONE ANIMAL IS EXEMPT FROM THE DUES. IF A MAN SLAUGHTERED AN ANIMAL FOR A PRIEST OR A GENTILE,²⁹ HE IS EXEMPT FROM THE DUES; IF HE HAD A SHARE [IN THE ANIMAL] WITH THEM, HE MUST INDICATE THIS BY SOME SIGN.³⁰ IF HE³¹ SAID, ‘EXCEPT THE DUES’, HE IS EXEMPT FROM GIVING THE DUES.³² IF A MAN SAID, SELL ME THE ENTRAILS OF A COW’, AND AMONG THEM WERE THE PRIESTLY DUES, HE MUST GIVE THEM TO A PRIEST AND [THE SELLER] NEED NOT ALLOW ANY REDUCTION IN THE PURCHASE PRICE ON THAT ACCOUNT. BUT IF HE BOUGHT THEM FROM HIM BY WEIGHT, HE MUST GIVE THEM TO A PRIEST, AND [THE SELLER] MUST ALLOW A REDUCTION IN THE PRICE ON THAT ACCOUNT.³³

GEMARA. Why is this so?³⁴ — The priest can surely approach him with a double

claim³⁵ saying [of each animal]. ‘If it is the firstling, it is all mine, and if it is not the firstling, then give me my dues!’

(1) Lit., ‘from your burden’; i.e., the other words in the passage quoted by you confute you.

(2) Ibid. 13. But elsewhere, wherever ‘priest’ alone is mentioned, it includes even the priest's daughter, as in the case of the priestly dues.

(3) Deut. XVIII, 3, in reference to the priestly dues.

(4) With regard to the meal-offering of priests the Torah expressly states ‘Aaron and his sons’, in order to exclude the priest's daughters, and this serves as a guiding principle suggesting that whenever Scripture mentions ‘priest’ the priest's daughter is excluded.

(5) In the passage dealing with the priestly dues there occur the words ‘priests’ and ‘priest’, and inasmuch as each serves as a limitation to exclude the priest's daughter, the result is that the successive limitations actually amplify the scope of the law and include the priest's daughter.

(6) Who was the daughter of a priest. The meaning is that the giving of the priestly dues to the husband of a priest's daughter is a proper fulfillment of the obligation (R. Nissim).

(7) V. supra p. 745.

(8) That one may give the priestly dues to the daughter of a priest.

(9) The sum prescribed for the redemption of the firstborn son; cf. Num. XVIII, 25, 26. It is established law (cf. Bek. 13a) that where either one of the parents is of priestly stock or where the father is a Levite, the firstborn son is exempt from redemption. R. Adda b. Ahaba here extends the rule of exemption even where the mother is the daughter of a Levite. V. Bek. 47a.

(10) V. supra p. 443.

(11) A permitted animal, about which the Rabbis were undecided whether it was to be classed in the category of cattle or of wild beasts.

(12) For ‘the offspring of a he-goat and a hind’ Rashal substitutes ‘the Koy’.

(13) V. supra 80a, pp. 444-5 and notes thereon.

(14) The Sages.

(15) R. Eliezer.

(16) And as this offspring is at most only a part sheep by reason of its sire it is exempt entirely from dues.

(17) Even in the case of the offspring of a hart and a she-goat.

(18) Strictly the Rabbis did not use the expression ‘subject’ at all; they only ruled that the law of the shoulder, etc. applied to a Koy, and it is now suggested that by ‘applied’ they meant only as to half the dues.

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(19) Bik. II, 8.

(20) That according to the Rabbis the Koy is only subject to half the dues.

(21) But of course it is only subject to half the dues.

(22) Deut. XVIII, 3. The particle **יִם** (im) is unnecessarily stated before ox and sheep.

(23) That these portions are due when one slaughters either an ox or a sheep; without the particles 'im it might have been said that these portions are due only when one slaughters an ox and a sheep.

(24) Ibid. **זָבַח** 'slaughtering' is in the singular; so that the slaughtering of one animal imposes the obligation of the dues.

(25) The priest when claiming his dues makes his claim upon the slaughterer, although the latter may have slaughtered animals belonging to other people.

(26) I.e., every animal belonged to a different person, or better, each person slaughtered his own animal.

(27) For each owner-slaughterer can rebut the priest's claim by saying that what he had slaughtered was the firstling which is exempt from priestly dues.

(28) I.e., the animals all belonged to one person.

(29) I.e., the animal belonged to a priest or a gentile.

(30) That all may know that he shares the animal with the priest or the gentile and on that account he is exempt from giving the dues.

(31) A priest or a gentile when selling the animal to an Israelite.

(32) The purchaser is exempt from giving the dues for they had not become his property at all.

(33) V. supra 131a.

(34) That, in the first clause, all the animals are exempt from the dues because of the firstling that is mixed up with them.

(35) Lit., 'from two sides'.

— Raba said: This proves that the claim is made against the slaughterer.³ Raba stated in his discourse, Scripture says: From the people,⁴ but not from the priests; but when it further says. From them that slaughter a slaughtering,⁴ I say, this includes even a slaughterer who is a priest.⁵

R. Tabla's host was a priest and in sore need. When he came to R. Tabla the latter said to him, 'Go and take a share [in the animals] of the Israelite butchers, for since they will thereby be exempt from giving the dues⁶ they will give you a share with them'. R. Nahman, however, declared him⁷ liable to give the dues. Said he,⁷ 'But R. Tabla has exempted me'. 'Go at once', ordered [R. Nahman.] 'and give up the dues, or else I will put R. Tabla out of your mind'.⁸ Thereupon R. Tabla came before R. Nahman and said to him, 'Why has the Master done so?' He replied. 'When R. Aha b. Hanina came from the schools in the South he reported that R. Joshua b. Levi and the elders of the South ruled that a priest who became a slaughterer was exempt from giving the dues for the first two or three weeks,⁹ but thereafter he was liable to give the dues'. 'Then', said the other, 'why does not the Master at least deal with him⁷ in accordance with R. Aha b. Hanina?'¹⁰ He replied. 'That is the ruling only when he has not set up a butcher's stall; but here he has set up a stall'.¹¹

R. Hisda said: A priest [a butcher] who does not give the dues [to another priest] is to be put under the ban of the Lord God of Israel. Rabbah son of R. Shila, said: The butchers of Huzal have been under the ban of R. Hisda for the last twenty-two years. Now what is the point of this?¹² Does it mean to say that we do not continue the ban? But it has been taught: This¹³ applies only to negative precepts, but in the case of positive precepts as, for instance, when a man is told, 'Make a sukkah',¹⁴ and he does not make it, or 'Perform the commandment of the lulab'.¹⁵ and he does not perform it, he is

Chullin 132b

— R. Oshaia said: This [firstling] had already been received by the priest but when it suffered a blemish he sold it to an Israelite.¹

IF A MAN SLAUGHTERED AN ANIMAL FOR A PRIEST OR A GENTILE HE IS EXEMPT FROM THE DUES. Why does not the Mishnah teach simply. 'Priests and gentiles are exempt from giving the dues'?²

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flogged until his soul departs!¹⁶ — It means that we may penalize them [now] without warning;¹⁷ as when Raba penalized a man [by taking away from him] a side of meat,¹⁸ and R. Nahman b. Isaac penalized a man [by taking away from him] his cloak.

R. Hisda also said: The [entire] shoulder is to be given to one [priest], the maw to another, and the two cheeks to two [priests]. But surely this is not so, for when R. Isaac b. Joseph came [from Palestine] he reported that in the West they even divide every bone [amongst a number of priests]!

— That is only in the case of an ox.¹⁹

Rabbah b. Bar Hana said in the name of R. Johanan: It is forbidden to eat from an animal from which the priestly dues have not been taken.

Rabbah b. Bar Hana also said in the name of R. Johanan: Whosoever eats from an animal from which the priestly dues have not been taken is as one who eats untithed produce.²⁰ — The law, however, is not in accordance with him.

R. Hisda said: The priestly dues may be eaten only roasted and with mustard. What is the reason? Because Scripture says: For a consecrated portion,²¹ that is, as a mark of eminence,²² [and must therefore be eaten] as kings take their food.

R. Hisda also said: A priest who is not conversant with the twenty-four priestly endowments²³ should not be given any gifts at all. This however is not right; for it has been taught:²⁴ R. Simeon says. A priest who does not believe in the [Temple] service²⁵ has no portion in the priesthood,²⁶ for it is written: He among the sons of Aaron, that offereth the blood of the peace-offerings, and the fat, shall have the right thigh for a portion.²⁷ I only know it with regard to this²⁸ service; whence do I know it with regard to the fifteen other services in the Temple, viz.,

the rites of pouring,²⁹ mingling,³⁰ breaking into pieces,³¹ seasoning with salt,³² waving,³³ bringing near,³⁴ taking out the handful,³⁵ and burning it,³⁵ the rite of nipping off.³⁶

(1) So that the priest's claim is only in respect of the dues.

(2) Since these are not included within the term 'the people'; Deut. XVIII, 3.

(3) And the slaughterer can meet the claim by proving that the animal belongs to a priest or a gentile.

(4) Deut. XVIII, 3.

(5) I.e., a priest who has opened up a trade as a butcher must give the dues to another priest. What he slaughters for his own use, however, is exempt from the dues.

(6) In accordance with the rule in our Mishnah.

(7) Sc., the Israelite who granted this priest a share in his animals.

(8) Lit., 'I will take R. Tabla out of your ear'; i.e., I shall place you under the ban and R. Tabla will not be able to help you in any way.

(9) I.e., for so long until he is established in the town as a butcher.

(10) And exempt the Israelite his partner from giving the dues for the first two or three weeks.

(11) And has at once established himself as a butcher.

(12) Of stating twenty-two years.

(13) That with the execution of punishment the wrong is atoned for.

(14) The booth for the Feast of Tabernacles, cf. Lev. XXIII, 42.

(15) The palm branch used in the ritual of the Feast of Tabernacles, cf. *ibid.* 40.

(16) Hence we see that a person who is recalcitrant in the performance of a commandment (especially in the performance of a commandment which does not involve great outlay or expense-Rashi) is to be coerced by whatever means the Rabbis have in their power and they will not relax it until he does perform it. In the previous case therefore the ban would be continued unremittingly until the precept is performed.

(17) I.e., when a person has been under the ban for twenty-two years he may be punished further without any warning.

(18) For refusing to give the priestly dues Raba once took away from the owner an whole side of meat and gave it to the priest.

(19) So that even when one portion, e.g., the shoulder, is cut up into several parts each priest would receive something substantial.

(20) טבל, for which the penalty is death at the hands of Heaven. V. Tosaf. s.v. טבילי.

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- (21) Num. XVIII, 8.
(22) So Targum Onkelos: לריבו 'as a distinction, as a mark of eminence'.
(23) As to the manner in which they should be eaten, cf. prec. passage.
(24) Men. 18b; Tosaf. Dem'ai II.
(25) As a divine institution.
(26) I.e., is not entitled to any portion of sacrificial meat or to the priestly dues.
(27) Lev. VII, 33.
(28) Sc., the rite of 'offering' or bringing forward the parts of the sacrifice to the altar.
(29) Oil in the vessel of the meal-offering; cf. Men. 74b.
(30) The meal with the oil; Men. ibid.
(31) The baked meal-offering; Lev. II, 6.
(32) Ibid. 13.
(33) Certain meal-offerings; v. Men. 60a, 61a.
(34) Certain meal-offerings to the south-west corner of the altar, ibid. 8.
(35) Ibid. 2.
(36) The head of a bird-offering; v. Lev. I, 15; V, 8.

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of receiving [the blood in a vessel], and sprinkling it,¹ the ceremony of giving the water to a woman suspected of adultery,² of breaking the heifer's neck,³ of purifying the leper,⁴ and of raising the hands [for the priestly benediction]⁵ both inside (the Temple) and outside?⁶ The text therefore states, among the sons of Aaron,⁷ that is, every service ordained for the sons of Aaron. Hence, a priest who does not believe in the [Temple] services has no portion in the priesthood. Now the reason for this is that he does not believe in them, but if he does believe in them although he is not conversant with them [he is entitled to the priestly dues].⁸

R. Abba said in the name of R. Huna who said it in the name of Rab: The veins in the cheek are forbidden,⁹ and a priest who does not know how to remove them should not be given this portion. But this is not correct, for if [the meat is] roasted then the blood will run out, and if [it is] cooked in a pot, having first been cut up and salted, then the blood will have run out.¹⁰

Raba said: R. Joseph once tested us [by the following question]: If a priest snatches the priestly dues,¹¹ is this a token of his zeal for the precept or of his contempt for the precept? And we replied, [Scripture says.] They shall give,¹² but he shall not take it himself.¹³ Abaye said: At first I used to snatch the priestly dues for I said to myself. 'I am showing my zeal for the precept', but when I heard the teaching, "'They shall give", but he shall not take it himself', I would no more snatch it, but would say to all, 'Give them to me'. And when I heard the teaching [of the following Baraitha] which was taught: 'They turned aside after lucre:¹⁴ R. Meir said: Samuel's sons used to ask for the portions themselves', I decided not to ask for them but would accept them if they were given to me. And when I heard the following [Baraitha]¹⁵ which was taught: 'The modest withdrew their hands from it but the greedy took it', I decided not to accept them at all, save on the day before the Day of Atonement so as to establish myself as one of the priests.¹⁶ But he could have raised his hands [for the priestly benediction]?¹⁷ — Time pressed him.¹⁸

R. Joseph said: A priest in whose neighborhood there lives a scholar who is in sore need, may assign to him the priestly dues¹⁹ even though they have not yet come into his hands; provided [the priest] is popular among the priests and Levites.²⁰

Raba and R. Safra once visited the house of Mar Yuhna the son of R. Hana b. Adda (others say, the house of Mar Yuhna the son of R. Hana b. Bizna), and he prepared for them a third-born²¹ calf. Thereupon Raba said to the attendant²² [who waited upon them]: 'Assign to me the dues, for I wish to eat the tongue with mustard'.²³ He assigned them to him. Raba ate it, but R. Safra would not eat it.²⁴

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There came to R. Safra the following verse in a dream: As one that taketh off a garment in cold weather, and as vinegar upon nitre, so is he that singeth songs to a heavy heart.²⁵ He then came before R. Joseph and said to him, 'Perhaps it was because I did not do in accordance with the Master's teaching²⁶ that this verse came to me?' But he [R. Joseph] replied. 'I said it of a stranger only, but an attendant perforce must assign it;²⁷ moreover I said it in respect of one who is needy, but here it was not a case of need'. 'Then why did this verse appear to me?' — 'It referred to Raba'. 'Then why did it not appear to Raba?' 'He was under Divine censure'.²⁸

Abaye said to R. Dimi: To what does the plain meaning of the [above] verse refer? — He replied: To one who teaches a disciple that is unworthy. For Rab Judah stated in the name of Rab: Whosoever teaches a disciple that is unworthy will fall into Gehinnom,²⁹ as it is written: All darkness is laid up for his treasures; a fire not blown by man shall consume him that hath an unworthy remnant [sarid] in his tent;³⁰ and 'sarid' can refer only to the scholar, as it is written: And among the remnant [u-baseridim] those whom the Lord shall call.³¹

R. Zera said in the name of Rab: Whosoever teaches a disciple that is unworthy is as one that throws a stone at a Mercuris,³² for it is written: As a small stone in a heap of stones, so is he that giveth honor to a fool;³³ and 'honor' is nothing but the Torah as it is written: The wise shall inherit honour;³⁴ and The perfect shall inherit good.³⁵

R. Hama b. Hanina said: Whosoever does good to one that does not appreciate it is as one that throws a stone at a Mercuris, for it is written: As a small stone in a heap of stones, so is he that giveth honor to a fool;³³ and it is also written: Luxury is not seemly for a fool.³⁶

IF HE HAD A SHARE [IN THE ANIMAL] WITH THEM, HE MUST INDICATE THIS BY SOME SIGN. [This is so, apparently] even with a gentile.³⁷ But I can point out a contradiction, for it has been taught: If a man shares [the animal] with a priest he must indicate this by a sign; if he shares it with a gentile, or if the animal was a consecrated animal that had become unfit for a sacrifice,³⁸ there is no need to indicate this by a sign!

- (1) Either upon the veil of the Holy of Holies, or upon the altar.
- (2) Num. V, 24.
- (3) Deut. XXI, 4.
- (4) Lev. XIV, 2ff.
- (5) Num. VI, 22-27.
- (6) I.e., in Synagogues.
- (7) Lev. VII, 33.
- (8) This clearly refutes R. Hisda's statement.
- (9) On account of the blood that is in them.
- (10) Cf. supra 93a re the veins in the fore-limb.
- (11) From children who are taking it to another priest.
- (12) Deut. XVIII, 3.
- (13) Hence it is wrong to seize it.
- (14) I Sam. VIII, 3.
- (15) Yoma 39a, in connection with the distribution of the show-bread among the priests, and conditions in the Temple after the death of Simeon the Just.
- (16) That it should not be forgotten that he was a priest.
- (17) In the Synagogue service and this would have proved him to be a priest.
- (18) He was always occupied in study with his pupils that he could not find the time to take part in the priestly benediction. According to 'Aruch and Alfasi, Abaye used to suffer from intestinal troubles and this debarred him from participating in the priestly benediction.
- (19) And the scholar may collect the dues from the people.
- (20) מכירי כהונה. Lit., 'acquaintances of priesthood'. One who can count upon receiving dues from many people, and therefore, having as it were a presumptive ownership of the dues, he can assign them even though he has not actually received them.
- (21) Or, a calf in its third year, or one that has reached a third of its growth.
- (22) Who was a priest and who usually received the priestly dues from his master.
- (23) The tongue constitutes part of the two cheeks to be given to the priest.

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(24) He held that the attendant could not assign what he had not yet received.

(25) Prov. XXV, 20. R. Safra felt humiliated that this verse should have been applied to him; for the latter part of the verse implies that it is useless to teach one who has no understanding.

(26) Stated supra.

(27) To his master's guests; in such a case they in whose favor the dues were assigned would not acquire them.

(28) Because of his conduct in this incident, or because he had incurred the divine displeasure by demanding rain from Heaven, cf. Ta'an. 24b.

(29) The place of punishment of the wicked in the hereafter; hell.

(30) Job XX, 26. All darkness i.e., Gehinnom, and a fire not blown by man i.e., the fires of hell, are prepared for him who has an unworthy scholar (רע שריד) in his tent.

(31) Joel III, 5: ובשרידיים.

(32) I.e., an idolater. Mercurius, a Roman divinity, identified with the Greek Hermes, the patron deity of wayfarers.

Worship of this deity consisted in the setting up of stones, two beside each other and one above them, cf. A.Z. 49b, and sometimes simply in throwing stones at the figure; cf. Sanh. 60b.

(33) Prov. XXVI. 8. The words in the text following this verse until the end of this same verse quoted in the subsequent passage are omitted in the current editions. It is an obvious scribal omission, and the text has been supplied from MS.M.; the passage in full is also to be found in the 'En Jacob.

(34) Ibid. III, 35.

(35) Ibid. XXVIII, 10. The logic of the argument must be followed up thus: And 'good' is nothing but Torah, as it is said: For I give you good doctrine, forsake ye not my Torah (ibid. IV, 2). Cf. Aboth VI, 3.

(36) Ibid. XIX, 10.

(37) I.e., it is necessary to indicate by some sign the existing partnership between the Jew and the gentile.

(38) By reason of a physical blemish and which has been redeemed. Such an animal is exempt from the priestly dues, v. supra 130a.

Chullin 133b

— We must suppose in this case that the gentile was sitting by the butcher's stall.¹ But then in the case of the priest we must also suppose the same circumstances, that he sat by the stall; why then is it necessary to indicate [the partnership] by a sign? —

Because people might say that he is only buying meat. Then in the case of a gentile, too, people might say that he is only buying meat, will they not? — We must suppose in this case that the gentile was sitting by the till.² Then in the case of the priest we must suppose the same circumstances, that he sat by the till, why is it necessary to indicate by a sign? — Because people might say that he merely trusted him [the priest].³ Then in the case of a gentile, too, people might say that he merely trusted him? — There is no trust among heathens. If you wish, however, I can say, a gentile [partner] usually makes himself heard.⁴

The Master stated: 'If the animal was a consecrated animal that had become unfit for sacrifice, there is no need to indicate this by a sign'. This shows that it is evident to all;⁵ but we have learnt: Consecrated animals that have become unfit for sacrifice may [after they have been redeemed] be sold in the market, may be slaughtered in the market, and may be weighed out by the pound!⁶ — R. Adda b. Ahabah suggested before R. Papa that our case refers only to those animals that are sold in the house.⁷

R. Huna said: If he has a share in the head of the animal only, one is exempt from giving the cheeks; if he has a share in the forelimb, one is exempt from giving the shoulder; and if he has a share in the entrails, one is exempt from giving the maw.

Hiyya b. Rab said: Even if he has only a share in one of these parts one is nevertheless exempt from all [the dues]. An objection was raised: [If he said,]⁹ 'The head shall be mine and the rest yours', or even [if he said], 'One hundredth part of the head [shall be mine]', he¹⁰ is exempt. 'The fore-limb shall be mine and the rest yours', or even 'One' hundredth part of the fore-limb [shall be mine]', he is exempt. 'The entrails shall be mine and the rest yours', or even 'One hundredth part of the entrails [shall be mine]', he is exempt.

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Now this means, does it not, that he is exempt from the cheeks but liable to give the others; likewise that he is exempt from the shoulder but liable to give the others; and so also that he is Exempt from the maw but liable to give the others? — No, it means, he is exempt from all the dues. Then why does it not [expressly] state, ‘He is exempt from all the dues’? Furthermore, it has been expressly taught: [If he said.] ‘The head shall be mine and the rest yours’, or even ‘One hundredth part of the head [shall be mine]’, he is exempt from giving the cheeks but he is liable to give the others! — This is surely a refutation of the view of Hiyya b. Rab. It is a refutation.

R. Hisda said: The following Baraitha misled Hiyya b. Rab. For it was taught:¹¹ There are twenty-four priestly endowments, all bestowed upon Aaron and his sons first in general terms¹² and then specified separately,¹³ and [finally confirmed] by a covenant of salt.¹⁴ Whosoever observes them is as though he observes [the whole Torah which is expounded by] generalizations and specifications and [the sacrifices which were confirmed by] a covenant of salt,¹⁵ and whosoever neglects them is as though he neglects [the whole Torah which is expounded by] generalizations and specifications and [the sacrifices which were confirmed by] a covenant of salt.

And these are they: Ten [that are to be eaten] within the precincts of the Temple, four [that are enjoyed] in Jerusalem, and ten [that are given to them] within the borders [of the Land of Israel]. The ten [that are to be eaten] within the precincts of the Temple are: the sin-offering of an animal, the sin-offering of a bird, the guilt-offering for a known sin, the guilt-offering for a doubtful sin, the peace-offerings of the congregation.¹⁶ the log of oil of the leper,¹⁷ the two loaves,¹⁸ the shewbread,¹⁹ the remnant of the meal-offerings, the remnant of the ‘Omer.²⁰ The four [that are enjoyed] in Jerusalem are: the

firstling, the first-fruits, that which is taken away as a heave-offering from the thank-offering²¹ and from the ram of the Nazirite,²² and the hides of the [most] holy sacrifices.²³

The ten [that are given to them] within the borders [of the Land of Israel] are: the Terumah, the Terumah of the tithe, the dough-offering, the first of the fleece, the [priestly] dues, the redemption of the [firstborn] son,²⁴ the redemption of the firstling of an ass,²⁵ the field of possession,²⁶ the devoted field,²⁷ and [the restitution for] robbery committed upon a proselyte.²⁸ Now he²⁹ thought that since ‘the [priestly] dues’ were counted as one [item in the list], they are considered one;³⁰ but it is not the case, for can it be said that ‘what is taken away as a heave-offering from the thank-offering and from the ram of the Nazirite’ are considered one merely because they are counted as one item? Surely they are counted as one item because they are similar to each other; then in this case too, they are counted as one item only because they are similar to each other.

The question was raised: What is the law [if he said],³¹ ‘The head shall be yours and all the rest shall be mine’? Do we have regard to the part of the animal on which the obligation rests and this part belongs to the Israelite,³² or do we have regard to the major portion of the animal and this belongs to the priest? —

Come and hear: If a gentile or a priest delivered sheep to an Israelite to shear them, he³³ is exempt [from the first of the fleece]. If a man bought the fleeces of a flock belonging to a gentile, he is exempt from the first of the fleece. In this respect the law of the shoulder and the two cheeks and the maw is more strict than the law of the first of the fleece.³⁴ This proves that we have regard to the part of the animal upon which the obligation rests. This proves it.

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IF HE SAID, 'EXCEPT THE DUES', HE IS EXEMPT FROM GIVING THE DUES.

- (1) And this in itself is a manifest indication to all that the gentile has a share in the business.
- (2) This is even stronger evidence that the gentile is a partner.
- (3) To guard the till, but it does not necessarily imply that the priest has a share in the business.
- (4) The circumstances were, as suggested at first, that the gentile was sitting by the butcher's stall, and so too in the case of the priest. But there is this distinction: a gentile partner would not look on in silence but would interfere in the business done by his Jewish partner, protesting from time to time at the price his partner allows, so that it would be obvious to all that the gentile has a share in the business. This, however, is not the case with a priest who is a partner in the business.
- (5) That the animal is an animal unfit for sacrifice and has been redeemed. This is indicated, no doubt, by the fact that the meat is not sold in the market place like ordinary meat.
- (6) Lit., 'by the litra' (the weight of one pound). It is evident from this Mishnah (Bek. V, 1) that consecrated animals which have been redeemed are treated in every way like ordinary animals.
- (7) E.g., the Firstling and Cattle Tithe (cf. Bek. V, 1). In other words, the dictum of the Master that there is no need for any indication in the case of consecrated animals that became unfit refers only to the Firstling and the Cattle Tithe, for these may not, under any circumstances, be sold in the market but only in the house.
- (8) Sc., the priest or the gentile.
- (9) Sc., the priest or the gentile when selling the animal to an Israelite.
- (10) The Israelite.
- (11) B.K. 110b; Tosef. Hal. II.
- (12) Cf. Num. XVIII, 8: All the hallowed things of the children of Israel unto thee have I given them.
- (13) Num. XVIII, 9-19.
- (14) Ibid. 19. I.e., a permanent covenant.
- (15) Cf. Lev. II. 13.
- (16) Offered on the Feast of Weeks, cf. Lev. XXIII, 19.
- (17) Used for his purification rite; v. ibid. XIV, 10ff.
- (18) Brought on the Feast of Weeks, ibid. XXIII, 17.
- (19) Cf. Ex. XXV, 30; Lev. XXIV, 5-9.
- (20) Lit., 'sheaf', referred to in Lev. XXIII, 10ff.
- (21) Sc., the breast and the thigh and the four loaves; cf. ibid. VII, 11-14.
- (22) Sc., the sodden shoulder, an unleavened cake and wafer; cf. Num. VI. 19.

- (23) The hides of burnt-offerings, sin-offerings and guilt-offerings; cf. Lev. VII, 8. The hides of the lesser holy sacrifices belong to the donors; v. Zeb. 103b.
- (24) I.e., the prescribed sum of five shekels; cf. Num. XVIII, 15-16.
- (25) With a sheep; v. Ex. XIII, 13.
- (26) Cf. Lev. XXVII, 16-21.
- (27) Num. XVIII, 14.
- (28) I.e., the principal and the additional fifth, cf. Num. V, 7, 8. This list is also to be found in B.K. 110b, Sonc. ed., p. 645-6. Part of this list is also found supra 131a.
- (29) Hiyya b. Rab.
- (30) So that he that is exempt from one portion is exempt from all.
- (31) Sc., the priest when selling to an Israelite the head of an animal only.
- (32) At the time of slaughtering when the obligation to give the portions falls due the Israelite is the owner of the head of the animal. And since the head belongs to the Israelite he is liable to give the two cheeks to the priest.
- (33) Sc., the Israelite.
- (34) For if an Israelite bought the portions of an animal from a priest from which the priestly dues are taken he is bound to give the dues; hence it is clear that the obligation rests upon the part of the animal bought.

Chullin 134a

I can point out a contradiction to this. [It was taught: If he said,]¹ 'On condition that the dues shall be given to me', he may nevertheless give them to any priest he chooses!² — Do you oppose the terms 'except' and 'on condition that' against each other? The term 'except' is a reservation,³ but the term on condition that' is no reservation.⁴ There is, however, a further contradiction, [for it was taught: If he said.] 'On condition that the dues shall be given to me', the dues must then be given to him!⁵ — They differ in this: one holds that 'on condition that' is a reservation;⁶ the other⁷ holds that 'on condition that' is no reservation.

IF A MAN SAID, 'SELL ME THE ENTRAILS OF A COW', etc. Rab said: They taught this only where [the purchaser] weighed them for himself,⁹ but if the butcher

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weighed them for him, then the [priest's] claim is against the butcher [also].¹⁰ R. Assi said: Even though the butcher weighed them for him his claim is with him only.¹¹ Shall we say that they differ in the ruling of R. Hisda? For R. Hisda stated: If a person misappropriated (an article) and, before the owner gave up hope of recovering it, another person came and consumed it, the owner has the option of collecting payment from either the one¹² or the other.¹³ Now is it to be said that the one [Rab] agrees with R. Hisda and the other [R. Assi] does not agree with R. Hisda? — No, all agree with R. Hisda, but there they differ as to whether the priestly dues are subject to the law of theft, the one [Rab] holds that they are subject to the law of theft¹⁴ and the other [R. Assi] holds that they are not.¹⁵ Some report the above argument independently¹⁶ thus: Rab said: The priestly dues are subject to the law of theft; R. Assi said: The priestly dues are not subject to the law of theft.

MISHNAH. IF A PROSELYTE HAD A COW AND HE SLAUGHTERED IT BEFORE HE BECAME A PROSELYTE, HE IS EXEMPT FROM GIVING THE PRIESTLY DUES; IF [HE SLAUGHTERED IT] AFTER HE BECAME A PROSELYTE, HE IS LIABLE; IF THERE WAS A DOUBT ABOUT IT, HE IS EXEMPT, FOR THE BURDEN OF PROOF LIES UPON THE CLAIMANT.¹⁷

GEMARA. When R. Dimi came [from Palestine] he reported that R. Simeon b. Lakish pointed out the following contradiction to R. Johanan. We have learnt: IF THERE WAS A DOUBT ABOUT IT, HE IS EXEMPT, which shows that the doubt is decided in favor of leniency.¹⁸ But there is a contradiction to this, for we have learnt:¹⁹ [The grain found] in ant-holes among the standing corn,²⁰ belongs to the owner;²¹ [as for the grain found in ant-holes] behind the reapers,²² the uppermost layer belongs to the poor, but what is beneath belongs to the owner.

R. Meir says, It all belongs to the poor, since gleanings that are in doubt are deemed to be gleanings.²³ To this [R. Johanan] answered: Do not weary me [with your arguments], since I quote that [Mishnah] as the opinion of an individual;²⁴ for it has been taught: R. Judah b. Agra says in the name of R. Meir: Gleanings that are in doubt are deemed to be gleanings, forgotten sheaves that are in doubt are deemed to be forgotten sheaves, and corners of the field that are in doubt are deemed to be corners of the field. The other [Resh Lakish] retorted: Teach it even in Ben Taddal's²⁵ name, [the difficulty, however, remains] for he adduces a reason for his view.

For Resh Lakish said,²⁶ It is written: Do justice to the afflicted and poor;²⁷ what is meant by 'do justice'? Can it mean, [favor him] in his lawsuit? Surely it is written: Thou shalt not favor a poor man in his cause!²⁸ Rather it means: Be liberal with what is yours and give it to him!²⁹ — Raba answered,³⁰ Here the cow has the status of exemption [from dues], but the standing corn has the status of being subject [to the dues].³¹ Said Abaye to him: Behold the case of the dough [of a proselyte, of which we learnt]:³² If it was mixed before he became a proselyte he is exempt from giving the dough-offering; if after he became a proselyte, he is liable to give it; if there was a doubt about it, he is liable!³³ — He replied. Where the doubt concerns a religious prohibition³⁴ we must take the more stringent view, where the doubt concerns a monetary matter we take the more lenient view.³⁵

For R. Hisda stated, and so also did R. Hiyya teach: Eight cases of doubt were cited in connection with a proselyte, in four he is held liable and in four he is held exempt; and these are they: with regard to his wife's sacrifice,³⁶ the dough-offering,³⁷ the firstling of an unclean animal,³⁸ and the firstling of a clean animal,³⁹ he is held liable;⁴⁰

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(1) Sc., the priest when selling an animal to an Israelite.

(2) For the condition is contrary to Scriptural law, since by Scriptural law the owner has a power of disposal of the dues to whom he will, and it is therefore null and void. The purchaser then can dispose of the dues as he wishes, but he is bound to give them, thus apparently in conflict with our Mishnah.

(3) What was excepted did not form part of the sale, for the priest reserved these parts to himself.

(4) But merely a condition which, being contrary to Scriptural law, is null. V. Git. 82a.

(5) Thus contradicting the first Baraitha.

(6) The Tanna of the last quoted Baraitha regards the term on condition that' on all fours with the term 'except'.

(7) The Tanna of the first Baraitha.

(8) That where the entrails were sold by weight the seller must allow a reduction in the price on account of the priestly dues that were included; the implication being that the priest comes and claims the dues from the purchaser.

(9) In this case it was the purchaser who actually took away the priest's due, consequently the priest can only claim them from the purchaser and the latter in turn is entitled to an allowance in the purchase price.

(10) The priest, if he so pleases, can claim the dues from the seller (even though they are no longer in his possession) for he was also in the wrong, and he must make every effort to obtain them for the priest. V. B.K. 115a.

(11) The priest can only claim the dues from the person in whose possession they are, in this case from the purchaser.

(12) I.e., the one who robbed him.

(13) I.e., the one who later consumed the article; for so long as the owner has not given up hope of recovering it, it is deemed to be his property wherever it happens to be, so that the one who consumed it also committed an act of theft.

(14) Accordingly the butcher when he sold them committed an act of theft for which he is held liable.

(15) For since they are endowments by Divine Law they always remain the priest's property wherever they are, consequently the law of theft does not apply to them, but the person in whose possession they are is alone responsible for them to the priest.

(16) And not in connection with our Mishnah.

(17) In this case it would be upon the priest to show that the animal was slaughtered after the owner was converted to the Jewish faith.

(18) I.e., in favor of the owner.

(19) Pe'ah IV. 11.

(20) According to Rashi, that which is in front of the reapers, i.e., which the reapers have not yet reached, although they have begun to reap the field; but v. infra p. 762, n. 1, commentary of R. Samson of Sens.

(21) The law of gleanings does not apply to it, for it is certain that the grain was carried into the holes by ants and did not fall therein at the time of reaping, since that part of the field has not yet been reaped.

(22) According to R. Samson of Sens, if only the reapers have started to reap even though they have not reached the standing corn around the ant-holes; q.v.

(23) R. Meir thus in a case of doubt decides against the owner, which view clearly contradicts that of our Mishnah which is also the view of R. Meir, for an anonymous Mishnah represents the view of R. Meir, v. Sanh. 86a (Sonc. ed.) p. 566. V., however, Tosaf. s.v. ורמינהי.

(24) It is only the opinion of R. Judah b. Agra quoting R. Meir, and he is not to be relied upon.

(25) A fictitious name for some foolish babbler (Jast.). Variants are: ערל בן ערל a stammerer, cf. ערל שפתים Ex. VI, 12; בן ערל בן ערל probably names of persons known to have been unreliable in all matters.

(26) [Insert with MS.M., 'what is the reason of R. Judah b. Agra?']

(27) Ps. LXXXII, 3.

(28) Ex. XXIII, 3.

(29) I.e., in matters of doubt give the poor the benefit.

(30) To reconcile the two Mishnahs.

(31) In every case of doubt we must refer to the status of the thing before the doubt arose (v. supra p. 46), and the cow then belonged to a gentile when it was exempt from dues; the cornfield, on the other hand, being the property of an Israelite, has always been subject to the various dues to the poor.

(32) Hal. III, 6.

(33) Even though at the time when the doubt arises the dough has the status of exemption from the dough-offering, for the dough of a gentile is exempt; this clearly conflicts with Raba's contention.

(34) For if the dough-offering is not given to the priest the whole dough is deemed to be Tebel and forbidden to be eaten on the penalty of death at the hands of Heaven.

(35) The priestly dues are in no wise sacred and the omission to give them does not render the animal forbidden; consequently, it is only a monetary consideration, and in a case of doubt it is for the priest, the claimant, to establish his claim.

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(36) Where there was a doubt whether his wife gave birth to a child before she became a proselyte or after. This case of doubt may involve a penalty of Kareth, for if she gave birth after she became a proselyte she would then be obliged to bring a sacrifice consequent upon her childbirth (cf. Lev. XII); and if she failed to do so and ate consecrated food she would be liable to the penalty of Kareth.

(37) The doubt here being as stated in Mishnah Hal. III, 6. This case of doubt may involve the penalty of death at the hands of Heaven, v. supra n. 3.

(38) Where there was a doubt whether the proselyte's ass brought forth a firstling before his conversion or after. If after, then the foal is forbidden for all purposes until it is redeemed with a lamb (cf. Ex. XIII, 13), which lamb had to be given to the priest; in this case of doubt, the proselyte must redeem the foal with a lamb, but he may withhold it from the priest; v. infra n. 20.

(39) The doubt here as in prec. note. This case of doubt may involve the penalty of Kareth for slaughtering a firstling outside the Temple.

(40) Since these cases are matters which involve religious prohibitions and entail serious penalties, we must adopt the stricter view and impose the obligation upon the proselyte.

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with regard to the first of the fleece, the priestly dues, the redemption of his firstborn son, and the redemption of the firstling of an ass,¹ he is exempt.²

When Rabin came [from Palestine] he reported that he had pointed out to him a contradiction with regard to the standing corn itself.³

Levi⁴ once sowed grain in Kishor, and there were no poor to collect the gleanings, so he came before R. Shesheth. He told him: It is written: Thou shalt leave them for the poor and the stranger,⁵ but not for ravens and bats.⁶

An objection was raised: One is not obliged to bring in the Terumah from the threshing-floor into the town, nor from the desert into the inhabited place;⁷ if, however, there is no priest there [in the district], one must hire a

cow and bring it in, for otherwise there would be a waste of Terumah!⁸ — In the case of Terumah it is different, for [without setting apart the Terumah] the whole is forbidden,⁹ and therefore one has no choice but to set it apart.¹⁰ But take the case of the priestly dues they do not render the whole forbidden, nevertheless it has been taught: Where the custom is only to scrape away [with boiling water the hair] of calves,¹¹ one should not remove the skin from the shoulder;¹² moreover, where the custom is to remove the skin from the head one should not remove the skin from the cheeks.¹² If there is no priest [to whom to give these dues], one must estimate their value¹³ and then eat them, so that there should be no loss to the priest! — In the case of the priestly dues it is different, for in regard to them the term giving is used.¹⁴ And now that you have suggested this, you may also say that in regard to Terumah the term 'giving' is used.¹⁵ For what purpose then do I require the additional expression 'Thou shalt leave them'?¹⁶ — For the following teaching: If a man renounced the ownership of his vineyard and rose early on the following morning and gathered the grapes, he is liable to the laws of the fallen grapes, the small clusters, the forgotten clusters, and the corners [of the vineyard], but he is exempt from the tithe.¹⁷

There once arrived at the Beth Hamidrash [a gift of] a bag of [golden] denars,¹⁸ whereupon R. Ammi came in first and acquired them. But how may he do such a thing? Is it not written. And they shall give,¹⁹ but he shall not take it himself? — R. Ammi acquired them on behalf of the poor. Or, if you wish, you may say that in the case of an eminent person it is different.²⁰ For it has been taught: The verse: And the priest that is highest among his brethren,²¹ implies that he shall be highest among his brethren in beauty, in wisdom and in wealth. Others say: Whence is it proved that if he does not possess any wealth, his brethren, the priests,

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shall make him great? Because Scripture says: And the priest that is highest by reason of his brethren,²¹ that is, he must be made the highest [by reason of gifts] from his brethren.

MISHNAH. WHAT COUNTS AS ‘THE SHOULDER’? FROM THE JOINT UP TO THE SHOULDER-SOCKET OF THE FORELIMB;²² AND THIS IS THE SAME FOR THE NAZIRITE.²³ THE CORRESPONDING PART OF THE HIND LEG IS CALLED THE THIGH.²⁴ R. JUDAH SAYS, THE THIGH EXTENDS FROM THE JOINT UP TO THE FLESHY PART OF THE LEG.²⁵ WHAT COUNTS AS ‘THE CHEEK’? FROM THE JOINT OF THE JAW TO THE PROMINENCE OF THE WINDPIPE.²⁶

GEMARA. Our Rabbis taught: The shoulder,²⁷ that is, the right shoulder. You say it is the right shoulder, but perhaps it is the left? Scripture therefore says: ‘The shoulder’. How is this implied? — As Raba said: ‘The thigh’²⁸ means the right thigh, so ‘The shoulder’ means the right shoulder. And for what purpose is ‘The cheeks’ stated?²⁹ — To include the wool Upon the head of sheep and the hair of the beard of goats. And for what purpose is ‘The maw’ stated?²⁹ — To include the fat that lies upon the stomach and the fat within the stomach.³⁰ For R. Joshua³¹ said: The priests were in the habit of being generous with this³² and used to return it to the owners. The only reason [for returning it] is that they were in the habit [of doing so], but had they not been of this habit it certainly would have belonged to them. The interpreters of Scripture by symbol³³ used to say: ‘The shoulder’³⁴ represents the hand [of Phinehas], for it is written: And took a spear in his hand.³⁵ ‘The cheeks’ represent his prayer, for so it is written: Then stood up Phinehas and prayed.³⁶ ‘The maw’ — this is to be taken in its literal sense, for so it is written: And the woman through her stomach.³⁷

A Tanna derives it from the following: It is written: And the right thigh;³⁸ from this I only know the right thigh, whence do I know this of the shoulder of consecrated animals?³⁹ Because the text states: As a heave-offering.³⁸ And whence do I know this of the shoulder of unconsecrated animals?⁴⁰ Because the text states: Ye shall give.⁴¹

WHAT COUNTS AS ‘THE CHEEK’? FROM THE JOINT OF THE JAW TO THE PROMINENCE OF THE WINDPIPE. But it has been taught: One should cut it away and the place of slaughtering should go with it!⁴² — This is no contradiction, for the one [our Mishnah] gives the opinion of the Rabbis, and the other [the Baraitha] the opinion of R. Hanina b. Antigonus. For it was taught: Any deflection [of the knife outside the top ring] invalidates the slaughtering.

R. Hanina b. Antigonus testified that a deflection is permitted.⁴³ Or, if you wish, you may say that both statements accord with the opinion of the Rabbis, for ‘with it’ [in the Baraitha] means with the [rest of the] animal.⁴⁴

(1) Sc., the lamb used for redeeming the firstling of the ass; v. supra n. 7.

(2) In all these cases the doubt was whether at the material time, i.e., when the obligation to make these presents to the priest fell due, this man was already a proselyte or not. Since, however, these are all monetary considerations we adopt the lenient view and leave it to the priest who is the claimant to establish his claim.

(3) I.e., that Resh Lakish had pointed out to R. Johanan a contradiction between R. Meir's views with regard to standing corn, and not, as reported by R. Dimi, a contradiction between R. Meir's views with regard to standing corn and the priestly dues. According to Rabin's report Resh Lakish had adduced a Baraitha concerning standing corn in which R. Meir's view was in direct conflict with that expressed by him in Mishnah Pe'ah IV, 11. R. Johanan, however, made the same answer as reported above, viz., that the latter Mishnah was taught by an individual.

(4) [Probably Levi b. Hama; v. D.S. note a.l.]

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(5) Lev. XIX, 10.

(6) So that where there are no poor the gleanings may be gathered by the owner and consumed by him, but on no account are they to be left in the open field to be consumed by birds.

(7) The priest must go and fetch it himself.

(8) The owner must then bring it in and store it for the priest (no doubt he could claim his expenses from the priest, cf. Maim. Yad, Terumoth XII, 17); the same should also be the rule with the dues to the poor, i.e., the owner should collect and keep them for the poor, but not consume them himself.

(9) טבל 'mixed', i.e., untithed produce, which is forbidden to be eaten under the penalty of death at the hands of Heaven.

(10) And since one must set it apart in order to render the rest of the produce permitted, it becomes one's duty also to keep it in store for the priest; but this is not the case with gleanings, for the produce is under no restriction even though the gleanings were not left.

(11) And cook it together with its skin and eat it. V. Alfasi for a variant in the text and the comment of R. Nissim thereon.

(12) But one should give it to the priest with the skin upon it.

(13) And set aside the money to be given to the first priest that claims it. This should be the case, should it not, with the gifts to the poor too?

(14) Cf. Deut. XVIII, 3. It is thus one's duty to give them to the priest, even though no priests are available at the time.

(15) Cf. Num. XVIII, 12.

(16) This expression is found in Lev. XIX, 10 and also in XXIII, 22. Surely its purpose is to teach that one must keep the dues for the poor, is it not?

(17) For although ownerless property or property that has been renounced by its owner is free from these poor laws, in this case the original owner has by his conduct resumed the ownership of the vineyard and is therefore liable to these poor laws. This is inferred from the superfluous expression 'Thou shalt leave them', which, as shown supra 131a ff (v. Rashi), refers only to the poor laws but not to the tithe. For the special connotation of each of these terms and their Biblical sources v. supra ibid. and notes thereon. V. also B.K. 28a, and Ned. 44b.

(18) A coin, v. Glos.

(19) Deut. XVIII, 3.

(20) R. Ammi as head of the Academy was permitted to acquire the money for himself; indeed, it is a duty upon all to make him 'the greatest among his brethren'.

(21) Lev. XXI, 10.

(22) I.e., from the carpus to the scapula; it thus consists of two bones, the radius and the humerus. V. Diagram of ox.

(23) Cf. Num. VI, 19: 'the shoulder of the ram'.

(24) I.e., from the tarsus to the innominate bone; this also consists of two bones, the tibia and the femur. This portion together with the breast was to be given to the priest from every peace-offering, cf. Lev. VII, 32.

(25) I.e., it consists of one bone only, viz. the tibia.

(26) I.e., the tip of the thyroid cartilage. This extent includes the whole of the lower jaw and the tongue.

(27) Deut. XVIII, 3. הזרוע.

(28) Gen. XXXII, 33. V. supra 91a. The implication is from the additional ה 'the', in each case.

(29) I.e., the additional ה, the.

(30) The fat upon the greater and lesser curvatures of the stomach; v. Tur. Yoreh De'ah c. LXI. Perhaps the second בלחיו should be read ובלב, i.e., the milk within the stomach; and from Rashi (in MSS.) this would appear to be the meaning.

(31) Probably R. Joshua b. Levi; so MS .M. In many MSS. (v. Bah) 'For' at the head of this passage is omitted, and the passage is quite independent of what has gone before.

(32) Sc., the supplementary portions of the stomach. Cf. Taz, Yoreh De'ah c. LXI, sub-sec. 7.

(33) דורשי רשומות, in MS.M. דורשי המורות. See the exhaustive discussion of Lauterbach in JQR. (N.S.) I, pp. 291-333, 503, 531.

(34) These portions were granted to the priests as a reward for Phinehas's zealous act in slaying Zimri, and so turned away God's wrath from Israel. V. Num. XXV, 6ff.

(35) Ibid. 7. Presumably in his right hand, consequently it is the right shoulder that is to be given.

(36) Ps. CVI, 30.

(37) Num. XXV, 8.

(38) Lev. VII, 32.

(39) That the shoulder which is taken as a heave-offering from the sacrifice of the Nazirite (cf. Num. VI, 19) shall be the right one.

(40) I.e., of the priestly dues.

(41) Lev. ibid. Whatsoever is given shall be from the right side.

(42) This apparently implies that a part of the area prescribed for slaughtering must be included in 'the cheek'. This however is not the case according to the description of 'the cheek' in our Mishnah, for the tip of the thyroid cartilage, which is the limit described in the Mishnah, is surely not within the area prescribed for slaughtering.

(43) V. supra 18b. According to R. Hanina b. Antigonus the tip of the thyroid cartilage is within

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the area prescribed for slaughtering. It must be observed that with regard to the extent of the cheek that is given to the priest there is no difference of opinion between R. Hanina and the Rabbis.

(44) But it is not included in the portion of ‘the cheek’.

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CHAPTER XI

MISHNAH. THE LAW OF THE FIRST OF THE FLEECE¹ IS IN FORCE BOTH WITHIN THE HOLY LAND AND OUTSIDE IT, BOTH DURING THE EXISTENCE OF THE TEMPLE AND AFTER IT, IN RESPECT OF UNCONSECRATED ANIMALS BUT NOT CONSECRATED ANIMALS. THE LAW OF THE SHOULDER AND THE TWO CHEEKS AND THE MAW IS OF WIDER APPLICATION THAN THE LAW OF THE FIRST OF THE FLEECE; FOR THE LAW OF THE SHOULDER AND THE TWO CHEEKS AND THE MAW APPLIES BOTH TO HERDS AND FLOCKS, WHETHER THEY ARE MANY OR FEW,² WHEREAS THE LAW OF THE FIRST OF THE FLEECE APPLIES ONLY TO SHEEP, AND ONLY WHEN THERE ARE MANY. WHAT IS MEANT BY ‘MANY’?

BETH SHAMMAI SAY, [AT LEAST] TWO SHEEP, AS IT IS SAID, A MAN SHALL REAR A YOUNG COW AND TWO SHEEP.³ BETH HILLEL SAY, FIVE, AS IT IS SAID, FIVE SHEEP READY DRESSED.⁴ R. DOSA B. HARKINAS SAYS, FIVE SHEEP, WHICH PRODUCE EACH [A FLEECE OF THE WEIGHT OF] A MANEH⁵ AND A HALF, ARE SUBJECT TO THE LAW OF THE FIRST OF THE FLEECE. BUT THE SAGES SAY, FIVE SHEEP, WHATEVER THEIR FLEECES WEIGH. AND HOW MUCH SHOULD ONE GIVE HIM?⁶ THE WEIGHT OF FIVE SELA'S IN JUDAH, WHICH IS EQUAL TO TEN SELA'S IN GALILEE, OF BLEACHED WOOL BUT NOT DIRTY WOOL, SUFFICIENT TO MAKE FROM IT A SMALL GARMENT, FOR IT IS WRITTEN, THOU SHALT GIVE HIM,⁷

THAT IS, THERE SHALL BE ENOUGH WORTHY TO BE CALLED ‘A GIFT’. IF THE OWNER DID NOT MANAGE TO GIVE [THE FLEECE TO THE PRIEST] UNTIL IT HAD ALREADY BEEN DYED, HE IS EXEMPT;⁸ IF HE ONLY BLEACHED IT BUT DID NOT DYE IT, HE IS STILL LIABLE.⁹

IF A MAN BOUGHT THE FLEECES OF A FLOCK BELONGING TO A GENTILE.¹⁰ HE IS EXEMPT FROM THE LAW OF THE FIRST OF THE FLEECE. IF A MAN BOUGHT THE FLEECES OF A FLOCK BELONGING TO HIS NEIGHBOUR AND THE SELLER KEPT BACK SOME FOR HIMSELF, THE SELLER IS LIABLE, BUT IF HE KEPT NAUGHT BACK, THE BUYER IS LIABLE. IF HE HAD TWO KINDS OF WOOL, GREY AND WHITE, AND HE SOLD THE GREY BUT NOT THE WHITE, OR [IF HE SOLD THE WOOL] OF THE MALES BUT NOT OF THE FEMALES, EACH¹¹ MUST GIVE [THE FIRST OF THE FLEECE] FOR HIMSELF.

GEMARA. Why does not [the law of the first of the fleece] apply to consecrated animals? — Because Scripture says, of thy sheep,⁷ but not of the sheep of the Sanctuary. Now this is so because Scripture stated: ‘Of thy sheep’, but without this [Scriptural indication] I should have said that consecrated animals are subject to the law of the first of the fleece; but surely they may not be shorn, for it is written: Thou shalt not shear the firstling of thy flock!¹² — In respect of animals consecrated for the altar this is indeed so,¹³ but we were referring to animals consecrated to the Temple treasury.¹⁴ But has not R. Eleazar said that animals consecrated to the Temple treasury are forbidden to be shorn and to be used for work? —

[This is forbidden] by Rabbinic decree only. Now I might have thought that, since by law of the Torah they may be shorn, where a man did shear them he should give [the priest the first of the fleece; Scripture

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therefore teaches that they are not subject to the law]. But it is consecrated, is it not?¹⁵—

I might think that he¹⁶ must redeem it and give it to the priest. But surely it has to stand up to be appraised?¹⁷ This is well according to him who says that animals consecrated to the Temple treasury are not subject to the law of ‘standing up to be appraised’, but what can you say according to him who says that they are subject to this law? —

R. Mani b. Pattish suggested in the name of R. Jannai: We are referring here to the case of a man who consecrated to the Temple treasury his animal apart from its fleece. Now I might have thought that he should shear it and give [the portion] to the priest. Scripture therefore states: ‘Of thy sheep’ but not of the sheep of the Sanctuary. In that case it can also refer to an animal consecrated to the altar!¹⁸ — It would thereby become weak.¹⁹ Then the animal consecrated to the Temple treasury would also become weak thereby? —

[We must assume that] he said: ‘[I consecrate the animal] except for its fleece and the debility [resulting from the shearing of the fleece]’. Then even with regard to an animal consecrated to the altar, [we can assume that] he said: ‘[I consecrate the animal] except for its fleece and the debility [resulting from the shearing thereof]!’ — Even so the sanctity extends over the whole [animal].²⁰ Whence do you gather this? —

Because [we have learnt:] R. Jose said: Is it not the case that, in connection with animal offerings, if one said: ‘Let the foot of this animal be a burnt-offering’, the whole animal is consecrated as a burnt-offering?²¹ And even according to R. Meir who declares that the whole animal does not thereby become [consecrated as] a burnt-offering, that is so only where one consecrated a limb whereon the life [of the animal] does not depend, but if one consecrated a limb

whereon the life [of the animal] depends, [he agrees that] the whole animal becomes consecrated.

Raba said, [Our Mishnah refers to the case] where a man consecrated the fleece only; now I might have said that he must shear it, redeem it, and give it to the priest. Scripture therefore states The fleece of thy sheep shalt thou give him:²² this applies only to that which lacks shearing and giving but not to that which lacks shearing, redeeming and giving.²³ And what does the expression ‘Of thy sheep’ come to teach us? — The following, which has been taught: An animal which is held jointly is subject to the law of the first of the fleece; R. Ila'i declares it exempt.²⁴ What is the reason for R. Ila'i's view? —

Because Scripture states ‘Of thy sheep’, but not of that which is held jointly. And the Rabbis? — [They say that] it serves to exclude only that which is held jointly with a gentile.²⁵ And whence does R. Ila'i know that that which is held jointly with a gentile [is exempt]? — He derives it from the beginning of the verse, which reads: The first of thy corn,²⁶ but not that which is held jointly with a gentile. And the Rabbis?²⁷ — The word ‘first’ [they say] interrupts the subject-matter.²⁸ And R. Ila'i? — ‘And’ [he says] connects this²⁹ [with the above Subject].

(1) Deut. XVIII, 4: And the first of the fleece of thy sheep shalt thou give him.

(2) Even if one slaughters a single beast.

(3) Isa. VII, 21. The term צֹאן ‘flock’ stated in connection with the law of the first of the fleece is in this verse used of two sheep.

(4) I Sam. XXV, 18. The expression עֲשׂוּיָה ‘ready dressed’, is interpreted to mean that the commandment (עֲשֵׂה)

of the first of the fleece had been fulfilled in respect of them.

(5) V. Glos.

(6) Sc. to the priest. V. Gemara 137b.

(7) Deut. XVIII, 4.

(8) For he has acquired absolute ownership of the wool by the change he had wrought in it. This is regarded as an act of theft and he is exempt from

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giving it now to the priest, in accordance with R. Hisda's dictum supra 130b.

(9) Mere bleaching, unlike dyeing, does not constitute a change whereby one can acquire the ownership of an article.

(10) Even though the wool was not shorn from the animal, but the Israelite sheared it.

(11) Both the seller and the purchaser must give to the priest the first of the fleece. V. however Gemara, 136b.

(12) Deut. XV, 19.

(13) And no verse is necessary to exclude consecrated animals fit for a sacrifice from the law of the first of the fleece.

(14) These consecrated animals may be shorn, and therefore a scriptural indication must be resorted to in order to exclude them from the law of the first of the fleece.

(15) The fleece belongs to the Temple treasury, how then can it be suggested that it be given to the priest?

(16) Probably the original owner who consecrated the beast, but v. Tosaf. s.v. ראשית.

(17) Every consecrated living animal and everything attached to it, when it is about to be redeemed must be able to stand up before the priest to be valued, in accordance with Lev. XXVII, 11, 12.

(18) For since the animal only was consecrated and not the fleece, it is permitted to use the fleece, hence it is necessary for Scripture to teach that it need not be given to the priest.

(19) I.e., by the shearing: it is therefore forbidden to shear the wool of a consecrated animal, even though the wool was not consecrated.

(20) So that in the case of an animal consecrated to the altar the exception of the fleece cannot be regarded as a reservation and the whole animal is deemed to be consecrated; whereas in the case of an animal consecrated to the Temple treasury whatsoever is excepted will not be deemed to be consecrated.

(21) V. Tem. 10a, and supra 69b. R. Jose puts forward this argument to prove that where the foot of an animal was designated as a substitute for an already consecrated animal, the whole animal thereby becomes consecrated.

(22) Deut. XVIII, 4.

(23) Hence the fleece of consecrated animals is not subject. It must be observed that the rule of 'standing up to be appraised' does not come into consideration here for it does not apply to an inanimate object consecrated to the Temple treasury. V. p. 771, n. 3, and Tosaf. s.v. ארבע.

(24) The expression 'Of thy sheep' — meaning sheep belonging to a single individual — excludes, according to the view of the first Tanna (later referred to as 'the Rabbis'), sheep held jointly by

an Israelite and a gentile, and according to R. Ila'i, even that which is held by two Israelites jointly.

(25) But that which is held by two Israelites jointly is subject to the law of the first of the fleece, since each is individually subject to the law, and the people of Israel are often referred to as a single individual; cf. Mak. 23b.

(26) Deut. XVIII, 4. The first-fruits of corn held jointly with a gentile is not subject to the offering of Terumah; likewise it is reasonable to infer that sheep held jointly with a gentile are not subject to the law of the first of the fleece; consequently the later expression 'thy sheep' excludes that which is held jointly by Israelites.

(27) How do they meet this argument of R. Ila'i?

(28) The verse reads: The first of thy corn... and the first of the fleece of thy sheep shalt thou give him. The fact that Scripture repeats the word 'first' in regard to the fleece indicates that it is quite distinct from the foregoing, and no inference may be made therefrom.

(29) Were the two laws entirely distinct, Scripture would not have introduced the second with the conjunction 'and'. It evidently signifies some connection and analogy between the two.

Chullin 135b

And the Rabbis? — [They say] the Divine Law then should have stated neither 'and' nor 'first'.¹

And R. Ila'i? — [He says] since the one has no sanctity whatsoever,² whereas the other is itself sacred, the two had to be [in the first place] stated separately and later connected.

Alternatively, you may say, the Rabbis are of the opinion that what is held jointly with a gentile is subject to Terumah.³ For it has been taught:⁴ If an Israelite and a gentile bought a field jointly, Tebel and hullin⁵ are inextricably mixed up in it:⁶ so Rabbi.

Rabban Simeon b. Gamaliel says: The part belonging to the Israelite is subject to the tithe, and the part belonging to the gentile is exempt. Now the extent of their difference consists in this, that the one authority [R. Simeon] holds the principle of bererah⁷ while the other does not hold the principle of bererah, but both are agreed that

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whatsoever is held jointly with a gentile is subject to tithe. In the further alternative you may say that both rules are derived, according to R. Ila'i, from the expression 'thy sheep'. For why is it that what is held jointly with a gentile is exempt [from the law of the first of the fleece]? Because it is not solely his. Then what is held jointly with another Israelite should also be exempt, for it is not solely his. And the Rabbis? — [They distinguish thus:] A gentile is not subject to this law, whereas an Israelite is.⁹

Raba said: R. Ila'i agrees as regards Terumah;¹⁰ for, although it is written; 'Thy corn' [from which it would appear that] thine only [is subject to Terumah] and not what is held jointly, the Divine Law stated: Your heave-offerings.¹¹ What then is the significance of 'thy corn'? — It excludes what is held jointly with a gentile. As regards the dough-offering,¹² although there is written the word 'first',¹² and one could draw an analogy by reason of the common word 'first'¹³ from the law of the first of the fleece: as there what is held jointly is exempt so here what is held jointly is exempt, the Divine Law stated: Your dough.¹² Now this is so only because Scripture stated: 'Your dough', but had it not stated it I should have said that we should draw an analogy by reason of the common word 'first' from the law of the first of the fleece, but on the contrary we would rather draw the analogy from the law of Terumah!¹⁴ — This is indeed so; what then is the significance of 'your dough'? — That there must be as much as your dough.¹⁵ As regards the corner of the field, although it is written: Thy field¹⁶ [from which it would follow that] thine only is subject and not what is held jointly, the Divine Law stated: And when ye reap the harvest of your land.¹⁶ What then is the significance of 'thy field'? —

It excludes what is held jointly with a gentile. As regards the law of the firstling, although it is written: All the firstling males that are

born of thy herd and of thy flock,¹⁷ [from which it would follow that] thine only is subject but not what is held jointly, the Divine Law stated: And the firstlings of your herd and of your flock.¹⁸ What then is the significance of 'thy herd and thy flock'?—

It excludes what is held jointly with a gentile. As regards the law of mezuzah,¹⁹ although it is written: Thy house,²⁰ [from which it would follow that] thine only is subject but not what is held jointly, the Divine Law stated: That your days may be multiplied and the days of your children.²¹ What then is the significance of 'thy house'? — It is as Rabbah stated. For Rabbah stated:

(1) If any analogy was to be inferred from the two laws, both these expressions then should have been omitted, viz., 'and' which implies connection with the preceding subject and 'first' which implies separateness.

(2) Lit., 'it is consecrated as to its value'. Not to be taken literally, since the first of the fleece has no sanctity whatsoever, whereas Terumah is sacred and may be eaten by none but priests (Rashi).

(3) I.e., only the share held by the Israelite. Consequently the expression 'thy sheep' serves to exclude that which is held jointly with a gentile from the law of the first of the fleece, and the expression 'thy corn' serves to exclude that which belongs entirely to the gentile. V. Rashi s.v. וְאִיבְעִית אִימָא.

(4) Tosef. Ter. II; and Git. 47aff.

(5) Tebel (lit., mixed) is produce which is subject to tithes but from which these have not been separated. Hullin (lit., common, unconsecrated) is produce that is free entirely from tithes, e.g., what is bought from a gentile.

(6) Even after they have divided between them the produce of the field, we do not assume that the share which each took eventually was intended for him from the beginning, so that the result would be that the Israelite's share is wholly Tebel and the gentile's wholly Hullin. This would mean the application of the principle of bererah i.e., retrospective designation. Rabbi does not accept this principle and maintains that each share, nay, each grain, is part Tebel and part Hullin; and the Israelite therefore must separate the tithe for his share from this very produce but not from other produce, neither can this produce be set aside as tithe for other produce. V. Rashi s.v. טָבֵל.

(7) בְּרִירָה, v. Glos, and also supra 14a and notes.

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(8) That sheep held jointly with an Israelite as well as sheep held jointly with a gentile are exempt from the law of the first of the fleece.

(9) It is not necessary that the sheep shall belong wholly to one person, all that the law insists upon is that it shall belong to parties each subject to the law, sc. Israelites, for, after all, the people of Israel are often referred to as a single unit.

(10) That produce held jointly by Israelites is subject to Terumah.

(11) The use of the second person plural suffix in this and in all subsequent cases indicates that the matter may be held by several persons jointly. 'Your heave-offerings' is not found in the Torah at all, but only in Ezek. XX, 40 and XLIV, 30. Probably the text should read: Your heave-offering, as in Num. XVIII, 27.

(12) Num. XV, 20.

(13) Stated here in connection with the dough-offering, and also in connection with the first of the fleece; Deut. XVIII, 4.

(14) With the result that what is held jointly by Israelites is subject to the dough-offering, just as it is subject to Terumah. For it is an established principle that where two analogies are possible, one leading to stringency and the other to leniency, we must adopt the former; v. Yeb. 8a, Kid. 68a, and A.Z. 46b.

(15) To be subject to the dough-offering there must be a minimum quantity of dough equal to a person's daily ration in the wilderness, viz., an 'omer per head (Ex. XVI, 16), and an 'omer is the tenth part of an ephah (ibid. 36). This is equivalent in mass to forty-three and one fifth eggs, for an ephah equals four hundred and thirty-two eggs. (One ephah = three se'ah²; one se'ah = six kabs; one Kab = four logs; one log = six eggs.)

(16) Lev. XIX, 9.

(17) Deut. XV, 19.

(18) Ibid. XII, 6.

(19) V. Glos.

(20) Ibid. VI, 9.

(21) Deut. XI, 21.

Chullin 136a

The way thou enterest [thy house], that is, with the right [foot].¹

As regards the tithe, although it is written: The tithe of thy corn,² [from which would follow that] thine only is subject but not what is held jointly, the Divine Law stated: Your tithe.³ What then is the significance of

'the tithe of thy corn'? — It excludes what is held jointly with a gentile.

As regards the priestly dues, although it is written: And he shall give,⁴ and by reason of the common expression 'giving'⁵ one might draw an analogy from the law of the first of the fleece: as there what is held jointly is exempt so here what is held jointly is exempt, the Divine Law stated: From them that slaughter a slaughtering.⁶ Now this is so only because Scripture stated: From them that slaughter a slaughtering, but had it not stated it, I should have said that one should draw the analogy from the law of the first of the fleece; but on the contrary one should rather draw the analogy from Terumah.⁷ — This is indeed so; what then is the significance of 'from them that slaughter a slaughtering'? — It is as Raba said. For Raba said: The claim is made against the slaughterer.⁸

As regards the first-fruits, although it is written: Thy land,⁹ [from which it would follow that] thine only is subject but not what is held jointly, the Divine Law stated: The first-ripe fruits of all that is in their land.¹⁰ What then is the significance of 'thy land'? — It excludes land that is outside the Land [of Israel].¹¹

As regards the law of zizith,¹² although it is written: Thy covering,¹³ [from which it would follow that] thine only is subject but not what is held jointly, the Divine Law stated: In the corners of their garments.¹⁴ What then is the significance of 'thy covering'? — It is as Rab Judah said. For Rab Judah said: A borrowed garment is for the first thirty days exempt from zizith.¹⁵

As regards the law of the parapet,¹⁶ although it is written: For thy roof,¹⁶ [from which it would follow that] thine only is subject but not what is held jointly, the Divine Law stated: If any man fall from thence.¹⁷ What then is the significance of 'thy roof'? — It

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excludes the roofs of Synagogues and Houses of Study.¹⁸

R. Bibi b. Abaye said: These cases¹⁹ are all wrong,²⁰ for it has been taught: An animal that is held jointly is subject to the law of the firstling; R. Ila'i declares it exempt. What is the reason for R. Ila'i's view? — Because it is written: Thy herd and thy flock.²¹ But it is also written: Your herd and your flock.²² — That means of all Israel.²³

R. Hanina of Sura said: These cases are all wrong, for it has been taught: An animal that is held jointly is subject to the priestly dues; R. Ila'i declares it exempt. What is his reason? — He draws an analogy by means of the common expression 'giving' from the law of the first of the fleece; just as there what is held jointly is exempt so here what is held jointly is exempt. Now if you could say that in respect of Terumah [what is jointly held] is liable, then surely one would have to draw the analogy by means of the common expression 'giving' from Terumah.²⁴ This proves, therefore, that even in respect of Terumah [what is jointly held] is exempt. But²⁵ just as Terumah obtains in the Land [of Israel] only and not outside it so the law of the first of the fleece²⁶ should obtain in the Land only and not outside it!²⁷—

R. Jose of Nehar Bil said: It is indeed so; for it has been taught: R. Ila'i says: The law of the priestly dues obtains only in the Land [of Israel]. Likewise R. Ila'i used to say: The law of the first of the fleece obtains only in the Land. What is R. Ila'i's reason?—

Raba answered: He draws an analogy by means of the common expression 'giving' from Terumah; as Terumah obtains in the Land only and not outside it, so the law of the first of the fleece obtains in the Land only and not outside it. Said to him Abaye. Then just as Terumah produces the condition of tebel²⁸ so should the first of the fleece produce the condition of Tebel, should it

not? — He replied: Scripture says. And the first of the fleece of thy sheep shalt thou give him,²⁹ that is, you³⁰ have no right to it except after it has [been separated as] the first.³¹ Again just as Terumah is subject to the penalty of death³² and the additional fifth³³ so the first of the fleece should be subject to the death penalty and the additional fifth, should it not? —

Scripture says: And die for it,³⁴ and He shall add unto it;³⁵ that is, 'unto it' [he shall add the fifth] but not unto the first of the fleece; for it' [they shall die] but not for the first of the fleece. Again just as there follow after Terumah the first and second [tithes] so there should follow after the first of the fleece the first and second [tithes], should there not? —

Scripture says: 'The first', thus you have only [to give] the first [of the fleece]. Again just as in the case of Terumah one must not set aside new [grain as Terumah] for old³⁶ so in the case of the first of the fleece one should not give new [fleece as the due] for old? — This is indeed so; for it has been taught: If a man had two lambs and he sheared them and kept [the wool], and [next year] again sheared them and kept [the wool], and so he did for two or three years, they are not to be reckoned together.³⁷ It follows, however, that if he had five lambs³⁸ they would be reckoned together; yet [in another Baraitha] it has been taught that they would not be reckoned together. It is clear therefore that one [Baraitha] gives R. Ila'i's opinion³⁹ and the other that of the Rabbis.

Again just as with regard to Terumah it is the law that what grows [on land in the possession of] one subject⁴⁰ [to Terumah] is liable [to it], but what grows [on land in the possession of] one not subject⁴¹ [to Terumah] is exempt [from it], so it should be with regard to the first of the fleece: what grows on [sheep in the possession of] one subject to this law is liable, but what grows on [sheep in

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the possession of] one not subject to this law is exempt? (Whence do we know this with regard to Terumah? —

From the following [Baraita]⁴² which was taught: If an Israelite bought a field in Syria⁴³ from a gentile before the produce had reached a third of its growth, it is subject [to tithe]; if it had already reached a third of its growth,⁴⁴ R. Akiba declares the increase⁴⁵ subject [to tithe], but the Sages declare it exempt.) And should you say that this is indeed so,⁴⁶ but we have learnt: IF A MAN BOUGHT THE FLEECES OF A FLOCK BELONGING TO A GENTILE HE IS EXEMPT FROM THE LAW OF THE FIRST OF THE FLEECE, so it follows that if he bought the flock [with its fleece] which was ready for shearing he would be liable!⁴⁷

Our Mishnah

- (1) On that side, sc. the right, you must fix the Mezuzah. V. Men. 340 and Yoma 11b.
- (2) Ibid. XIV, 23.
- (3) Ibid. XII, 6.
- (4) Ibid. XVIII, 3.
- (5) Used here and also in connection with the first of the fleece: shalt thou give him (ibid. 4).
- (6) Ibid. XVIII, 3. The plural in this verse indicates that though the animal is held jointly by several people it is still subject to the dues.
- (7) By means of the common expression 'giving' which is also used in connection with Terumah (cf. Num. XVIII, 12), with the result that what is held jointly is subject to the dues. V. supra p. 775, n. 3.
- (8) V. supra 132a.
- (9) Deut. XXVI, 2.
- (10) Num. XVIII, 13.
- (11) From the law of the first-fruits. This would not have been excluded from the expression 'their land', and therefore Scripture says: Thy land which implies the specific land of the Israelite, the Land of Israel.
- (12) The fringes attached to the four corners of the garment; v. Num. XV, 38.
- (13) Deut. XXII, 12.
- (14) Num. ibid.
- (15) For it is not 'thy covering'; v. supra 110b.

(16) Cf. Deut. XXII, 8, where it enjoined to erect a parapet around the roof of the house to prevent accidental falling off.

(17) Ibid. Any roof from which one might fall had to be fenced, even though the roof was held jointly.

(18) For the verse implies the roof of a house used as a dwelling but not the roof of any other building.

(19) These cases enumerated by Raba in which R. Ila'i is said to agree that what is jointly held is subject to the law in question are to be disregarded.

(20) Since we find that R. Ila'i exempts what is jointly held from the law of the firstling, hence Raba's argument fails with regard to this; accordingly his arguments with regard to the others cannot be upheld.

(21) Deut. XV, 19.

(22) Ibid. XII, 6.

(23) To the exclusion of gentiles. On the other hand, wherever Scripture states 'thy' it excludes what is held jointly.

(24) In accordance with the established principle quoted supra p. 775, n. 3.

(25) Here commences a new argument. Since R. Ila'i derives the law of the first of the fleece from Terumah (cf. supra 135a, bot.) concerning what is held jointly with a gentile, the analogy must be carried to all its conclusions and the rules applying to the one should apply to the other. V. Rashi s.v. ם, and comments of Rashai, Maharsha and Maharam thereon. V. also Torath Hayyim a.l., and Gloss. of Bah.

(26) So in MS.M. and most MSS., and apparently also according to Rashi; in cur. edd. 'the priestly dues'. V. Maharam a.l.

(27) Which is contrary to our Mishnah.

(28) I.e., renders the whole produce forbidden to be eaten until the Terumah is separated therefrom.

(29) Deut. XVIII, 4.

(30) Sc. the priest.

(31) But before the first of the fleece has been set apart no priest has any claim to it, and consequently the condition of Tebel does not exist at all. This implication is made from the word 'first' which is redundant in the verse.

(32) If a non-priest deliberately ate Terumah, he is liable to the penalty of death at the hands of Heaven; v. Sanh. 83a.

(33) If a non-priest inadvertently ate Terumah, he must make restitution by paying the value thereof plus a fifth to the priest; cf. Lev. XXII, 14.

(34) Lev. XXII, 9.

(35) Ibid. 14.

(36) The produce of one year may not be given as Terumah or tithe for the produce of the preceding

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year, or vice versa, for it is written: That which is brought forth in the field year by year (Deut. XIV, 22).

(37) Even though he has now accumulated five fleeces; for there must be five fleeces from five sheep.

(38) And he sheared some one year and the rest the next year.

(39) The second Baraitha represents R. Ila'i's view that the fleece of one year's shearing cannot be reckoned together with that of another year's shearing, as is the case with the produce of Terumah.

(40) E.g., if an Israelite bought a field from a gentile.

(41) Sc. land in the possession of a gentile.

(42) Git. 47a.

(43) The Biblical Aram Zobah which was conquered by David and added by him to the Land of Israel (II Sam. VIII). It is not, however, regarded as the Land of Israel proper, and therefore what is owned there by a gentile constitutes full ownership so as to release it from the obligation of tithe. This is not the case with regard to land held by a gentile in the Land of Israel proper, v. Git. 47a.

(44) At which stage corn becomes liable to tithe, cf. Ma'as. I, 3.

(45) Sc. the last two-thirds of the growth; this increase is in fact a mixture of Tebel and Hullin.

(46) That fleece which had grown on sheep while in the possession of a gentile, although now in the possession of an Israelite, is exempt from the first of the fleece.

(47) Although the wool grew upon the sheep whilst they were in the possession of the gentile.

Chullin 136b

is not in accordance with R. Ila'i.¹ Again just as in the case of Terumah one may not give one kind [as Terumah] for another kind,² so in the case of the first of the fleece one should not give one kind [as the due] for another kind? (Whence do we know this in the case of Terumah? —

From the following [Baraitha] which was taught: If a man had two kinds of figs, black and white, likewise if he had two kinds of wheat, he may not give one kind as Terumah or as tithe for the other kind. R. Isaac reports in the name of R. Ila'i:³ Beth Shammai say that he may not give [one kind]

as Terumah [for another kind], but Beth Hillel say that he may.) So in the case of the first of the fleece one should not be permitted to give one kind [as the due] for another kind! — This is indeed so, for we have learnt: IF HE HAD TWO KINDS OF WOOL, GREY AND WHITE, AND HE SOLD THE GREY BUT NOT THE WHITE... EACH MUST GIVE [THE FIRST OF THE FLEECE] FOR HIMSELF.⁴ But if so, in the last clause which reads: IF HE SOLD THE WOOL OF THE MALES BUT NOT OF THE FEMALES EACH MUST GIVE THE FIRST OF THE FLEECE FOR HIMSELF, is the reason also because they are two different kinds?⁵

We must therefore say⁶ that the Tanna was merely giving a piece of good advice, viz., that he⁷ should give him of the hard as well as the soft wool;⁸ likewise in the former clause he also gives a piece of good advice, viz., that he should give him of both kinds!⁹ — We have already stated that our Mishnah is not in accordance with R. Ila'i. Again just as in the case of Terumah there must be a 'first offering' such as leaves a perceptible remainder,¹⁰ so in the case of the first of the fleece there should also be a 'first offering' such as leaves a perceptible remainder, should there not? —

This is indeed so; for we have learnt:¹¹ If a man said: 'Let all [the corn in] my threshing floor be 'Terumah', or 'Let all my dough be dough-offering', his words are of no effect. It follows, however, that if he said: 'Let all my fleeces be the first of the fleece', his words would hold good; yet another [Baraitha] taught that his words are of no effect. It is clear therefore that one [Baraitha] gives R. Ila'i's opinion¹² and the other that of the Rabbis. R. Nahman b. Isaac said: Nowadays the world has adopted the views of the following three Elders: that of R. Ila'i with regard to the first of the fleece, for it has been taught: R. Ila'i says: The law of the first of the fleece¹³ obtains only in the Land [of

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Israel]; that of R. Judah b. Bathyra with regard to the words of the Torah, for it has been taught: R. Judah b. Bathyra says: The words of the Torah do not contract uncleanness;¹⁴ and that of R. Josiah with regard to diverse kinds,¹⁵ for it has been taught: R. Josiah says: A man does not incur guilt [for the infringement of this law]¹⁵ until he sows wheat, barley and grape-kernels with one throw of the hand.

THE LAW OF THE SHOULDER... IS MORE STRICT, etc. Wherefore does not the Tanna state that the law of the first of the fleece is more strict in that it applies to a Trefah animal, which is not so with regard to the priestly dues?¹⁶ — Rabina said: The author [of the view in our Mishnah] is R. Simeon, for it has been taught: R. Simeon exempts Trefah animals from the first of the fleece. What is the reason for R. Simeon's view? — He draws an analogy by means of the common expression 'giving' from the priestly dues; just as the priestly dues do not apply to a Trefah animal¹⁶ so the law of the first of the fleece does not apply to Trefah animals. But since he draws an analogy by means of the common expression 'giving' from the priestly dues, he should also draw an analogy by means of this common expression 'giving' from Terumah: just as Terumah obtains only in the Land [of Israel] but not outside it so the law of the first of the fleece obtains only in the Land [of Israel] but not outside it. Wherefore then have we learnt: **THE LAW OF THE FIRST OF THE FLEECE APPLIES BOTH WITHIN THE HOLY LAND AND OUTSIDE IT?** —

Rather we must say that this is the reason for R. Simeon's view: he draws an analogy by means of the common expression 'sheep' from the [cattle] tithe:¹⁷ just as the tithe does not apply to a Trefah animal so the law of the first of the fleece does not apply to a Trefah animal. And whence do we know it there?¹⁸ — For it is written: Whatsoever passeth under the rod,¹⁷ thus excluding a

Trefah animal since it cannot pass under [the rod].¹⁹ And wherefore does he [R. Simeon] not draw an analogy by means of the common expression 'sheep' from the firstling:²⁰ just as the law of the firstling also applies to a Trefah animal²¹ so the law of the first of the fleece also applies to a Trefah animal? —

It is more logical to draw the analogy from the cattle tithe, because they²² are alike in the following points: (i) males,²³ (ii) unclean animals,²⁴ (iii) quantity,²⁵ (iv) sanctity from the womb,²⁶ (v) mankind,²⁷ (vi) ordinary,²⁸ and (vii) before the Revelation.²⁹ On the contrary, should not the analogy be drawn rather from the law of the firstling, since they are alike in the following points: — (i) orphan-beast,³⁰ (ii) bought, (iii) held jointly, (iv) given,³¹ (v) during the existence of [the Temple],³² (vi) priestly endowment,³³

(1) For according to R. Ila'i if an Israelite bought flocks from a gentile with fleeces that were ready to be shorn he would be exempt.

(2) Even though both kinds are of the same species; cf. infra black figs and white figs.

(3) MS.M. and also in Tosef. Ter. II, 'R. Eleazar'.

(4) This case proves the rule that one may not give the fleece from one kind as the due for other kinds. For if this were not so, the seller alone would be liable to give the due both in respect of what he sold and of what he retained, in accordance with the preceding clause of the Mishnah: **IF THE SELLER KEPT BACK SOME FOR HIMSELF, THE SELLER IS LIABLE**; for since the various kinds count as one with regard to the priestly due it would be regarded as though the seller had retained some for himself, and only he would be liable.

(5) It would be absurd to regard the males and females of sheep as different kinds.

(6) Male and female sheep certainly count as one kind, and therefore the seller, having kept back some, viz., the females, for himself, is in fact solely liable to give the first of the fleece to the priest.

(7) Sc. the seller.

(8) The wool of male sheep is harder and therefore of less value than that of females. The seller is, in our Mishnah, advised for his own advantage to buy back some of the wool of the males from the purchaser, so as not to have to give soft and more expensive wool to the priest in

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respect of the hard wool of the male now in possession of the purchaser.

(9) For the seller is solely liable, inasmuch as the two colors of wool count as one kind and he retained one color for himself. Consequently the reason of the Mishnah is not, as R. Ila'i suggested, because one may not give one kind as due for another kind.

(10) I.e., part thereof is set aside as Terumah and the rest is common produce, but the whole produce is not to be Terumah; cf. Ter. IV, 5.

(11) Hal. I, 9.

(12) Sc. the latter Baraita represents the view of R. Ila'i that with regard to the first of the fleece, as with Terumah, there must be a perceptible remainder.

(13) Likewise the priestly dues of the shoulder, the two cheeks, and the maw (Rashi).

(14) And therefore a man that has suffered a seminal emission may occupy himself with the study of the Torah; cf. Ber. 220.

(15) Cf. Deut XXII, 9.

(16) For with regard to the priestly dues it is written: They shall give unto the priest, that is, the dues shall be fit for the priest to be eaten by him and not for his dog only.

(17) Cf. Lev. XXVII, 32: And all the tithe of cattle and sheep, whatsoever passeth under the rod, the tenth shall be holy unto the Lord. With regard to the law of the first of the fleece the word 'sheep' is also written, cf. Deut. XVIII, 4.

(18) That the cattle tithe does not apply to a Trefah animal.

(19) E.g., an animal whose hind-legs were cut off above the knee-joint (v. supra 76a). And so all Trefah animals are exempt.

(20) Cf. Deut. XV, 19: All the firstling males that are born of thy cattle and of thy sheep thou shalt sanctify unto the Lord.

(21) A firstling that is born a Trefah is nevertheless sacred, and must be buried.

(22) Sc. the cattle tithe and the first of the fleece.

(23) These two laws — Sc. the cattle tithe and the first of the fleece — apply not only to male but also to female animals, whereas the firstling applies only to the males.

(24) They do not apply to unclean animals, whereas the firstling of an ass is also sacred.

(25) They require a minimum number of animals for the law to apply; for the first of the fleece there must be at least five sheep, and for the cattle tithe there must be ten animals, whereas one single firstling is sacred.

(26) They are not sacred when born, like the firstling.

(27) They do not apply to human beings, whereas the first-born of man is holy.

(28) They only apply to ordinary animals, i.e., not firstlings.

(29) These two laws were first promulgated on Mount Sinai at the giving of the Torah, whereas the law of the firstling was made known to Israel, whilst still in Egypt, cf. Ex. XIII, 2ff.

(30) An orphan, i.e., a beast whose dam died or was slaughtered at the very moment that it was born, is sacred if a firstling, and is subject to the law of the first of the fleece, but is exempt from the cattle tithe.

(31) Animals bought or held jointly or received as a gift are subject to the law of the firstling and to the first of the fleece but are exempt from the cattle tithe. V. Bek. 55b, 56b.

(32) בפני (הבית) לפני These apply at all times both during the existence of the Temple and after it, whereas the cattle tithe does not operate nowadays; cf. Bek. 53a. V. however, Tosaf. s.v. לפני.

(33) The firstling and the first of the fleece are to be given to the priest, whereas the cattle tithe is consumed by the owner like peace-offerings.

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(vii) sacred,¹ and (viii) sold,² and these have more points in common? — It is preferable to draw the analogy from ordinary animals.³

THE LAW OF THE FIRST OF THE FLEECE APPLIES ONLY TO SHEEP. Whence is this derived? — R. Hisda said: An inference is made by means of the common expression 'fleece'; it is written here: The first of the fleece,⁴ and it is written there: And if he were not warned with the fleece of my sheep;⁵ just as there it is [the fleece of], sheep, so here it refers to [the fleece of] sheep. Should not the inference rather be made by means of the common expression 'fleece' from the law of the firstling? For it has been taught:⁶ From the verse: Thou shalt do no work with the firstling of thine ox, nor shear the fleece of the firstling of thy sheep,⁷ I only know that an ox [may not be put] to any work and that the sheep [may not be] shorn, whence do I know to apply the restriction of the one to the other? The text therefore states: Thou shalt do no work... nor shear!⁸ —

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Scripture says: ‘Thou shalt give him’, and not for his sack.⁹ If so, then goats’ hair should also be subject to this law, should it not?¹⁰ — It is necessary that it be shorn, which is not the case [with goats’ hair].¹¹ But whom, have you heard, holding this view?¹² It is R. Jose, is it not?¹³ And R. Jose agrees that what is the general practice [is included].¹⁴ — As R. Joshua b. Levi said elsewhere,¹⁵ The expression ‘to stand to minister’¹⁶ indicates something serviceable for ministering, so here too, it must be something serviceable for ministering.¹⁷ What then is the significance of the analogy by reason of the common expression ‘fleece’? — It is in respect of the following teaching of a Tanna of the school of R. Ishmael. For a Tanna of the school of R. Ishmael taught:¹⁸ Sheep with hard wool are exempt from the law of the first of the fleece, since it is written: And if he were not warmed with the fleece of my sheep.¹⁹

One [Baraita] teaches: If a man shears the [hair of] goats or washes the sheep [and plucks their wool] he is exempt from the first of the fleece.²⁰ Another [Baraita] teaches: If a man shears the [hair of] goats he is exempt from the first of the fleece; if he washes the sheep [and then plucks their wool] he is liable. There is, however, no difficulty; for one [Baraita] sets forth R. Jose’s view,²¹ the other that of the Rabbis. For it has been taught: Scripture says: The gleaning of thy harvest,²² but not the gleaning of plucking.²³ R. Jose says: Gleaning is only that which falls at the reaping.²⁴ Is not R. Jose’s view identical with that of the first Tanna? —

The whole of the Baraita sets forth R. Jose’s view, render therefore, ‘For R. Jose says: Gleaning is only that which falls at the reaping’. R. Aha the son of Raba said to R. Ashi: R. Jose nevertheless agrees that what is the general practice [is included].²⁵ For it has been taught: R. Jose says, [Scripture states:] Harvest²² from which I only know that reaping [is subject to the law of gleanings];

whence would I know uprooting?²⁶ The text therefore states: To reap.²² And whence would I know plucking?²⁶ The text therefore states: When thou reapest.²⁷ Rabina said to R. Ashi: We have also learnt the same:²⁸ If rows of onions are planted among vegetables, R. Jose says: ‘The corner’ must be left in each [row].²⁹ But the Sages say: In one for all.

WHAT IS MEANT BY ‘MANY’? Now Beth Shammai’s view is clear, for [we see that] two sheep are also referred to as *zon*,³⁰ but what is the reason for Beth Hillel’s view? — R. Kahana answered: The verse says: Five sheep ready dressed,³¹ that is, ‘ready’ [now]³² for the fulfillment of two precepts, viz., the first of the fleece and the priestly dues. But perhaps it refers to the law of the firstling and the priestly dues? — [This cannot be, for] is not one [sheep] subject to the law of the firstling? Then according to your suggestion [it can also be asked:] Is not one [sheep] subject to the priestly dues? —

Rather, said R. Ashi, the verse says: ‘Five sheep ready dressed’, that is, they bid their owner to be ready, addressing him, ‘Up, perform the commandment’.³³ It was taught: R. Ishmael son of R. Jose says in the name of his father,³⁴ Four [sheep are subject to the law of the first of the fleece], as it is written: Four sheep for a sheep.³⁵ It was taught: Rabbi said: Had their³⁶ views been based on words from the Torah and Beribbi’s³⁷ view on words from the prophets, we should nevertheless have had to adopt Beribbi’s view,³⁸ how much more now that their views are based on words from the Prophets and Beribbi’s view on words of the Torah! But has not a Master said,³⁹ A compromise of a third [independent opinion] is no true compromise?⁴⁰

(1) The firstling and the first of the fleece have not to be consecrated, the former because it is sacred from the womb and the latter because it has no sanctity whatsoever, whereas the cattle tithe must be consecrated with the rod.

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(2) These may be sold by the priest, but the cattle tithe may neither be sold nor exchanged, v. Bek. 320.

(3) Rather than from a firstling.

(4) Deut. XVIII, 4.

(5) Job XXXI, 20.

(6) Bek. 250.

(7) Deut. XV, 19.

(8) These verbs stated at the head of the sentence imply that the prohibition is general and not restricted to the specific objects mentioned in the verse. It follows then that it is forbidden to shear 'the fleece' (i.e., the hair) of an ox; consequently by analogy with the firstling 'the fleece' of an ox should also be subject to the law of the first of the fleece.

(9) Deut. XVIII, 4. It must be given to the priest for his use, i.e., for clothing; the fleece of an ox, however, is not usually made into clothing but used for making sacks.

(10) Since goats' hair is suitable to be made into cloth.

(11) The common practice is to pluck the hair off the goats and not to shear it.

(12) That the words of the Torah must be given their strictest meaning, so that the word 'fleece' from root נָחַל to shear, implies only what is shorn.

(13) V. infra.

(14) And since goats' hair is generally plucked, what is plucked is deemed to be its 'fleece' and therefore should be subject to the law of the first of the fleece!

(15) Infra 1380.

(16) Deut. XVIII, 5. This verse follows immediately after the one enjoining the law of the first fleece.

(17) I.e., the fleece referred to in the preceding verse 4 must be such as could be used for the priestly robes of service, and the blue wool in the priestly garments was of sheep's wool and not of goats' hair.

(18) Bek. 17a.

(19) Job. XXXI, 20. Hence only soft wool which gives warmth is subject to the law of the first of the fleece, but not hard wool; this rule is established by reason of the analogy through the expression 'fleece'.

(20) The usual practice is to shear the wool of the sheep, and to pluck the hair of the goats after they have been washed in water so that the hair should come away more easily. Any person who acts contrary to these practices is exempt from giving the first of the fleece.

(21) The first Baraita represents the view of R. Jose who applies the strictest meanings to the terms of Scripture.

(22) Lev. XIX, 9.

(23) If a man harvested his field by plucking with his hand the ears of corn he is not subject to the law of gleanings.

(24) Lit., 'which comes on account of the harvest'.

(25) And with many vegetables, e.g., onions and garlic, plucking is the normal method of 'ingathering', and renders the field subject to the law of 'the corner'.

(26) Is also subject to the law of gleanings.

(27) Lev. XXIII, 22. This as well as the 'preceding expression 'to reap' is redundant in the verse and serves to include every manner of 'harvesting' which is the usual practice with regard to the particular plants.

(28) Pe'ah III, 4.

(29) Of all vegetables only onions and garlic are subject to the law of 'the corner'. Here, since the other vegetables separate the rows of onions from each other, each row, maintains R. Jose, is deemed a separate field and therefore each is subject to the law of 'the corner'. It is clear, however, that that which is usually plucked, as onions, is subject to the law of the corners.

(30) תַּרְסָא, 'flock'; in the verse quoted by him in the Mishnah; Isa. VII, 21.

(31) I Sam. XXV, 18.

(32) Since there is the required minimum of five sheep.

(33) This can only refer to the law of the first of the fleece for which, as is apparent from the verse, there must be a minimum of five sheep; for the law of the firstling and the priestly dues apply even to a single sheep.

(34) So according to Rashi, Alfasi and MSS. In cur. edd. 'In the school of R. Ishmael b. R. Jose it was said in the name of his father'.

(35) Ex. XXI, 37. Here the word תַּרְסָא is used of four sheep.

(36) Sc. the views of Beth Shammai and of Beth Hillel in our Mishnah.

(37) A title of honor applied to scholars of eminence; here applied to R. Jose. V. supra p. 52, and J.E. III, p. 52.

(38) Since it is assumed for the present that Beribbi's view is in the nature of a compromise, i.e., not so many as five as Beth Hillel would have it; nor so few as two as Beth Shammai, but four.

(39) Pes. 21a; Naz. 53a; B.K. 116a.

(40) And cannot be accepted as the final decision. Here Beribbi's view is not a true compromise, for it does not adopt any of the arguments of the conflicting Rabbis, but constitutes a third independent opinion opposed in its entirety to each of the other opinions.

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— R. Johanan said: He¹ had it as a tradition deriving from Haggai, Zechariah and Malachi.²

R. DOSA B. HARKINAS SAYS... [WHATEVER THEIR FLEECES WEIGH]. What is meant by 'WHATEVER'? — Rab said, [At least] a maneh and a half,³ provided each supplies [no less than] a fifth⁴ [of this quantity]. Samuel said, [At least] sixty [sela's], and he gives thereof one sela' to the priest. Rabbah b. Bar Hana said in the name of R. Johanan, [At least] six [sela's], and he gives five to the priest and retains one for himself.

Ulla said in the name of R. Eleazar: Our Mishnah expressly says: **WHATEVER.**⁵ We have learnt: **AND HOW MUCH SHOULD ONE GIVE HIM? THE WEIGHT OF FIVE SELA'S IN JUDAH, WHICH IS EQUAL TO TEN SELA'S IN GALILEE.** Now this is in order according to the views of Rab and R. Johanan,⁶ but it surely presents a difficulty, does it not, to Samuel and R. 'Eleazar?⁷ — Then, as you would have it, it also presents a difficulty to Rab? For did not Rab and Samuel both rule that the proper measure for the first of the fleece is one sixtieth part?⁸ But the fact is as has already been taught in connection with this [Mishnah] that Rab and Samuel both said; it⁹ speaks of the case of an Israelite who has many fleeces and who wishes to distribute them¹⁰ among a number of priests, and we tell him that he must not give less than the weight of five sela's to each.

[To turn to] the main text. 'Rab and Samuel both ruled: The proper measure for the first of the fleece is one sixtieth part, for Terumah one sixtieth part, and for the "corner" one sixtieth part'. 'For Terumah one sixtieth part'. But we have learnt: The proper measure for Terumah, if a man is liberal, is one fortieth part?¹¹ — According to the law

of the Torah the measure is one sixtieth part,¹² but by Rabbinic enactment it is one fortieth part. But has not Samuel stated that one grain of wheat frees the stack?¹³ —

The law of the Torah is as Samuel stated it;¹⁴ but the Rabbinic enactment is that in respect of that which is subject [to Terumah] by the Torah¹⁵ the measure is one fortieth part, and in respect of that which is subject [to Terumah] only by the Rabbis¹⁶ the measure is one sixtieth part. 'For the "corner" one sixtieth part'. But we have learnt:¹⁷ These are the things which have no fixed measure: the corner [of the field], the first-fruits, and the appearance-offering!¹⁸—

By law of the Torah there is no fixed measure, but by Rabbinic enactment it is fixed as one sixtieth part. Then what does he teach us? We have learnt it: The corner should not be less than one sixtieth part, even though they have said that no fixed measure is prescribed for the corner!¹⁹ — That gives the rule for the Land [of Israel], here [Rab and Samuel] give the rule for outside the Land [of Israel].

When Isi b. Hini went up [to Palestine], R. Johanan found him teaching his son [our Mishnah and using the term] rehelim.²⁰ He [R. Johanan] said to him, 'Use the term reheloth'.²¹ The other retorted, 'But it is written: Two hundred rehelim'.²² He replied: 'The Torah uses its own language and the Sages their own'.²³ He [R. Johanan] then enquired, 'Who is the head of the Academy²⁴ in Babylon?' 'Abba Arika',²⁵ he replied. 'And you simply call him Abba Arika'!²⁶ said [R. Johanan]. 'I remember when I was sitting before Rabbi, seventeen rows behind Rab, seeing sparks of fire leaping from the mouth of Rabbi into the mouth of Rab and from the mouth of Rab into the mouth of Rabbi, and I could not understand what they were saying; and you simply call him Abba Arika!' Then the other asked, 'What is the minimum quantity

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subject to the law of the first of the fleece?' — 'Sixty [sela's]', he replied. 'But', said the other, 'we have learnt: **WHATEVER [THEIR FLEECES WEIGH]!**' 'Then what difference is there between me and you'?²⁷ he retorted.

When R. Dimi came [from Palestine] he reported: With regard to the first of the fleece, Rab said: Sixty;²⁸ R. Johanan said in the name of R. Jannai: Six.²⁹ Thereupon Abaye said to R. Dimi: One opinion is quite in order, but the other presents to us a difficulty. There is indeed no contradiction between the one opinion of R. Johanan and the other, for one is his own opinions the other that of his master;³⁰ but surely there is a contradiction between this opinion of Rab and the other, for Rab has said: At least a maneh and a half!³¹ — There is also no contradiction between this opinion of Rab and the other, for by 'a maneh' he meant [a maneh] of forty sela's, so that [a maneh and a half] is equal to

- (1) R. Jose.
- (2) And therefore his opinion should be accepted as final.
- (3) From the five sheep there must be a minimum quantity of wool, of one maneh and a half in order to be subject to the law of the first of the fleece. This quantity equals thirty-seven and a half sela's (one maneh twenty-five sela's).
- (4) No sheep shall supply less than seven and a half sela's of wool.
- (5) Whatever quantity of wool the five sheep produce, even though only one sela' in all, it is subject to this law.
- (6) For R. Johanan expressly stated that five sela's weight shall be given to the priest in every case, even out of a total of six sela's! Rab also agrees with the ruling of the Mishnah that five sela's' weight must be given to the priest, but he merely establishes the minimum quantity of wool that is subject to this law.
- (7) For according to Samuel the quantity of one sela' only, and according to Ulla even less, shall be given to the priest.
- (8) I.e., the amount to be given to the priest shall not be less than one sixtieth part of the whole; whereas now it is suggested, according to Rab, that out of a total of thirty-seven and a half sela's

five shall be given to the priest, almost one-seventh!

(9) The statement of the Mishnah FIVE SELA'S does not purport to establish this amount as the minimum quantity to be given to the priest, for this is fixed at one sixtieth in accordance with the ruling of Rab and Samuel.

(10) Sc. the sixtieth part.

(11) V. Ter. IV, 3, where the Mishnah continues: If he is mean it is one sixtieth part. Surely Rab and Samuel would not adopt as the general standard the measure given in the case of a mean person.

(12) This is indicated in Ezek. XLV, 13: This is the heave offering (Terumah) which ye shall offer; the sixth part of an ephah (i.e., half a se'ah) from an homer of wheat (i.e., thirty se'ah). That is one sixtieth part.

(13) The obligation of Terumah can be discharged by the removal of one grain from the heap, since the Torah does not prescribe any specific amount.

(14) That one grain discharges the obligation of Terumah.

(15) Viz., corn, wine, and oil; cf. Deut. XVIII, 4.

(16) Viz., other fruits (besides the vine) and vegetables.

(17) Pe'ah I, 1.

(18) Heb. ראיון. The offerings to be brought on appearing before the Lord at the three Festivals (in accordance with Deut. XVI, 16: They shall not appear before the Lord empty) are not limited in their value; but see Hag. 20.

(19) Pe'ah I, 2.

(20) In the ruling of R. Dosa b. Harkinas. רחלים, the plural of רחל (a ewe, lamb) with the masculine plural ending im.

(21) רחלות with the feminine plural ending oth.

(22) Gen. XXXII, 15.

(23) In the speech of the Rabbis there is a marked tendency to adopt the plural ending oth in place of the ending im with which the same words are found in the Bible. Cf. the plural of 'המון' קרבן', etc.

(24) ריש סדרא; identified by Zuri (תולדות המשפט) pp. 247ff) as the Archi Synagogis, the supreme authority over the synagogues. V. Sot., (Sonc. ed.) p. 202, n. 5.]

(25) Sc. Rab. The surname Arika 'long' was given to him because of his tall physical stature, cf. Nid. 24b. Others regard Arika as a title of honor; v. Jast. s.v., and Weiss Dor, III, 247.

(26) And not by the generally accepted title of 'Rab', the Master, par excellence.

(27) 'If I do not know the interpretation of the Mishnah, then I am no better than you'. The Mishnah by the expression **WHATEVER**' assumed a minimum of sixty sela's so that the priest would receive at least one sela'.

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(28) The weight of sixty sela's is the minimum quantity subject to the law of the first of the fleece. Or: the amount to be given to the priest must be one sixtieth part of the whole.

(29) In MS.M. 'sixty'. V. Maharam a.l.

(30) In fact there is an apparent contradiction between two statements of R. Johanan. Above it has been stated: 'Rabbah b. Bar Hana said in the name of R. Johanan: At least six sela's', but subsequently we read that R. Johanan told Isi b. Hini that there must be at least sixty sela's in order to be subject to the law of the first of the fleece. The report of R. Dimi however clears up this contradiction, for it is manifest that the former statement was not the personal view of R. Johanan but that of his teacher R. Jannai, and R. Dimi expressly reported it so.

(31) I.e., there must be a maneh and a half — thirty-seven and a half sela's — to be subject to the law of the first of the fleece, whereas according to R. Dimi Rab ruled that there must be a minimum of sixty sela's. According to the second interpretation (v. p. 790, n. 9) the contradiction between Rab is this: Rab is reported by R. Dimi to have ruled that the measure for the first of the fleece is one sixtieth part, whereas previously Rab ruled that out of thirty-seven and a half sela's, the minimum quantity that is subject to the law of the first of the fleece, one sela', which is the very least that would constitute 'giving's must be given to the priest.

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sixty sela's. But do we know of any Tanna that refers to a maneh of forty sela's? — We do, indeed; for it has been taught: A new¹ water-skin, even though it can hold pomegranates, is clean; if it had been sewn and then was torn, [it thereby becomes clean provided the rent was of] such a size as to let through pomegranates. R. Eliezer b. Jacob says: Of such a size as to let through a warp-clew [which weighs] one fourth part of a maneh of forty sela's.²

AND NOW MUCH SHOULD ONE GIVE HIM... [OF BLEACHED WOOL]. A Tanna taught: It does not mean that one must first bleach it and give it him, but that after the priest has bleached it there should be the weight of five sela's.³

SUFFICIENT TO MAKE FROM IT A SMALL GARMENT. Whence is this derived? — R. Joshua b. Levi said: The expression 'to stand to minister'⁴ indicates that it must be something serviceable for ministering, and that is, the girdle.⁶ Perhaps it is the robe [that is meant]? — If you grasp a lot, you cannot hold it; if you grasp a little, you can hold it.⁷ Perhaps it is the woolen cap [that is meant]? For it has been taught: Upon the High Priest's head there lay a woolen cap upon which was placed the plate [of gold], in order to fulfill literally what is said: And thou shalt put it on a lace of blue wool!⁸ — The verse says: Him and his sons,⁹ that is, an article worn alike by Aaron and his sons.¹⁰ But the girdle is not worn alike [by High Priest and priest], is it? This, however, presents no difficulty to him who holds that the girdle worn by the High Priest [on the Day of Atonement]¹¹ was not similar to that worn by an ordinary priest [the whole year round];¹² but what can be said according to him who holds that the girdle worn by the High Priest [on the Day of Atonement] was similar to that worn by an ordinary priest [the whole year round]?¹³ — The name girdle, however, is to be found with each.¹⁴

IF THE OWNER DID NOT MANAGE TO GIVE, etc. It was stated: If a man sheared the first [sheep] and immediately sold it,¹⁵ R. Hisda says: He is liable [to give the first of the fleece]; but R. Nathan b. Hoshai'a says: He is exempt. 'R. Hisda says: He is liable', because he has shorn;¹⁶ 'R. Nathan b. Hoshai'a says: He is exempt', because at the time that the requisite quantity has been reached one must be able to refer to [the sheep as] 'thy sheep', and this is not the case here.¹⁷

We have learnt: IF A MAN BOUGHT THE FLEECES OF A FLOCK BELONGING TO A GENTILE, HE IS EXEMPT FROM THE LAW OF THE FIRST OF THE FLEECE. It follows from this that if [he acquired] the flock for [the time that he was] shearing, he

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would be liable [to the first of the fleece].¹⁸ But why? Does not each sheep leave his possession after it has been shorn?¹⁹ — R. Hisda interpreted this according to the view of R. Nathan b. Hoshaiia as follows: He²⁰ granted him possession of the flock for thirty days.²¹

IF A MAN BOUGHT THE FLEECE OF A FLOCK BELONGING TO HIS NEIGHBOUR, [AND THE SELLER KEPT BACK SOME FOR HIMSELF, THE SELLER IS LIABLE]. Who is the authority that holds that where the seller keeps back some for himself we turn to the seller?²² —

R. Hisda said: It is R. Judah, for we have learnt:²³ If a man sold single trees²⁴ in his field, the buyer must leave the ‘Corner’ from each tree.²⁵ R. Judah said: This applies only if the owner of the field had not kept back [any tree for himself], but if the owner of the field had kept back some for himself he must leave the ‘Corner’ for the whole.²⁶

Raba said to him: But did not the Master himself say: ‘Provided the owner of the field had begun to reap’?²⁷ And if you were to suggest in this case, too, ‘Provided the owner of the sheep had begun to shear,’²⁸ [I reply that the cases are not alike]. For it is right in that case, since it is written: And when ye reap the harvest of your land;²⁹ that is, the moment one begins to reap one becomes bound to leave the ‘Corner’ for the whole field; but in this case, the moment one begins to shear one does not become liable for the whole flock.³⁰ —

Rather, said Raba: It is the following Tanna, for we have learnt:³¹ If a man said: ‘Sell me the entrails of this cow’, and among them were the priestly dues, he³² must give them to the priest, and [the seller] need not allow any reduction in the purchase price on that account. But if he bought them from him by weight, he must give them to a priest, and

[the seller] must allow a reduction in the price on that account.

(1) I.e., unfinished; the skin had not yet been sewn up completely and therefore it cannot contract uncleanness, for it is an unfinished article.

(2) Cf. Kel. XVII, 1, 2.

(3) I.e., it is not incumbent upon an Israelite to give the priest bleached wool, but he must estimate such a quantity as would, after bleaching, make up five sela's weight.

(4) Deut. XVIII, 5; this verse follows immediately after the law of the first of the fleece.

(5) Sc. the first of the fleece given to the priest.

(6) Which is the smallest article among the priestly robes, and could be woven out of five sela's of wool.

(7) A proverbial saying. I.e., where there are two possible inferences always select that which gives the smaller result. V. Rashi s.v. תפשת.

(8) Ex. XXVIII, 37.

(9) Deut. XVIII, 5.

(10) Whereas the woolen cap was worn by the High Priest only.

(11) Which was of linen only, cf. Lev. XVI, 4.

(12) V. Yoma 6a. For the whole year round both the High Priest and the ordinary priest wore a girdle of wool and linen combined, cf. Ex. XXXIX, 29; so that a woolen girdle is a garment worn alike by priest and High Priest.

(13) I.e., both were of linen, and only the High Priest wore a girdle of wool and linen (except on the Day of Atonement); so that it cannot be said that the ‘woolen girdle’ was worn alike by ‘Aaron and his sons’.

(14) Lit., ‘is in the world’. Both the High Priest and ordinary priests were alike in that they wore girdles although the material in each case was different.

(15) Sc. the sheep, and so he did with all his sheep (Rashi and R. Nissim). V., however Maim. Yad, Bikkurim, X, 15.

(16) The requisite number of sheep; and at the time of shearing each sheep was still his, and it is in accordance with the precept of the Torah ‘The first of the fleece of thy sheep’.

(17) For when the obligation of the first of the fleece falls due, namely with the shearing of the fifth sheep, the owner has already sold the first four sheep.

(18) The reason for the exemption in the Mishnah is that the sheep at no time belonged to the shearer, but if they did belong to him, even if only temporarily, he would be liable.

(19) This clearly is in conflict with R. Nathan b. Hoshaiia.

(20) Sc. the gentile.

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(21) The case was not, as assumed, that immediately after the shearing of each sheep that sheep reverted to its owner, but that the ownership in all the sheep remained with the Israelite for thirty days, or for any period until the end of all the shearing.

(22) I.e., the obligation to give the first of the fleece to the priest lies entirely upon the seller.

(23) Pe'ah. III, 5.

(24) Lit., 'trunks of trees', meaning single trees, but not several trees together with the land between them.

(25) For each tree is regarded as a separate entity, and each is subject to the law of the 'Corner'.

(26) Thus the obligation of leaving the 'Corner', even in respect of the trees actually sold, lies upon the seller, since he kept back some for himself. This view therefore corresponds with the view in our Mishnah.

(27) I.e., he had begun to gather in the fruits before he had sold any of the trees; in that case the duty of the 'Corner' lay upon him in respect of the entire field.

(28) Only then is the seller liable to give the priest's due.

(29) Lev. XIX, 9.

(30) The obligation of the first of the fleece arises only after the shearing, for Scripture does not use the expression here 'And when ye shear'.

(31) V. supra 132a.

(32) The purchaser.

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Hence it is clear that no man sells the priestly dues; here, too, the priest's due no man sells.¹ Therefore, if the seller kept back [some fleece for himself] the seller is solely liable [to give the first of the fleece], for the buyer can say to him, 'The priest's due still remains with you'. If he did not keep back anything for himself the buyer is liable,² for the seller can say to him, 'I never sold you the priest's due'.

CHAPTER XII

MISHNAH. THE LAW OF LETTING [THE DAM] GO FROM THE NEST³ IS IN FORCE BOTH WITHIN THE HOLY LAND AND OUTSIDE IT, BOTH DURING THE EXISTENCE OF THE TEMPLE AND AFTER

IT, IN RESPECT OF UNCONSECRATED BIRDS BUT NOT CONSECRATED BIRDS. THE LAW OF COVERING UP THE BLOOD⁴ IS OF WIDER APPLICATION THAN THE LAW OF LETTING THE DAM GO; FOR THE LAW OF COVERING UP THE BLOOD APPLIES TO WILD ANIMALS AS WELL AS BIRDS, WHETHER THEY ARE AT ONE'S DISPOSAL⁵ OR NOT, WHEREAS THE LAW OF LETTING [THE DAM] GO FROM THE NEST APPLIES ONLY TO BIRDS AND ONLY TO THOSE WHICH ARE NOT AT ONE'S DISPOSAL.

WHICH ARE THEY THAT ARE NOT AT ONE'S DISPOSAL? SUCH AS GEESE AND FOWLS THAT MADE THEIR NESTS IN THE OPEN FIELD;⁶ BUT IF THEY MADE THEIR NESTS WITHIN A HOUSE OR IN THE CASE OF HERODIAN DOVES,⁷ ONE IS NOT BOUND TO LET [THE DAM] GO. AN UNCLEAN BIRD ONE IS NOT BOUND TO LET GO. IF AN UNCLEAN BIRD WAS SITTING ON THE EGGS OF A CLEAN BIRD, OR A CLEAN BIRD ON THE EGGS OF AN UNCLEAN BIRD, ONE IS NOT BOUND TO LET IT GO. AS TO A COCK PARTRIDGE,⁸ R. ELIEZER SAYS ONE IS BOUND TO LET IT GO, BUT THE SAGES SAY ONE IS NOT BOUND.

GEMARA. R. Abin and R. Meyasha [taught the following:] One said that the expression 'both within the Holy Land and outside it'⁹ was in every case unnecessary,¹⁰ except in [the Mishnah of] 'The first of the fleece',¹¹ [where it had to be stated] in order to exclude the view of R. Ila'i, who holds that the law of the first of the fleece obtains only in the Land of Israel.¹² The other said, the expression 'both during the existence of the Temple and after it'⁹ was in every case unnecessary, except in [the Mishnah of] 'It and its young', [where it had to be stated,] for I might have argued that, since that law is stated in connection with laws concerning sacrifices,¹³ it is in force only as long as sacrifices continue but it is not in force once sacrifices are no more, [the Tanna] therefore

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found it necessary to teach us [that it is binding for all time].

Furthermore both said that the expression ‘in respect of unconsecrated and consecrated animals’,¹⁴ was in every case necessary except in [the Mishnah of] ‘The sciatic nerve’,¹⁵ for it is obvious that the prohibition of the nerve has not vanished merely because the animal has been consecrated. But did we not establish [that Mishnah] as dealing with the young of consecrated animals?¹⁶ — Yes, but why did we establish [the Mishnah] in that way? Was it not because we were faced with the difficulty: ‘Why did [the Tanna] state it’? In reality however¹⁷ this at the very outset should offer no difficulty, for since this expression was stated in one Mishnah where it was necessary¹⁸ it was also stated in the other where it was not necessary at all.

IN RESPECT OF UNCONSECRATED BIRDS BUT NOT CONSECRATED BIRDS. Why not? — Because the verse: Thou shalt in any wise let the dam go,¹⁹ clearly refers only to such as you are bound to let go, excluding such as you are not bound to let go but rather to bring to the Temple treasurer. Rabina said: It follows, therefore, that if a clean bird killed a man, one is not bound to let it go,²⁰ because the verse: ‘Thou shalt in any wise let the dam go’, clearly refers only to such as you are bound to let go, excluding such as you are not bound to let go but rather to bring to the Beth din.²¹ But what are the circumstances here? If it had already been condemned,

(1) And therefore whenever the seller keeps back anything for himself it is to be presumed that he has kept back the priest's due, for that he certainly would not sell.

(2) Not because the obligation rests upon the buyer, but because at the sale the priestly dues were not intended to pass from the seller to the buyer.

(3) Deut. XXII, 6, 7.

(4) Lev. XVII, 13.

(5) I.e., always ready at hand for one's purpose and use.

(6) Although geese and fowls are usually domesticated, if they became wild and broke loose and nested in the open field the law of letting the dam go applies.

(7) A special breed of doves favored by Herod; or, as some read דורסיאות, doves from a particular locality. These doves are quite domesticated. V. infra 139b.

(8) Which like the hen partridge broods upon eggs of other birds; cf. Jer. XVII, 11.

(9) Stated in the opening Mishnah of Chap. V, VI, VII, X, XI, XII.

(10) Since every precept which is not dependent upon the land obtains both within the Land of Israel and outside it; v. Kid. 36b.

(11) And also the Mishnah dealing with the Priestly dues, (supra Chap. X) the law of which is derived from that of the ‘first of the fleece’. (Rashi, Tosaf.).

(12) V. supra 136b.

(13) The law of ‘It and its young’ (Lev. XXII, 28) is immediately preceded and followed by laws concerning sacrifices.

(14) Stated in the opening Mishnah of Chap. V and VII.

(15) At the opening of Chap. VII.

(16) V. supra 89b. The case therefore is not obvious, for it teaches that the prohibition of the nerve can be superimposed upon the existing prohibition of consecrated things.

(17) In the view of R. Abin and R. Meyasha.

(18) At the opening of Chap. V.

(19) Deut. XXII, 7.

(20) If found in the nest sitting upon its young ones.

(21) I.e., the Court, to be put to death.

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then surely it would have been put to death!

Rather we must say that it had not yet been condemned, in which case one is bound to bring it to the Beth din so as to carry into effect the verse: So shalt thou put away the evil from the midst of thee.¹ What are the circumstances with regard to consecrated birds? If you say that a man had a nest in his home and consecrated it, but in that case the law does not apply, for the verse: If a bird's nest chance to be before thee,² excludes what is at one's disposal. You will say then that a man saw a nest somewhere and consecrated it, but in that case would it become

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consecrated? Does not the Divine Law say, And when a man shall sanctify his house to be holy,³ [from which we conclude that] just as his house is in his possession so must everything [that he may wish to sanctify] be in his possession?

You will then say that a man lifted up the young ones,⁴ consecrated them, and put them back again; but in such a case, even though they were not consecrated, the law would not apply, for we have learnt: If a man took the young and brought them back again into the nest, and afterwards the dam returned to them, he is not bound to let it go.⁵ You will therefore say that he lifted up the dam, consecrated it, and put it back again; but in that case at the very outset, even before he consecrated it, he was bound to let it go, for it was taught: R. Johanan b. Joseph says: If a man consecrated a wild animal and then slaughtered it, he is exempt from covering up [the blood];⁶ if he slaughtered it and afterwards consecrated it, he is bound to cover up [the blood], since he was already bound to cover up [the blood] before it was consecrated!⁷

Rab suggested⁸ the case where a man consecrated the young of his dovecotes⁹ and they later broke loose.¹⁰ Samuel suggested the case where a man consecrated his hen¹¹ to the Temple treasury.¹² Now one can understand why Samuel does not suggest the case of Rab; it is because he wishes to state the law even in respect of that which is consecrated to the Temple treasury only. But why does not Rab suggest the case of Samuel? —

Rab would answer thus: It is only in the case where a man consecrated the young of his dove-cote that one is not bound to let the dam go, for they are consecrated for the altar; and inasmuch as they are themselves consecrated for an offering, [even though they break loose,] their sanctity has not gone.¹³ But where a man consecrated his hen

to the Temple treasury, inasmuch as it was not consecrated for the altar but only for its value, as soon as it breaks loose its sanctity has gone, and the law of letting the dam go applies. But Samuel says: Wherever it¹⁴ happens to be it is in the Lord's treasury, for it is written: The earth is the Lord's and the fullness thereof.¹⁵ And so, too, did R. Johanan say: It is a case where a man consecrated his hen to the Temple treasury, and afterwards it broke loose.

Thereupon R. Simeon b. Lakish said to him: Surely as soon as it breaks loose its sanctity has gone! — He replied: Wherever it happens to be it is in the Lord's treasury, for it is written: 'The earth is the Lord's and the fullness thereof'. I can point out a contradiction between the words of R. Johanan [here] and the words of R. Johanan [elsewhere]; and I can point out a contradiction between the words of Resh Lakish [here] and the words of Resh Lakish [elsewhere]. For it has been stated: [If a man said], 'Let this maneh be for the Temple treasury', and it was stolen or lost, R. Johanan says: He is responsible for it until it reaches the hands of the Temple treasurer; but Resh Lakish says: Wherever it is it is in the Lord's treasury, for it is Written, 'The earth is the Lord's and the fullness thereof'.

Hence there is a contradiction between R. Johanan's statements, and between Resh Lakish's statements.¹⁶ [I concede that] there is not necessarily a contradiction between Resh Lakish's statements, for this [the former] view he expressed before he had learnt the true view from his master R. Johanan,¹⁷ whilst that [the latter] view he expressed after he had learnt it from his master R. Johanan.¹⁸ But surely there is a contradiction between the statements of R. Johanan! —

There is no contradiction even between the statements of R. Johanan, for in one case the man said: 'I take upon myself [an offering]'

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and in the other case he said: ‘Let this be [an offering]’.¹⁹ It follows then that, according to Resh Lakish, a man is not responsible [for his offering] even though he said: ‘I take upon myself’. But we have learnt: What is a votive-offering and what a freewill-offering? It is a votive-offering when a man says: ‘I take upon myself a burnt-offering’; it is a freewill-offering when a man says: ‘Let this be a burnt-offering’. And wherein do votive-offerings differ from freewill-offerings? With a votive-offering if it dies or is stolen or lost, he is responsible for it [and must replace it]; but with a freewill-offering, if it dies or is stolen or lost he is not responsible for it.²⁰—

Resh Lakish can answer thus: That is so²¹ only with regard to what is consecrated for the altar, since it still needs to be offered as a sacrifice;²² but with regard to what is consecrated to the Temple treasury, since it has not to be offered as a sacrifice, he is not responsible for it even though he said ‘I take upon myself’.²³

But we have learnt:²⁴ If a man said: ‘Let this ox be a burnt-offering’, or, ‘Let this house be an offering’, and the ox died or the house fell down, he is not bound to make restitution; but if he said: ‘I take upon myself [to offer] this ox for a burnt-offering’, or, ‘I take upon myself [to present] this house as an offering’, and the ox died or the house fell down, he must make restitution!²⁵ — That is so only where the ox died or the house fell down, then indeed he must make restitution, since they are no more in existence; but where they are in existence, wherever they happen to be, they are still within the Lord’s treasury, for it is written: ‘The earth is the Lord’s and the fullness thereof’.

R. Hamnuna said: All agree that regarding vows of valuation,²⁶ even though a man said: ‘I take upon myself’,²⁷ he is not bound to make restitution, for these cannot be expressed without the formula ‘I take upon myself’. For how else can they be expressed?

If he were only to say: ‘My valuation’, then [we do not know] upon whom [lies this obligation]; and if he were to say: ‘The valuation of So-and-So’, [we still do not know] upon whom [lies the obligation].

Raba demurred: But surely he can say: ‘Here is my valuation’, or, ‘Here is the valuation of So-and-so’. Moreover it has been taught: R. Nathan says: It is written: And he shall give thy valuation in that day, as a holy thing unto the Lord.²⁸ What does Scripture teach thereby? But inasmuch as we find that, with regard to consecrated things and second tithe, if a man exchanged them for unconsecrated money and the money was stolen or lost, he is not liable to make restitution,²⁹

(1) Ibid. XIII, 6.

(2) Ibid. XXII, 6.

(3) Lev. XXVII, 24.

(4) Thereby acquiring them as his own.

(5) Since the young ones have become his own property the law of sending away does not apply, for they are always at his disposal. V. infra 141a.

(6) For the law of covering up the blood (v. Lev. XVII, 13) does not apply to consecrated animals; v. supra 83b.

(7) And consecration does not set aside the existing obligation of covering up the blood; likewise it does not set aside the existing obligation of letting the dam go.

(8) In answer to the question of how to construe a case where the law of letting the dam go might possibly apply to consecrated birds.

(9) Intending them to be offered as bird-offerings upon the altar.

(10) They are no more at his disposal, and so the law of letting the dam go would apply were it not for the fact that they were consecrated.

(11) Which is not allowed for an offering, but is consecrated merely for its value.

(12) And it also broke loose and became wild; v. note 5.

(13) And the law of letting the dam go does not apply.

(14) Even what is consecrated only for its value.

(15) Ps. XXIV, 1. Therefore even though it has broken loose it is still within the Lord’s treasury and sacred.

(16) For in the discussion regarding the law of letting the dam go it was R. Johanan who advanced the argument that the whole earth is the

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Lord's treasury, whereas in the latter dispute it is Resh Lakish who advances this view.

(17) Resh Lakish then held that if a consecrated bird had broken loose its sanctity had gone and it was subject henceforth to the law of letting the dam go; but later R. Johanan convinced him that it was not so, with the argument that the earth is the Lord's treasury, which argument Resh Lakish eventually accepted.

(18) Therefore where a man consecrated an animal and it was lost or stolen, he has no further responsibility with regard to it, since it is still within the Lord's treasury.

(19) R. Johanan, although maintaining the principle that wherever a thing happens to be it is still within the Lord's treasury, nevertheless holds a man responsible for his offering if he expressed himself thus: 'I take upon myself', for then the personal obligation is not discharged until the Temple treasurer has actually received it.

(20) Kin. I, 1; R.H. 6a; Meg. 82. Resh Lakish surely would not maintain his view in opposition to the Mishnah quoted and hold that even where a man said: 'I take upon myself', he is not responsible for it.

(21) That where a man says: 'I take upon myself', he is responsible for it.

(22) Therefore so long as he has not brought his offering to the Temple he will not have discharged his obligation, and up to then he is responsible for it.

(23) For as soon as he dedicates it to the Temple it automatically becomes part of the Temple treasury, and wherever it happens to be it is still within the Lord's treasury.

(24) 'Arak. 20b.

(25) Even though he specified the subject consecrated by the term 'this' he is nevertheless responsible since he undertook the vow as a personal charge. It is, however, evident from this that even in respect of what is consecrated to the Temple treasury, e.g., a house, one is bound to make restitution, contra Resh Lakish.

(26) Where a man vows to the Temple the 'valuation' of himself or of another person. The 'valuation' is fixed according to the scale prescribed in the Torah, cf. Lev. XXVII, 1ff.

(27) And he set aside the fixed amount and it was lost or stolen.

(28) Lev. XXVII, 23. This verse is stated in connection with the law of the redemption of a field that was bought and afterwards consecrated unto the Temple, and the reference in this verse to 'thy valuation' is certainly strange and out of place.

(29) For Scripture does not state that the redemption money shall be given unto the Lord, but simply that it is holy, *ibid.* 15.

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I might say that it is the same with regard to this too;¹ the text therefore states: 'And he shall give thy valuation in that day as a holy thing unto the Lord'; that is to say, it is still consecrated [in thy hand] until it reaches the hand of the Temple treasurer.² — Rather if this statement was reported it must have been reported as follows: R. Hamnuna said: All agree that regarding vows of valuation, even though a man did not say 'I take upon myself', he is bound to make restitution, for it is written: 'And he shall give thy valuation, etc.' that is to say, it is still consecrated in thy hand until it reaches the hand of the Temple treasurer.

THE LAW OF COVERING UP THE BLOOD IS OF WIDER APPLICATION, etc. Our Rabbis taught: It is written: If a bird's nest chance to be before thee [in the way, in any tree or on the ground].³ What does Scripture teach thereby? But because it is also written: Thou shalt in any wise let the dam go, but the young thou mayest take unto thyself,⁴ I might suppose that one should go searching over mountains and hills to find a nest, the text therefore states: 'chance to be', that is, if it happens to be before you. 'A nest', that is, any nest whatsoever.⁵ 'A bird's', that is, of a clean but not of an unclean bird. 'Before thee', that is, in a private domain.⁶ 'In the way', that is, in a public place.

Whence do I know even [if found] on trees? The text states: 'In any tree'.

Whence do I know even [if found] in cisterns, ditches or caverns? The text states: 'Or on the ground'. But since in the end we include everything, wherefore [does Scripture say], 'Before thee in the way'? To teach you, just as on the way the nest cannot be said to be ready at your hand,⁷ so everywhere the nest must not be ready at your hand; hence they

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said, [Wild] doves of the dove-cote, and doves of the loft, and birds which made their nests in the cornices [in the walls] in large houses, and geese and fowls that made their nests in the open field,⁹ one is bound to let the dam go; but if they made their nests within a house, or in the case of Herodian doves, one is not bound to let the dam go.

The Master said: 'Just as on the way the nest cannot be said to be ready at your hand, so everywhere the nest must not be ready at your hand'. Is this [teaching] necessary? It is surely inferred from the expression 'chance to be' thus, 'chance to be', but not what is at one's disposal! Moreover, what is the significance of the expression 'before thee'? —

Rather we must say: The expression 'before thee' serves to include those birds that were once before you and which later broke loose; and the expression 'in the way' points to the teaching of Rab Judah in the name of Rab. For Rab Judah said in the name of Rab: If a man found a nest in the sea¹⁰ he is bound to let the dam go, since it is written: Thus saith the Lord, who maketh a way in the sea.¹¹ Then, in like manner, if a man found a nest in the sky,¹² inasmuch as it is written: The way of an eagle in the sky,¹³ he should also, should he not, be bound to let the dam go? — It [the sky] is referred to as 'the way of an eagle', but never simply as 'way'.

The Papunians¹⁴ asked of R. Mattenah: What if one found a nest upon a man's head? — He replied, It is written: And earth upon his head.¹⁵ Where is Moses indicated in the Torah?¹⁶ [they asked]. — In the verse: For that he also is flesh.¹⁷ Where is Haman indicated in the Torah? — In the verse: Is it [hamin] from the tree?¹⁸ Where is Esther indicated in the Torah? — [In the verse,] And I will surely hide [asthir] my face.¹⁹ Where is Mordecai indicated in the Torah? — In the verse: Flowing myrrh,²⁰ which the Targum renders as mira dakia.²¹

WHICH ARE THEY THAT ARE 'NOT AT ONE'S DISPOSAL'?, etc. R. Hiyya and R. Simeon [b. Rabbi differ]: One reads [in the Mishnah] 'Hadresioth', and the other reads 'Hardesioth'. He who reads 'Hardesioth'²² derives the word from the name of Herod; and he who reads 'Hadresioth' derives it from their place of origin.²³

R. Kahana said: 'I once saw them, and there were sixteen rows of them, each row extending over one mil, and they were calling out, Kiri Kiri.²⁴ One, however, did not call out Kiri Kiri, and its neighbor said to it, 'You blind fool, call out Kiri Kiri'. The other replied: 'You blind fool, call out rather Kiri Keri'.²⁵ Straightway she was taken and slaughtered.

R. Ashi said: R. Hanina told me that all this was empty words. Empty words! surely not!²⁶ — Say, rather: All this [conversation]²⁷ was effected by magic spells.²⁸

AN UNCLEAN BIRD ONE IS NOT BOUND TO LET GO. Whence is this derived? — R. Isaac said: From the verse: If a nest of a bird [zippor] chance to be before thee.²⁹ Now the term 'of'³⁰ applies both to clean and unclean birds, but as for the term 'zippor', we find clean birds referred to as zippor but not unclean birds.

Come and hear: It is written: The likeness of any winged zippor.³¹ Surely 'zippor' includes both clean and unclean birds, and 'winged' includes locusts! — No, 'zippor' refers only to clean birds, and 'winged' includes both unclean birds and locusts.

Come and hear: It is written: Beasts and all cattle, creeping things and winged zippor.³² Surely 'zippor' includes both clean and unclean birds, and 'winged' includes locusts. — No, 'zippor' refers only to clean birds,

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and 'winged' includes both unclean birds and locusts.

Come and hear: It is written: Every zippor of every sort.³³ Surely the interpretation is as suggested in the above objection! — No, it is as suggested in the above reply.

Come and hear: It is written: And thou, son of man, [thus saith the Lord God]: Speak unto the zippor of every sort.³⁴ Surely the interpretation is as suggested in the above objection! — No, it is as suggested in the above reply.

Come and hear:

- (1) Sc. with regard to vows of valuation, that one is not bound to make restitution for the loss of the valuation money.
- (2) Hence a man is responsible for the valuation money until it actually reaches the Temple treasury, thus in conflict with R. Hamnuna.
- (3) Deut. XXII, 6.
- (4) Ibid. 7.
- (5) Even though there is only one egg or one young bird in it. V. infra Mishnah 140b.
- (6) But only in such a private domain as cannot acquire the nest or the bird for the owner, e.g. a private field which is unguarded or has no fences round it. Cf. B.M. 11a.
- (7) For the birds are not yet caught and certainly not at one's disposal.
- (8) טפיקין pitcher-shaped vessels put up in walls and corners as resting places for birds (Jast). Cf. Bez., Sonc. ed., p. 124, nn. 3-4.
- (9) Lit., 'orchards'.
- (10) A tree was washed away into the sea and upon it was a bird's nest.
- (11) Isa. XLIII, 26. Hence the term 'way' includes the expanse of the sea.
- (12) The bird was carrying its nest while flying.
- (13) Prov. XXX, 19.
- (14) I.e., men of Pappunia, a town situated between Bagdad and Pumbeditha (v. map at end of Kid., Sonc. ed.).
- (15) II Sam. XV, 32. Earth even though upon a man's head is still called earth and is looked upon as on the ground; likewise a nest upon a man's head is also looked upon as on the ground, and so the law of letting the dam go applies.
- (16) I.e., where in the Torah is the coming of Moses foretold? Possibly it is an attempt to find some indication or hint of the name of Moses even in Genesis, the First Book of Moses.

(17) Gen. VI, 3. Heb. בשגם which in the numerical value of its letters is equivalent to the name משה Moses — 345. Moreover this verse adds: Therefore shall his days be a hundred and twenty years, which corresponds with the years of the life of Moses.

(18) Ibid. III, 11. Heb. המן. The first word can be read as Haman, and the second can refer to the tree or gallows upon which Haman was hanged; cf. Esth. VII, 10.

(19) Deut. XXXI, 18. Heb. אסתיר. The second word is very like the name Esther, אסתר both in spelling and in sound. The verse in general foretells the many evils and troubles that shall befall Israel when they forsake the ways of God, and this was the case at the time of Esther, cf. Meg. 12a.

(20) Ex. XXX, 23. Heb. מר דרור.

(21) The Aramaic translation of Onkelos renders the Hebrew by מירא דכיא, which words both in spelling and in sound resemble מרדכי, Mordecai.

(22) הדרסאות, i.e., Herodian.

(23) הדרסאות. The locality referred to is unknown. V. supra, Mishnah p. 795, n. 5.

(24) קירי, 'Master', from Gr. ** referring to Herod.

(25) כירי (in current ed. בירי) 'slave' from Gr. **, 'a slave'. Kiri Keri = the master is a slave.

(26) For R. Kahana actually said that he saw these doves.

(27) Of the birds.

(28) Lit., 'words'.

(29) Deut. XXII, 6. Heb. צפור.

(30) עוף.

(31) Ibid. IV, 17; with reference to the prohibition of idolatry.

(32) Ps. CXLVIII, 10.

(33) Lit., 'of every winged (species)'. Gen. VII, 14.

(34) Lit., 'of every winged (species)'. Ezek. XXXIX, 17.

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It is written: And the zippor of the heaven dwelt in the branches thereof!¹ — They² are designated 'the zippor of the heaven', but not 'zippor' alone.

Come and hear: It is written: Every zippor that is clean ye may eat;³ from which we may deduce that there is [a zippor] that is unclean! — No, we may deduce that there is [a zippor] that is forbidden.⁴ But which is that? If it is one that is Trefah, but this is expressly stated⁵ [to be forbidden]. And if it is the slaughtered bird of the leper,⁶ but this is inferred from the next verse: And these

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are they of which ye shall not eat,⁷ which includes the slaughtered bird of the leper!⁸—

It is, in truth, the slaughtered bird of the leper,⁹ and [it is repeated so as to teach that] one infringes on that account a positive and also a negative precept.¹⁰ But why not say that it is a Trefah bird [that is meant, and it teaches that] one infringes on that account a positive and also a negative precept? — ‘The meaning of a verse is to be deduced from its context’, and the context deals with those that are slaughtered.¹¹

Come and hear: It is written: Two living zipparim.¹² Now what is meant by ‘living’? It means, does it not, those that are fit for your mouth,¹³ and from which follows that there are also those [zipparim] that are not fit for your mouth? — No, by ‘living’ is meant those whose principal limbs are living.¹⁴

Come and hear from the next word [in the above verse]: Clean.¹² Is not the inference that there are unclean [zipparim]?¹⁵ — No, the inference is that there are Trefah [clean birds].¹⁵ But are not Trefah birds excluded by the term ‘living’? Of course this presents no difficulty to him who says that a Trefah can continue to live,¹⁶ but according to him who says that a Trefah cannot continue to live what can be said? Moreover, both according to him who says that a Trefah can continue to live and him who says that it cannot continue to live, this¹⁷ is inferred from the teaching of a Tanna of the school of R. Ishmael.

For a Tanna of the school of R. Ishmael taught: There have been prescribed qualifying and atoning sacrifices within the Temple, and there have been prescribed qualifying and atoning sacrifices outside the Temple;¹⁸ just as with regard to the qualifying and atoning sacrifices prescribed within the Temple, the qualifying sacrifices are equal to the atoning sacrifices, so with regard to the qualifying and atoning

sacrifices prescribed outside the Temple, the qualifying sacrifices are equal to the atoning sacrifices!¹⁹ —

Rather said R. Nahman b. Isaac, [The expression ‘clean’] serves to exclude the birds of a beguiled city.²⁰ But for which one?²¹ If for the one that must be set free, but surely the Torah would not enjoin to set it free if it would thereby lead to transgression!²² Rather it could serve for the one that must be slaughtered.²³

Raba said, [The expression ‘clean’] serves to exclude [the following case]: that one may not use this bird before it is set free so as to make up the pair of birds [for the purification rites] of another leper. But for which one?²⁴ If for the one that was to be slaughtered, but surely it must be set free!²⁵ Rather it could serve for the one that was to be set free.²⁶

R. Papa said, [The expression ‘clean’] serves to exclude birds that were obtained in exchange for an idol, for it is written: And become a devoted thing like unto it;²⁷ whatever you bring into being from [the devoted thing] is to be treated like it. But for which one?²⁸ If for the one that must be set free, but surely the Torah would not enjoin to set it free if it would thereby lead to transgression!

Rather it could serve for the one that must be slaughtered.²⁹ Rabina said: We are dealing here with a bird that had killed a man.³⁰ But what are the circumstances? If it had already been condemned, then it must be put to death; we must therefore say that it had not yet been condemned. But for which one [of the leper's birds might this be used]? If for the one that must be set free, but surely it must be brought to the Beth din so as to carry into effect the verse: So shalt thou put away the evil from the midst of thee!³¹ Rather it could serve for the one that must be slaughtered.³²

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IF AN UNCLEAN BIRD WAS SITTING ON THE EGGS OF A CLEAN BIRD... [ONE IS NOT BOUND TO LET IT GO]. This is indeed clear of an unclean bird sitting on the eggs of a clean bird, for the law [of letting the dam go] applies only to a ‘zippor’,³³ and this is not the case here; but why [is one not bound to let go] the clean bird that was sitting on the eggs of an unclean bird? It is a zippor, is it not? —

As R. Kahana said [in another connection]. It is written, [But the young] thou mayest take for thyself,³⁴ ‘for thyself’ but not for thy dogs; here too [we say the same], ‘Thou mayest take for thyself’, but not for thy dogs. In what connection was this statement of R. Kahana said? — In connection with the following Baraitha which was taught: If the dam is Trefah, one is still bound to let it go; if the young ones are Trefah, one is not bound to let the dam go. Whence is this derived? —

R. Kahana said: It is written: ‘[But the young] thou mayest take for thyself’; ‘for thyself’ but not for thy dogs. But should we not regard a Trefah dam on the same footing as [Trefah] young ones, and as in the case of Trefah young ones one is not bound to let the dam go so in the case of a Trefah dam one is not bound to let it go? —

- (1) Dan. IV, 9. Since here there is no other synonym for bird mentioned in the verse, then surely the term ‘zippor’ includes all, both clean and unclean birds.
- (2) Sc. unclean birds.
- (3) Deut. XIV, 11.
- (4) Although it is a clean bird.
- (5) Cf. Lev. XXII, 8, which verse, according to Rabbinic tradition, refers to a clean bird that was rendered Trefah.
- (6) Lev. XIV, 4, 5. Of the two birds used in the purification rites of a leper one was slaughtered and was thereupon rendered forbidden for all purposes, cf. Kid. 57a, A.Z. 74a.
- (7) Deut. XIV, 12. ‘Of which’ clearly refers to those clean birds mentioned in the preceding

verse, implying that some of those are forbidden even though clean.

(8) V. Kid. loc. cit.

(9) That is excluded from v. 11.

(10) By deriving any benefit from the slaughtered bird of the leper one transgresses the negative precept implied in Deut. XIV, 12, and also the positive precept (i.e., the negative inference from a positive precept which has the force of a positive precept) derived from Deut. XIV, 11.

(11) For the passage begins with the verse: ‘Every clean bird ye may eat’, which means, of course, only if slaughtered.

(12) Lev. XIV, 4.

(13) Lit., ‘living in your mouth’, i.e., permitted to be eaten.

(14) And only excludes those clean birds which have an entire limb missing.

(15) Which are excluded from use in the purification rites of a leper.

(16) V. supra 42a.

(17) That a Trefah bird may not be used in the purification rites of a leper.

(18) A qualifying sacrifice is one that renders a person fit to enter the Temple and partake of sacred food; in most cases (e.g., the sin-offering brought by a woman after childbirth, or the guilt-offering of a leper) the service of the sacrifice was performed inside the Temple, but in some cases (e.g. the bird-offerings of a leper) the service was performed outside the Temple. An atoning sacrifice, on the other hand, is one that atones for a sin committed; in most cases (e.g., the usual sin-offerings and guilt-offerings) the service of the sacrifice was performed inside the Temple, but in a few cases (e.g., the Scapegoat, and the heifer whose neck was to be broken) the service was performed outside the Temple.

(19) And therefore what is regarded as unfit for an atoning sacrifice, e.g. an animal that is Trefah or has a physical blemish, may not be used for a qualifying sacrifice. Hence a Trefah bird may not be used for the purification rites of a leper, and there is no need for any express term to exclude it.

(20) A city whose inhabitants were enticed into idolatry was to be utterly destroyed and everything belonging to it was forbidden absolutely; cf. Deut. XIII, 13ff. The term ‘clean’ thus excludes the birds of this town from being used in the purification rites of the leper.

(21) For which of the two birds of the leper's offering could such a bird be used? Cf. Lev. XIV, 4ff, where two birds are prescribed for the leper's offering, one was to be slaughtered whilst the other was to be set free.

(22) Lit., ‘for a stumbling-block’. The finder of the bird, not knowing that it originally came from

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a beguiled city, will eat it, and so be led into sin by another's performance of a precept. On this ground therefore it cannot be suggested that birds from a beguiled city may be used for the leper's offering.

(23) The word 'clean' is therefore necessary to exclude such a bird.

(24) Of the second leper's birds would it at all be possible for this to be used.

(25) In order to fulfill the rites for the purification of the first leper; thus it certainly may not be slaughtered for the second leper.

(26) I.e., it could' serve this same purpose for both lepers, were it not for the fact that the word 'clean' excludes such a case.

(27) Deut. VII, 26.

(28) V. supra n. 2.

(29) The term 'clean' is therefore necessary to exclude such a bird from use in the purification rites of the leper.

(30) V. p. 807, n. 10.

(31) Deut. XIII, 6.

(32) For by being slaughtered it is put away from the midst of thee'. Hence the verse is necessary to exclude it.

(33) I.e., a clean bird.

(34) Ibid. XXII, 7.

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If that were so, then the teaching that the term *zippor'* excludes an unclean bird is superfluous.¹ But it has been taught: The dam of young that is *Trefah*, one is bound to let go!² — Abaye answered: It is to be explained thus: If the dam of the young is *Trefah*, one is bound to let it go.

R. Hoshai'a raised the question: What is the law if a man put his hand into a nest and cut through a small part of the throat organs [of the young ones]? Should we say that, since if he were to leave off cutting at this point they would become *trefah*,³ the rule "Thou mayest take for thyself" but not for thy dog' applies;⁴ or rather, since it is within his power to finish cutting, we still say [of these young ones] 'Thou mayest take for thyself', and he is therefore bound to let the dam go? — This question remains unanswered.

R. Jeremiah raised the question: Would a cloth be regarded as an interposition or

not?⁵ Would [loose] feathers be an interposition or not?⁶ What if there were two layers of eggs, one above the other?⁷ What if the male bird was upon the eggs and the dam was upon the male?⁸ — These questions remain unanswered.

R. Zera raised the question: What is the law if a dove was sitting on a *tasil's* eggs, or if a *tasil* was sitting on dove's eggs?

Abaye said: Come and hear: IF AN UNCLEAN BIRD WAS SITTING ON THE EGGS OF A CLEAN BIRD, OR A CLEAN BIRD ON THE EGGS OF AN UNCLEAN BIRD, ONE IS NOT BOUND TO LET IT GO. It follows, does it not, that if a clean [bird was sitting upon the eggs of another] clean bird, one is bound to let it go? — Perhaps this is so only with a hen partridge.¹⁰

AS TO A COCK PARTRIDGE, R. ELIEZER SAYS ONE IS BOUND TO LET IT GO, BUT THE SAGES SAY ONE IS NOT BOUND. R. Abbahu said: What is the reason of R. Eliezer? — He draws an analogy between the expressions 'brood'; for it is written here: As the partridge broodeth over young which he has not brought forth,¹¹ and it is written there: She shall hatch and brood under her shadow.¹²

R. Eleazar said: They¹³ differ only with regard to a cock partridge, but as for a hen partridge all agree that one is bound to let it go. Is not this obvious? for the Mishnah expressly says: A COCK PARTRIDGE! — One might have thought that even the hen partridge the Rabbis exempt [from letting go], but the reason why the cock partridge was stated [in the Mishnah] was to set forth the extent of R. Eliezer's view; we are therefore taught [that it is not so].

R. Eleazar also said: They differ only with regard to a cock partridge, but as for the

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male of any other [bird] all agree that one is exempt [from letting it go]. Is not this obvious? For the Mishnah expressly says: **AS TO A COCK PARTRIDGE?** — One might have thought that even the male of any other bird R. Eliezer declares one bound [to let go], but the reason why the cock partridge was stated was to set forth the extent of the Rabbis' ¹⁴ view; we are therefore taught [that it is not so]. There has also been taught [a Baraitha] to this effect: The male of any other bird one is not bound [to let go]; as to a cock partridge. R. Eliezer declares one bound [to let it go], but the Sages say one is not bound.

MISHNAH. IF THE DAM WAS HOVERING [OVER THE NEST] AND HER WINGS TOUCH THE NEST, ONE IS BOUND TO LET HER GO; IF HER WINGS DO NOT TOUCH THE NEST, ONE IS NOT BOUND TO LET HER GO. IF THERE WAS BUT ONE YOUNG BIRD OR ONE EGG [IN THE NEST], ONE IS STILL BOUND TO LET THE DAM GO, FOR IT IS WRITTEN: A NEST, ¹⁵ THAT IS, ANY NEST WHATSOEVER. IF THERE WERE THERE YOUNG BIRDS ABLE TO FLY OR ADDLED EGGS, ONE IS NOT BOUND TO LET [THE DAM] GO, FOR IT IS WRITTEN, AND THE DAM SITTING UP ON THE YOUNG OR UPON THE EGGS; ¹⁵ AS THE YOUNG ARE LIVING BEINGS SO THE EGGS MUST BE SUCH AS [WOULD PRODUCE] LIVING BEINGS; HENCE ADDLED EGGS ARE EXCLUDED. AND AS THE EGGS NEED THE CARE OF THE DAM SO THE YOUNG MUST BE SUCH AS NEED THE CARE OF THE DAM; HENCE THOSE THAT ARE ABLE TO FLY ARE EXCLUDED.

GEMARA. Our Rabbis taught: It is written: Sitting, ¹⁵ but not hovering. I might then Suppose that even when her wings touch the nest [the law does not apply], the text therefore stated: 'Sitting'. How is this implied? — Because it is not written 'brooding'. ¹⁶ Rab Judah said in the name of Rab: If she ¹⁷ was perched upon two branches

of a tree, we must consider, if when the branches slip away from each other she would fall upon them, ¹⁸ one is bound to let her go, but if not, one is not bound [to let her go].

An objection was raised. [It was taught:] If she was sitting among them, one is not bound to let her go, if upon them, one is bound to let her go; if she was hovering over the nest, even though her wings touch the nest, one is not bound to let her go. Now presumably the expression 'upon them' bears the same meaning as 'among them', and just as 'among them' means that she is actually touching them so 'upon them' also means that she is actually touching them; it follows, however, that if she was upon the branches of a tree, one is not bound [to let her go]! ¹⁹ —

No, the expression 'upon them' bears the same meaning as 'among them', and just as 'among them' clearly means that she is not touching them from above so 'upon them' also means that she is not touching them from above, and that must be the case where she was upon the branches of a tree. ²⁰ It is indeed more logical to argue thus, for if you were to hold that when perched upon the branches of a tree one is not bound [to let her go], then the Tanna, in place of the case 'If she was hovering over the nest, even though her wings touch the nest, one is not bound to let her go', should rather have taught the case where she was perched upon the branches of a tree, and it would go without saying that where she was hovering [over the nest one is not bound to let her go]! ²¹ —

[This argument is not conclusive for] he wished to state the case where she was hovering [over the nest] to teach that, even though her wings actually touch the nest, one is not bound to let her go. But have we not learnt: **IF THE DAM WAS HOVERING OVER THE NEST, AND HER WINGS TOUCH THE NEST, ONE IS BOUND TO LET HER GO?** — R. Jeremiah answered,

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The Baraitha deals with the case where her wings touch the side of the nest.²²

Another version reads as follows: Shall we say that the following [Baraitha] is a support for his view?²³ For it was taught: If she was sitting among them, one is not bound to let her go; if she was hovering over the nest, even though her wings touch the nest, one is not bound to let her go. Now presumably the expression ‘upon them’ bears the same meaning as ‘among them’, and just as ‘among them’ clearly means that she is not touching them from above so ‘upon them’ also means that she is not touching them from above, and that must be the case where she was upon the branches of a tree! —

No, the expression ‘upon them’ bears the same meaning as ‘among them’, and just as ‘among them’ means that she is actually touching them so ‘upon them’ also means that she is actually touching them, but if she was perched upon the branches of a tree one would not be bound [to let her go]. But if so, [the Tanna] in place of the last case ‘If she was hovering over the nest, even though her wings touch the nest, one is not bound to let her go’,

(1) For if by making this comparison a Trefah dam is excluded, then in like manner an unclean bird would also be excluded, thus rendering the interpretation derived from the term ‘zippor’ unnecessary.

(2) It is assumed that the Baraitha means this: if the young ones were Trefah and the dam was not, one is bound to let the dam go; thus in conflict with R. Kahana.

(3) For in the case of birds the slaughtering is valid only when the greater portion of one organ of the throat has been cut, and to leave off before this requisite amount has been cut through would render the bird Trefah. It must, however, be assumed here that the partly-cut organ was the gullet, for a partly-cut windpipe does not render Trefah (v. supra 29a); v. Shak, Yoreh De'ah c. 292, sec. 15; and Glosses of R. Bezalel Regensburg a.l.

(4) Accordingly one is not bound to let the dam go.

(5) If a cloth was spread over the eggs in the nest and the mother-bird was sitting on it, does the law of sending away apply or not? The doubt arises through a strict literal interpretation of the verse: And the dam sitting upon the young or upon the eggs (Deut. XXII, 6), which would exclude every case where some extraneous object interposed between the dam and the eggs.

(6) Since the law does not apply where there are only addled eggs in the nest (i.e., rotten eggs, incapable of producing a chicken; v. Mishnah infra), if these addled eggs formed a layer over ordinary eggs, interposing between the dam and the ordinary eggs, are they regarded as an interposition, in which case the law of letting the dam go does not apply, or not? (7) Does the upper layer serve as an interposition, so that one may take away the eggs of the lower layer without first letting the dam go, or not?

(8) Since the law of letting the dam go does not apply to a male bird sitting on the eggs (v. supra), is the male bird deemed an interposition between the dam and the eggs, or not?

(9) תסיל a clean bird, resembling a dove; cf. supra 62a.

(10) I.e., the inference which Abaye makes from the statement of the Mishnah, that where one clean bird sits upon the eggs of another clean bird the law applies, may be restricted only to the case of the hen partridge which habitually broods over other birds' eggs.

(11) Jer. XVII, 11. This verse clearly refers to the cock partridge because of the masculine form of the verb ‘he has not brought forth’.

(12) Isa. XXXIV, 15. The comparison is between the brooding by the dam in this verse and the brooding by the male bird in the previous verse; in each case it is a proper brooding.

(13) R. Eliezer and the Rabbis.

(14) The Sages.

(15) Deut. XXII, 6.

(16) Which would signify constantly sitting upon the eggs.

(17) Throughout this passage ‘she’ refers to the dam and ‘them’ to the young or the eggs.

(18) V. p. 821, n. 4.

(19) Since she does not actually touch them; contrary to Rab Judah's ruling.

(20) For since she is directly above them, even though she does not touch them, the law of ‘letting the dam go’ applies.

(21) If where she was perched the whole time directly over the nest the law of ‘letting the dam go’ does not apply, how much less where she was hovering over the nest!

(22) Whereas in our Mishnah the case is that the wings touch the nest from above, thus actually touching the young birds or the eggs, and

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therefore one is bound to let the dam go. V. however, Maim. Yad, Shechitah, XIII, 13; and Tur, Yoreh De'ah, c. 292.

(23) Rab's view, as quoted by Rab Judah.

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should rather have taught the case where she was perched upon the branches of a tree, and it would go without saying that where she was hovering [over the nest one is not bound to let her go]! — He wished to state the case where she was hovering [over the nest] to teach that, even though her wings actually touch the nest, one is not bound to let her go.

But have we not learnt: **IF THE DAM WAS HOVERING OVER THE NEST, AND HER WINGS TOUCH THE NEST, ONE IS BOUND TO LET HER GO?** — R. Jeremiah¹ answered: The Baraita² deals with the case where her wings touch the side of the nest.

IF THERE WAS BUT ONE YOUNG BIRD OR ONE EGG, etc. A certain Rabbi said to Raba: Perhaps it should be the reverse, thus if there was but one young bird or one egg [in the nest], one is not bound to let the dam go, for according to the verse there must be young or eggs,³ which is not the case here; and if there were there young birds able to fly or addled eggs, one is bound to let the dam go, for it is written, a nest, that is, any nest whatsoever! — [He replied,] If that were so, the verse should have stated: 'And the dam sitting upon them'; why is it written: **And the dam sitting upon the young or upon the eggs?** To compare the young with the eggs⁴ and the eggs with the young.⁵

MISHNAH. IF A MAN LET [THE DAM] GO AND SHE RETURNED, EVEN FOUR OF FIVE TIMES, HE IS STILL BOUND [TO LET HER GO AGAIN], FOR IT IS WRITTEN, **THOU SHALT IN ANY WISE LET THE DAM GO.**⁶ IF A MAN SAID, 'I WILL TAKE THE DAM AND LET THE YOUNG GO', HE IS STILL BOUND [TO LET HER GO], FOR IT IS WRITTEN,

'THOU SHALT IN ANY WISE LET THE DAM GO'. IF A MAN TOOK THE YOUNG⁷ AND BROUGHT THEM BACK AGAIN TO THE NEST, AND AFTERWARDS THE DAM RETURNED TO THEM, HE IS NOT BOUND TO LET HER GO.⁸

GEMARA. A certain Rabbi said to Raba: Perhaps 'shalleah'⁹ means once, and 'teshallah'¹⁰ twice? — He replied: 'Shalleah' implies even a hundred times; and as for 'teshallah', [it is required for the following teaching:] I only know [this law in the case where the dam is required] for matters of choice,¹¹ whence do I know [that this law applies even when it is required] for the fulfillment of a precept?¹² The text therefore states: 'teshallah', [thou shalt let her go] under all circumstances.

R. Abba the son of R. Joseph b. Raba said to R. Kahana: Then the only reason [for this] is that the Divine Law stated 'teshallah', but otherwise I should have said that [where one required the dam] for the fulfillment of a precept, the law did not apply. But there is here, is there not, both a positive and a negative precept?¹³ And [it is established law that] a positive precept¹⁴ cannot override a positive and negative precept! —

It is necessary for the case where one had transgressed and had taken the dam. Now he has already transgressed the negative precept, and there remains only the positive precept; and one might suppose that now a positive precept can override this [remaining] positive precept,¹⁵ [Scripture] therefore teaches us [that it is not so]. This is in order, however, according to him who teaches¹⁶ that it depends upon whether he has fulfilled or not fulfilled [the positive precept],¹⁷ but according to him who teaches that it depends upon whether he has nullified or not nullified [the positive precept],¹⁸ then so long as this man has not slaughtered the dam he has not transgressed the negative precept.¹⁹ Moreover, according to R. Judah

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who maintains that the precept of letting [the dam] go was intended only in the first instance,²⁰ there is now [after the transgression of the law] not even a positive precept!²¹ —

Rather, said Mar son of R. Ashi, we suppose the case where a man took up the dam in order to let it go, in which case there is no infringement of the negative precept; there is, however, a positive precept and [it might be suggested that] the positive precept [of the leper's offering] should override this positive precept.²² But in what way is this positive precept more potent than that?²³ —

Because one might argue: since a Master has said,²⁴ Great is the peace between man and wife, for the Torah has permitted the name of the Holy One, blessed be He, which is to be written in all sanctity, to be washed away in the waters of bitterness,²⁵ and since a leper so long as he has not been cleansed is forbidden marital intercourse, (for it is written: And he shall dwell outside his tent seven days;²⁶ 'his tent' signifies his wife,²⁷ hence he is forbidden marital intercourse) — one might therefore argue, since he is forbidden marital intercourse, the positive precept in his case²⁸ should override the positive precept of letting the dam go, we are therefore taught [that it is not so].

MISHNAH. IF A MAN TOOK THE DAM WITH THE YOUNG, R. JUDAH SAYS, HE HAS INCURRED [FORTY] STRIPES, AND HE NEED NOT NOW LET HER GO. BUT THE SAGES SAY, HE MUST LET HER GO, AND HE DOES NOT INCUR STRIPES. THIS IS THE GENERAL RULE: [FOR THE TRANSGRESSION OF] ANY NEGATIVE PRECEPT WHICH ADMITS OF A REMEDY BY THE SUBSEQUENT FULFILMENT OF A POSITIVE COMMAND,²⁹ ONE DOES NOT INCUR STRIPES.³⁰

GEMARA. R. Abba b. Memel raised the question: Is the reason for R. Judah's view

[in the Mishnah] that he is of the opinion that [for the transgression of] a negative precept which can be remedied by a subsequent act [of the transgressor] one incurs stripes, or is it that elsewhere he is of the opinion that [for the transgression of] a negative precept which can be remedied by a subsequent act one does not incur stripes, but here the reason is that he maintains that the precept of letting [the dam] go was intended only in the first instance?³¹ —

Come and hear: A thief and a robber are subject to the penalty of stripes; so R. Judah. Now is not this a case of a negative precept which can be remedied by a subsequent act, for the Divine Law says: Thou shalt not rob,³² and also: He shall restore that which he took by robbery?³³ You can therefore infer from this that the reason for R. Judah's view [in our Mishnah] is that he is of the opinion that [for the transgression of] a negative precept which can be remedied by a subsequent act [of the transgressor] one incurs stripes. Thereupon R. Zera said to them,³⁴ Have I not told you that every Baraitha that was not taught in the school of

(1) So in MS.M. and also in the first version supra; cur. edd. 'Rab Judah'.

(2) So according to MSS, and Maharsha (q.v.); in the text 'The Mishnah'. The latter, however, in all probability, was the text before Maim. and Tur. loc. cit.; v. D.S. a.l.

(3) Deut. XXII, 6. The verse states these nouns in the plural, i.e., several young or several eggs.

(4) I.e., as eggs need the care of the dam so the young must be such as need the care of the dam, thus excluding such as can fly.

(5) I.e., as the young are living beings so the eggs must be such as can produce living beings, thus addled eggs are excluded, v. Mishnah supra. Consequently the expression 'a nest', signifying any nest whatsoever, includes a nest that has but one young or one egg in it.

(6) Ibid. 7. Lit., 'letting go thou shalt let go'; i.e., as often as necessary. V. Gemara infra.

(7) Having already let the dam go.

(8) For this man has acquired possession of the young ones, and they are now always at his disposal, consequently the law no longer applies.

(9) שלח, 'to let go', the infinitive of the verb.

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(10) תשלח, 'thou shalt let go', the imperfect of the verb.

(11) I.e., for one's own purposes, either for food or for breeding.

(12) E.g., for the leper's sacrifice (Lev. XIV, 4) or for the sacrifice of a woman after childbirth (ibid. XII, 8). Whence do I know that even for these religious purposes it is not permitted to take the dam?

(13) The negative precept Thou shalt not take the dam, and the positive precept Thou shalt in any wise let the dam go.

(14) For the fulfillment of which the bird is required, v. n. 3.

(15) I.e., that the positive precept of offering birds for the leper's sacrifice should override the positive precept of letting the dam go.

(16) V. Mak. 15a, 16a.

(17) In all prohibitions the transgression of which can be rectified by a subsequent act of the transgressor — e.g., the prohibition: Thou shalt not rob (Lev. XIX, 13), can after the transgression thereof be rectified by the remedial precept: He shall restore that which he took by robbery (ibid. V, 23) — the transgressor is not liable to forty stripes unless after the transgression he does not immediately (or, at the Court's bidding, v. Rashi, Mak. 15a s.v. הנהיג) fulfill the remedial precept. In our case, therefore, if the man does not let the dam go at once he has transgressed the law and is liable to stripes. Accordingly there now remains only the positive precept and this could be overridden by another positive precept were it not for the expression 'teshallah', v. supra.

(18) I.e., the transgressor does not incur the penalty of stripes for the infringement of the negative precept unless he has also nullified his chances of performing the remedial precept, e.g., here if he slaughtered the dam. But so long as he has not nullified the remedial precept, even though he defers it to some later date, he is not liable to stripes.

(19) It cannot therefore be suggested that the positive precept of the leper's sacrifice should override the law of letting the dam go for the latter still involves a positive and a negative precept; accordingly the verse stated above to exclude this is now superfluous.

(20) I.e., on finding a bird's nest a man should immediately let the dam go, for as soon as he takes up the dam he thereby transgresses the law for which he incurs forty stripes (v. next Mishnah). Thereafter he is not obliged to let her go at all, but may use it for any purpose.

(21) It, therefore, cannot be suggested that the man had transgressed the law and taken the dam, for then according to R. Judah it may be used for all purposes.

(22) By taking the dam he has not infringed the negative precept, since he took it for the purpose of letting it go, and even if he does not let it go it cannot be said that he has transgressed this negative precept retroactively. There now remains incumbent upon him the positive precept of letting it go, but this would be overridden if he were to retain it for the fulfillment of the positive precept of the leper's offering. The verse is therefore necessary to exclude this possibility.

(23) Why should the precept of the leper's offering be considered more important so as to override the precept of letting the dam go?

(24) Shab. 116a and elsewhere.

(25) Cf. Num. V, 23.

(26) Lev. XIV, 8.

(27) Cf. Deut. V, 27: Go say to them: Return to your tents, which was a permission to resume marital relations.

(28) I.e., the offering of birds which brings about the leper's purification and also the restoration of conjugal relationships.

(29) Lit., 'in which there is (the command,) Rise and do'.

(30) Provided one fulfilled the, remedial positive act immediately according to one view above, or one did not nullify the chances of performing the remedial act according to the other view above. V. supra p. 815, n. 8 and p. 816, n. 1, notes 5 and 6, and Mak. 15b.

(31) And therefore once the dam has been taken both the negative and positive precepts have been infringed, and one is no longer obliged to send it away. V. p. 816, n. 3.

(32) Lev. XIX, 13.

(33) Ibid. V, 23. This precept obviously can only be taken as a remedial act for the preceding prohibition; nevertheless according to R. Judah the robber incurs the penalty of stripes.

(34) So in MS.M. 'To them', i.e., to the students in the Beth Hamidrash (House of Study) who quoted the foregoing teaching. Cur. edd. 'to him'.

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R. Hiyya and R. Oshaia¹ is not authentic, and that you should not put it forward as a refutation in the Beth Hamidrash? Perhaps it was taught thus: [A thief and a robber] are not subject to the penalty of forty stripes.

Come and hear: R. Oshaia and R. Hiyya taught: [It is written,] Thou shall not go back [to fetch it],² but if a man went back [and gathered the forgotten sheaf] — [It is

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written,] Thou shalt not wholly reap,³ but if a man did reap the whole field — he is subject to the penalty of forty stripes;⁴ so R. Judah. You may infer from this that the reason for R. Judah's view is that he is of the opinion that [for the transgression of] a negative precept which can be remedied by a subsequent act [of the transgressor] one incurs stripes! — Perhaps the reason here is that he maintains that the precept of leaving [the gleanings, etc. for the poor] was intended only in the first instance.⁵

Rabina said to R. Ashi: Come and hear: [It is written,] And ye shall let nothing of it remain until the morning; [and that which remaineth of it until the morning] ye shall burn with fire.⁶ Scripture here came and provided a positive precept as a remedy for the [disregarded] prohibition, to indicate that the prohibition is not punishable by stripes; so R. Judah. You may then infer from this that the reason for R. Judah's view [in our Mishnah] is that he maintains that the precept of letting [the dam] go was intended only in the first instance. This indeed proves it.⁸

R. Idi b. Abin said to R. Ashi: Our Mishnah also proves it, for it states: IF A MAN TOOK THE DAM WITH THE YOUNG, R. JUDAH SAYS, HE HAS INCURRED [FORTY] STRIPES, AND HE NEED NOT NOW LET HER GO. Now if you were to say that the reason for R. Judah's view is that he is of the opinion that [for the transgression of] a negative precept which can be remedied by a subsequent act [of the transgressor] one incurs guilt,⁹ then it should have stated: 'He has incurred [forty] stripes and must also let her go!' — Perhaps the Mishnah is to be interpreted thus: He has not cleared himself [by merely letting her go] until he has suffered stripes.¹⁰ How far must he let it go? — Rab Judah said, until it is out of his reach.¹¹ How should he let it go? —

R. Huna said: With its feet.¹² Rab Judah said: With its wings.¹³ 'R. Huna said: With its feet', for it is written: That let go freely the feet of the ox and the ass.¹⁴ 'Rab Judah said: With its wings', for its wings are also [regarded as feet].¹⁵ A man once clipped the wings [of the dam before letting it go], let it go and then caught it again. Rab Judah had him flogged and ordered him: 'Go, keep it until it grows its wing feathers again and then let it go'. But whose view did he adopt? For according to R. Judah he suffers stripes but need not let it go, and according to the Sages he must let it go but does not suffer stripes? — In truth he adopted the view of the Sages, but [the flogging] was chastisement of the Rabbis.¹⁶

A man once came to Raba and asked: What is the law with regard to the Temah?¹⁷ Said [Raba to himself]: Does not this man know that one is bound to let go a clean bird? He [Raba] then said to him: Perhaps [you enquire because] there was [in the nest] but one young bird or one egg? He replied: That is so.¹⁸ Then said [Raba] to him: This surely should not give rise to any doubt;¹⁸ it is expressly stated in our Mishnah: If there was but one young bird or one egg [in the nest], one is still bound to let [the dam] go. The other then sent it away; whereupon Raba set snares for it and caught it. But is there not ground here for suspicion?¹⁹ — He acted in an indirect manner²⁰ [as did not give rise to suspicion].

Our Rabbis taught:²¹ [Wild] doves of the dove-cote,²² and doves²² of the loft, are subject to the law of letting [the dam] go, and are forbidden as [coming within the category of] theft in the interest of peace.²³ Now if the dictum of R. Jose b. Hanina,²⁴ that a man's courtyard acquires [property] for him even without his knowledge, is correct, then apply to this case the verse: If a bird's nest chance to be before thee, which excludes that which is always at one's disposal!²⁵ —

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Raba²⁶ said: As soon as the greater part of the egg has emerged [from the body of the bird] the law of letting [the dam] go applies, whereas [the owner of the dovecote] does not acquire it until it falls into his courtyard; therefore the ruling: 'Are subject to the law of letting [the dam] go' means, before it falls into his courtyard.²⁷ If so, why are they forbidden as theft?²⁸ — That refers to the mother-bird.²⁹ Alternatively, you may say, it refers indeed to the eggs, for when the greater part of the egg has emerged his mind is set upon it.³⁰

But now that Rab Judah has said in Rab's name that it is forbidden to take the eggs so long as the dam is sitting on them, for it is written: Thou shalt in any wise let the dam go,³¹ and then only: Thou mayest take the young to thee,³¹ — you may even say that it [the egg] fell into his courtyard, [nevertheless the law of letting the dam go applies], for whenever he himself may acquire it his courtyard acquires it for him, but whenever he himself may not acquire it his courtyard cannot acquire it for him either.³² If so, why are they forbidden as theft in the interests of peace? If he³³ let the dam go, then [to take the eggs] is actual theft,³⁴ and if he did not let it go, then he is bound to let it go?³⁵ — We are referring to a minor.³⁶ But is a minor subject to provisions enacted in the interests of peace? — It means this: The father of the minor must return [the eggs]³⁷ in the interests of peace.

Levi b. Simon assigned to Rab Judah the young of his dovecote. When the latter came before Samuel he advised him: 'Go, knock on the nest so that [the brooding birds] shall rise up, and then take possession'. But why was this necessary?³⁸ If in order to take possession of them;³⁹ but surely he could have acquired them by means of a 'cloth'.⁴⁰ And if for the purpose of the Festival,⁴¹

(1) Who were disciples of R. Judah the Patriarch who collected the Baraita (v. Glos.).

(2) Deut. XXIV, 19.

(3) Lev. XIX, 9.

(4) Although in each case the Torah provides a remedial act, to leave the forgotten sheaf and the corner of the field for the poor and the stranger.

(5) But once the law has been transgressed there is no longer a duty to leave them for the poor; hence the precept 'to leave' is not a remedial act.

(6) Ex. XII, 10.

(7) Lit., 'after'.

(8) It cannot be otherwise since here R. Judah expressly states his view that for the transgression of a negative precept which can be remedied by a subsequent act of the transgressor one does not incur stripes.

(9) And on this assumption the precept of letting the dam go must be observed even after the transgression of the law.

(10) I.e., although he is bound even now to let her go he nevertheless suffers forty stripes.

(11) And then if this same person succeeds in catching it again he is permitted to use it.

(12) I.e., he must let it go so that it should be able to walk away on its feet. In this manner he has fulfilled his obligation even though he may have injured its wings so that it cannot fly away. Aliter: he must get hold of it with its feet and set it free.

(13) I.e., that it should be able to fly with its wings.

(14) Isa. XXXII, 20. The expression 'feet' is used in connection with 'letting go'.

(15) So MS.M. V. Rashal and Maharsha a.l. Cur. edd. 'since these are its wings'.

(16) The punishment decreed by the Rabbis for disobedience as opposed to stripes ordained by Biblical law.

(17) A clean bird, perhaps the bullfinch, cf. Lewysohn, Zoologie des Talmuds, p. 181.

(18) The text in cur. edd. is doubtful; the translation rests upon the reading in MS.M.

(19) That Raba ordered the other to let the dam go only that he might gain possession of it himself.

(20) Lit., 'as though (doing a thing) with the back of the hand'.

(21) B.M. 102a.

(22) I.e., doves that roam at large seeking their food in the open field, but come to rest for the night in the dove-cote or in the loft.

(23) Strictly they do not belong to the owner of the dove-cote, but the Rabbis, for the sake of peace, and knowing that he has set his mind on them, recognized his right to them as against all others.

(24) V. B.M. 11a, and 102a.

(25) And since the dove-cote has acquired the eggs for the owner the law of letting the dam go surely cannot apply.

(26) So in B.M. 102a. Cur. edd. 'Rab'; in MS.M. 'Rabbah'.

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(27) Since the egg has not emerged entirely the dove-cote has not acquired it for the owner, so that it is not at his disposal; and therefore it is subject to the law of sending away.

(28) Seeing that the egg has not yet become the property of the owner of the dove-cote.

(29) I.e., to take away the mother-bird is regarded by the Rabbis as theft, but only in the interests of peace, for the owner of the dove-cote has no doubt been looking forward to acquire this bird, since it has nested from time to time in his dove-cote, and it would therefore be wrong to deprive him of it. Similarly to take the egg, inasmuch as it has not wholly emerged from the mother-bird but is deemed a part thereof, would also constitute theft (Rashi). Cf. however Tosaf. B.M. 102a, s.v. יא.

(30) And therefore, in the interests of peace, it is forbidden to deprive the owner of the dove-cote of these eggs to which he has been looking forward; but in respect of the mother-bird he has no better claim than a stranger. And on the other hand, so long as the egg has not actually been laid the law of letting the dam go still applies.

(31) Deut. XXII, 7.

(32) And since he cannot acquire it himself for the dam is sitting on it, his courtyard likewise cannot acquire it for him, so that it is not at his disposal, and therefore the law of letting the dam go applies.

(33) Sc. any person who comes to take the eggs.

(34) For as soon as the dam is lifted up from the eggs the latter become the property of the owner of the courtyard.

(35) Before the eggs can be taken, so that they are forbidden in any case.

(36) Who is about to take the eggs from the dove-cote and upon whom the law of letting the dam go is not binding.

(37) To the owner of the dove-cote.

(38) To knock on the nest so as to make the birds rise up.

(39) According to the usual manner of acquiring a thing by lifting up.

(40) The passing of a cloth or any article from one party to the other effected the transfer of the subject matter 'of the transaction. V. B.M. 47a. Cf. Ruth IV, 7.

(41) Whatever is intended to be used on the Festival must be 'set in readiness' before the Festival, otherwise it would be regarded as Mukzeh, i.e., laid aside and not to be used on the Festival. The knocking on the nest would therefore be regarded as setting them in readiness for the Festival.

it is sufficient to stand by and say: 'This one and that one I shall take'.¹ — These eggs² were newly laid and Levi b. Simon himself had not yet acquired them.³ [Samuel] therefore said this to him [Rab Judah], 'Go knock on the nest so that [the brooding birds] shall rise up and Levi b. Simon shall acquire them, and afterwards let him assign them to you by means of a "cloth".'

MISHNAH. A MAN MAY NOT TAKE THE DAM WITH THE YOUNG EVEN FOR THE SAKE OF CLEANSING THE LEPER.⁴ IF IN RESPECT OF SO LIGHT A PRECEPT, WHICH DEALS WITH THAT WHICH IS BUT WORTH AN ISSAR,⁵ THE TORAH SAID, THAT IT MAY BE WELL WITH THEE, AND THAT THOU MAYEST PROLONG THY DAYS,⁶ HOW MUCH MORE [MUST BE THE REWARD] FOR THE OBSERVANCE OF THE MORE DIFFICULT PRECEPTS OF THE TORAH!

GEMARA. It was taught: R. Jacob says,⁷ There is no precept in the Torah, where reward is stated by its side, from which you cannot infer the doctrine of the resurrection of the dead.⁸ Thus, in connection with honoring parents it is written: That thy days may be prolonged, and that it may go well with thee.⁹ Again in connection with the law of letting [the dam] go from the nest it is written: 'That it may be well with thee, and that thou mayest prolong thy days'. Now, in the case where a man's father said to him, 'Go up to the top of the building and bring me down some young birds', and he went up to the top of the building, let the dam go and took the young ones, and on his return he fell and was killed—where is this man's length of days, and where is this man's happiness? But 'that thy days may be prolonged' refers to the world that is wholly long,¹⁰ and 'that it may go well with thee' refers to the world that is wholly good.¹⁰ But¹¹ perhaps such a thing could not happen? —

R. Jacob actually saw this occurrence. Then perhaps that person had conceived in his

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mind a sinful thought? — The Holy One, blessed be He, does not reckon the sinful thought for the deed.¹² Perhaps then he had conceived in his mind idolatry, and it is written: That I may take the house of Israel in their own heart,¹³ which, according to R. Aha b. Jacob, refers to thoughts of idolatry?¹⁴ — This was what he [R. Jacob] meant to convey: if there is a reward for precepts in this world, then surely that [reward] should have stood him in good stead and guarded him from such thoughts that he come not to any hurt; we must therefore say that there is no reward for precepts in this world.

But did not R. Eleazar say that those engaged¹⁵ in [the performance of] a precept never come to harm? — When returning from the performance of a precept it is different. But did not R. Eleazar say that those engaged in a precept never come to harm, either when going [to perform it] or when returning [from the performance thereof?] — It must have been a broken ladder [that was used],¹⁶ so that injury was likely; and where injury is likely it is different, as it is written: And Samuel said: How can I go? If Saul hear it, he will kill me.¹⁷

R. Joseph said: Had Aher¹⁸ interpreted this verse¹⁹ as R. Jacob, his daughter's son, did, he would not have sinned. What actually did he see? — Some say: He saw such an occurrence.²⁰ Others say, He saw the tongue of R. Huzpith the Interpreter²¹ lying on a dung-heap, and he exclaimed, 'Shall the mouth that uttered pearls lick the dust'? But he knew not that the verse: 'That it may go well with thee', refers to the world that is wholly good, and that the verse: That thy days may be prolonged' refers to the world that is wholly long.

(1) In accordance with the view of Beth Hillel; Bez. 10a.

(2) Lit., 'these fruits'. The eggs were newly laid and the dam was still sitting over them.

(3) For so long as the dam was sitting upon them his courtyard could not acquire the eggs for him.

(4) For whose purification rites two birds were required, one to be slaughtered and the other to be set free into the open field, cf. Lev. XIV, 4ff.

(5) V. Glos. Rarely would the dam be worth more than an issar.

(6) Deut. XXII, 7.

(7) The word *בבית* 'in the school of' is to be omitted, so in MS.M. and in Kid. 39b.

(8) Lit., 'upon which the doctrine of the resurrection of the dead does not depend'.

(9) Deut. V, 16.

(10) The promise of bliss is to be fulfilled in the world to come, and one must not expect to receive the reward of a good deed in this world; v. infra, and Kid. loc. cit.

(11) The rest of this chapter from this point is omitted in MS.M., and apparently it was not in the text before Rashi; cf. Tosef. Hul. end. It has been inserted here from Kid. loc. cit.

(12) Lit., 'He does not combine the (evil) thought with the (evil) deed'; i.e., God does not punish for the sinful thought.

(13) Ezek. XIV, 5.

(14) I.e., the intention to serve idolatry is punishable like the act.

(15) Lit., 'sent'.

(16) By the person who went up to the top of the building to fetch the young ones.

(17) 1 Sam. XVI, 2. Although Samuel was bidden by God he nevertheless hesitated for the danger of his mission was apparent.

(18) Lit., 'Another', 'a stranger', the name attached to Elisha b. Abuyah, the great scholar and teacher of R. Meir, on his apostasy, V. Hag. 15a.

(19) Which promises happiness and length of days to him that performs the commandment; cf. Deut. V, 16, and XXII, 7.

(20) Where a person engaged in the performance of a precept met with an accident and was killed. This incident made him doubt the truth of the Torah and he turned unbeliever.

(21) A martyr of the Hadrianic persecution. He is mentioned in the Mishnah once only; Sheb. X, 6. He acted as Interpreter or Amora (v. Glos.) for R. Gamaliel, v. Ber. 27b.