

The Soncino Babylonian Talmud

Book II

Folios 31b-61a



BECHOROS

**TRANSLATED INTO ENGLISH
WITH NOTES**

Reformatted by Reuven Brauner, Raanana 5771
www.613etc.com

BECHOROS –31b-61a

Bechoroth 31b

GEMARA. [The Mishnah says that] the profit on all dedicated objects which have become unfit [for the object consecrated] goes to THE SANCTUARY. Now, when is this? Is it after redemption? Then why does it state that their profit belongs to THE SANCTUARY? Is not the profit on them for the owners? If again you maintain that [the Mishnah] refers to the period before redemption, why does it say **THEY ARE SLAUGHTERED?** Do they not require presentation and valuation?¹ No difficulty arises according to him who says that objects consecrated for the altar are not included in the law of presentation and valuation; but according to him who holds that they are included in the law of presentation and valuation,² what answer could you give? —

You can still say that [the Mishnah] refers to the period after redemption, and what is meant then by the expression **THEIR PROFIT BELONGS TO THE SANCTUARY?** [It means] from the beginning.³ For since the Master permits them to be sold in the market, slaughtered in the market and weighed by the pound, the amount of the redemption is increased from the beginning.

EXCEPT IN THE CASE OF A FIRSTLING OR OF A TITHING ANIMAL, AS THEIR PROFIT BELONGS TO THE OWNERS. This is quite fair in the case of a firstling, which, although it must not be sold in the market, can be sold privately; but are animal tithes allowed to be sold privately? Has it not been taught: In connection with a firstling it is said: [But the firstling of an ox]... thou shalt not redeem,⁴ [intimating] that it may be sold alive⁵ and in connection with animal tithing, it says: It shall not be redeemed,⁶ [intimating] that it is forbidden to be sold either alive or ritually cut, whether unblemished or blemished? —

This problem presented itself to R. Shesheth in the evening and he solved it the next morning by reference to a Baraitha [mentioned below]. We are dealing here [in the Mishnah] with a tithing animal⁷ belonging to orphans, [and by permitting in this case] we resort to the principle of restoring something lost.⁸ R. Idi was the attendant of R. Shesheth. He heard [this answer] from him and proceeded to mention it in the College, but did not cite it in his name. R. Shesheth heard of it and was annoyed. He exclaimed: 'He who has bitten me, a scorpion should bite him'. And what practical difference did this make to R. Shesheth? —

As Rab Judah reported in the name of Rab: What is the meaning of the scriptural text: I will dwell in Thy Tent in [both] worlds?¹⁰ Is it possible for a man to dwell in two worlds? What David meant is this: 'Master of the Universe, may they cite a tradition in my name in this world'. For R. Johanan reported in the name of R. Simeon b. Yohai: When a tradition is cited in a scholar's name in this world, his lips murmur in the grave. And R. Isaac b. Zera also said: What is the meaning of the scriptural text: And the roof of thy mouth like the best wine that glideth smoothly for my beloved, moving gently the lips of those that are asleep?¹¹ It is like a heated mass of grapes. Just as a heated mass of grapes drips as soon as you apply your finger, so do the lips of scholars in the graves murmur when sayings are cited in their name. What is the Baraitha [referred to above]?¹² —

As it has been taught: A tithing animal belonging to orphans, we may sell. And as to the flesh of a ritually cut tithing animal he may also sell it in conjunction with its skin, fat, tendons and bones. What does [the Baraitha] mean?¹³ Abaye said: It means this: A tithing animal belonging to orphans may be sold. And how is it sold? In conjunction with its skin,¹⁴ fat, tendons and horns. This would therefore imply that in

BECHOROS –31b-61a

the case of an adult it is forbidden to sell a tithing animal in conjunction with other things. Now why is this different from the case we have learnt [as follows]: If one buys a lulab¹⁵ from another in the sabbatical year, he gives him at the same time the ethrog¹⁶ as a gift because he must not buy it¹⁷ in the sabbatical year. And we raised the point, what if we did not wish to give it to him as a gift? And R. Huna explained: He pays him indirectly the value of the Ethrog in conjunction with the Lulab? — There [in the Mishnah] the matter is not obvious,¹⁸ but here the matter is obvious.¹⁹

Said Raba: If this be so, then why does the Baraitha above repeat the expression ‘tithing animal’?²⁰ Rather said Rabba: It means this: A tithing animal belonging to orphans may be sold in the ordinary way, whereas in the case of a tithing animal belonging to an adult, which was ritually cut, he pays for the flesh in conjunction with its skin, fat, tendon and horns. Said Raba: Whence do I prove it? Because it is written, Then both it and that, for which it is changed shall be holy; it shall not be redeemed.²¹ Now, when does the law of substitution apply? When the animal is alive. Therefore [by analogy] when is a tithing animal not redeemed? When it is alive, thus implying that after being ritually cut, it may be redeemed, and it is but the Rabbis who have prohibited its selling after having been ritually cut in order to prevent its selling before it was ritually cut.²² Consequently in the case of an object which is valued when alive,²³ the Rabbis prohibited its selling after having been ritually cut in order to prevent its selling before it was ritually cut;

(1) Therefore how is it possible for him to sell it and make it Hullin, for a dedicated animal cannot be redeemed except when alive, since it requires to be presented to the priest and valued by him (Lev. XXVII).

(2) V. supra 32b.

(3) When the owners redeem them originally from the sanctuary, the latter benefits if after

redemption the flesh can be sold in the manner of Hullin.

(4) Num. XVIII, 17.

(5) To others, having once come into the possession of the priest.

(6) Lev. XXVII, 33.

(7) In a blemished state.

(8) As he is unable to eat the whole animal, it would become decomposed and be a loss if we forbade its disposal privately. But in the case of an adult, even private selling is prohibited.

(9) I.e. not cited my name as the author.

(10) So lit., E.V. ‘for ever’. Ps. LXI, 5.

(11) Cant. VII, 10.

(12) On which R. Shesheth based his reply.

(13) At first it says that we may sell it, apparently in the normal way, and then it proceeds to say that the selling must be in an indirect manner.

(14) He sells the skin for a high price, which includes the value of the flesh; the skin, horns, etc. being permitted to be sold because they are not eatable things.

(15) The palm branch, one of the Four Species taken on Sukkoth.

(16) The citron, another of the Four Species.

(17) Other fruit including the Lulab, although gathered in the sabbatical year, may be bought because we go by the time when the fruit is formed, which is the sixth year. But in the case of the Ethrog, we go by the time when the fruit matures, i.e., in the sabbatical year. and consequently we must not purchase an Ethrog from an ‘am ha-arez as the latter might do business in the sabbatical year with the money thus obtained.

(18) As the Ethrog is only of slight value, so that it is not manifest that he is paying for it in connection with the Lulab.

(19) Since the price is high, it is clear that the money is not for the skin etc, but for the flesh.

(20) Thus implying that the Baraitha deals with two separate cases and does not merely consist of one clause dealing with a single case.

(21) Lev. XXVII, 33.

(22) As mentioned above, that ‘it is not sold either alive or slaughtered’.

(23) I.e., the flesh which is the main part of the animal that is sold when alive.

Bechoroth 32a

but in the case of an object which is not valued when alive,¹ the Rabbis did not prohibit;² and in the case of orphans, the Rabbis let the law remain according to the biblical ruling.³ And R. Samuel son of R. Isaac also held Raba's view.⁴ For R. Samuel

BECHOROS –31b-61a

son of R. Isaac said: Whence is it proved that we may sell a tithing animal belonging to orphans in the ordinary way? Because it is said, Notwithstanding thou mayest kill and eat flesh within all thy gates after all the desire of thy soul [according to the blessing of the Lord thy God]⁵ Now which [dedicated] object has no blessing [from the dedication] when alive but only after being slaughtered? You must say that this is a tithing animal.⁶ The following query was put forward: What of selling its flesh in conjunction with the bones?⁷

R. Hiyya and R. Simeon son of Rabbi differ [in this matter]. One says, he may sell indirectly, and the other says he must not sell indirectly: And they do not [really] differ. The teacher [who forbids] refers to the bones of small cattle, and the other refers to bones of large cattle.⁸ Or, if you prefer, I can say: In the one case as well as in the other it refers to large cattle, and yet there is no difference of opinion. One follows the custom of his place⁹ and the other that of his.¹⁰ The [above] text states: In connection with a firstling Scripture says: ‘Thou shalt not redeem’, implying that it may be sold when alive, and in connection with tithing, it is said in the Scriptures: ‘It shall not be redeemed’, intimating that it is forbidden to be sold either alive or ritually cut, whether unblemished or blemished. Whence is this proved?¹¹ —

R. Hanina reported in the name of Rab and likewise when R. Dimi came he reported in the name of R. Johanan: It is said in connection with tithing the expression ‘It shall not be redeemed’, and we read in the Scriptures in connection with haramim¹² the expression It shall not be redeemed;¹³ just as the latter includes [the prohibition of] selling so the former includes selling.

Said R. Nahman the son of Isaac to R. Huna son of Joshua: [The text ‘It shall not be redeemed’] is free [for interpretation], for if it were not free [for interpretation], it may

be objected [against this analogy] that the case of haramim is different because they take effect upon everything.¹⁴ Is it not so? It is indeed open for interpretation. [For if Scripture] should not have stated ‘It shall not be redeemed’ in connection with haramim, one could have inferred this from the case of a tithing animal: just as a tithing animal is holy and is not redeemed, so haramim are holy and are not redeemed. What need therefore is there for [the words] ‘It shall not be redeemed’?¹⁵ Deduce from here consequently that it is free for interpretation. But it may be objected [to this analogy] that the case of a tithing animal is different because the animals which preceded and followed [the tenth in the counting] are all holy?¹⁶

Rather [argue thus]: [Scripture] should not have stated ‘It shall not be redeemed’¹⁷ in connection with haramim, and one could have inferred this from the case of the firstling; as a firstling is holy and is not redeemed, so haramim are holy and cannot be redeemed. What need then is there for [Scripture] to write ‘It shall not be redeemed’? This shows that it is free for interpretation. But it may still be objected that the case of a firstling is different because it is hallowed from birth!¹⁸

Rather [argue thus: Scripture] should not have used the expression ‘It shall not be redeemed’ in connection with a tithing animal, and one could have inferred this from the analogy between ‘passing’¹⁹ here and passing mentioned in connection with a firstling; as a firstling is holy and is not redeemed, so a tithing animal is holy and is not redeemed. What need then is there for [Scripture] to write ‘It shall not be redeemed’ in connection with a tithing animal? It is therefore free [for interpretation]. But still [the expression] in connection with a tithing animal is not free, since we can refute the analogy as we did above?²⁰ — [The text That thou shalt cause to pass’ is superfluous.²¹ But why not also

BECHOROS –31b-61a

make a comparison between the text ‘Thou shalt not redeem’ used in connection with a firstling and the text ‘It shall not be redeemed’ used in connection with haramim?²² —

The ‘redemption’ mentioned in connection with tithing is free for interpretation²³ whereas the ‘redemption’ mentioned in connection with a firstling is not free [for interpretation].²⁴ But why do you see fit to say that the text mentioning ‘redemption’ in connection with a firstling is required for its own sake,²⁵ while the text ‘It shall not be redeemed’ in connection with tithing is free [for interpretation]?²⁶ Why not say that the text ‘It shall not be redeemed’ in connection with tithing is required for its own sake, while the text ‘Thou shalt not redeem’ referring to a firstling is free for interpretation?²⁷ —

We compare the word ge'ulah with the word ge'ulah,²⁸ whereas we do not compare the word pedyah [used in connection with a first-born], with the word ge'ulah [mentioned in connection with haramim].²⁹ But what is the practical difference?³⁰ Did not a Tanna of the school of R. Ishmael teach: [Scripture says]: And the Priest shall come again and [later it says]: Then the Priest shall come,³¹ to show that the same rule applies to his coming [the second time] as to his entering [after a week]?³² —

This is the case only where no identical words are to be found [with which to compare], but where identical words are to be found, we rather make the comparison with identical words. But why not infer the case of a firstling³³ from that of a tithing animal [by means of the analogy] between ‘passing’ and ‘passing’, for, as regards the [forbidding of the sale] of a tithing animal, we have already compared the word ge'ulah with the word ge'ulah mentioned in connection with haramim? —

Scripture excludes this in connection with haramim, [saying]: It is [most holy]³⁴ implying ‘it is [most holy],³⁵ but not a firstling’. But why not say that the text implies ‘it is [most holy] but not tithing?’ — It is reasonable to maintain that the word ge'ulah is used [in connection with tithing] and the word ge'ulah is used [with reference to haramim] in order that the former may be compared with the latter.³⁶

Raba said: [The text] ‘It shall not be redeemed’ in connection with haramim is superfluous. For, where were [these haramim]? If in the possession of the owners, then they are holy.³⁷ If in the possession of the priest, then they are Hullin [and may be sold]. For it has been taught: So long as haramim are in the possession of the owners, they are considered as holy in all respects, for it is said: Every devoted thing is most holy unto the Lord.³⁴ If however he gave them to the priest, they are considered as Hullin in all respects, as it is said: Everything devoted in Israel shall be thine.³⁸

(1) E.g., the skin, etc.

(2) The value of the animal being not on account of these things, disposing of them indirectly is permissible even in the case of an adult.

(3) That after having been slaughtered a tithing animal may be sold even in the ordinary manner.

(4) That according to the biblical law a tithing animal may be sold after having been slaughtered.

(5) Deut. XII, 15. Sifri a.l. explains this verse as referring to consecrated animals that have received a blemish.

(6) For any other consecrated object with a blemish may after redemption be sold when alive to anybody. And the blessing referred to here means the permission of selling it just as the blessing denied when alive refers to its selling. Consequently we see that according to the biblical law, a tithing animal may be sold after having been slaughtered and there is only a rabbinic restriction which is not invoked when it belongs to orphans.

(7) The tithing animal belonging to an adult.

(8) Which may be fashioned into vessels or instruments like flutes, and therefore selling the flesh in conjunction with the bones is permissible, as it will be said that the price is for the bones, since these can be of use.

BECHOROS –31b-61a

(9) Where flutes for example are made from bones, and therefore this teacher permits the selling of flesh in connection with the bones.

(10) Where these articles are not made from bones, and therefore when they are sold it is obvious that the money is for the flesh, which is forbidden.

(11) That a tithing animal must not be sold and that the expression לֹא יִגָּאֵל, rendered 'It shall not be redeemed' also connotes selling.

(12) 'Devoted things'. Dedications for use by the priests or the Temple.

(13) לֹא יִגָּאֵל Lev. XXVII, 28.

(14) Even upon sacred objects as well, whereas tithing only has affect on Hullin. Moreover, Herem applies to all the herd, whereas tithing only applies to every tenth animal of the herd.

(15) In connection with haramim.

(16) If, for example, he called the ninth animal the tenth and the eleventh the tenth, the three are holy.

(17) In connection with animal tithing.

(18) Whereas this is not the case with a tithing animal.

(19) 'All that passeth under the rod' Lev. XXVII, 32 in connection with tithing and 'that thou shalt cause to pass (set apart)' mentioned with reference to a first-born in Ex. XIII, 12.

(20) The case of a firstling being different, as it is hallowed from birth.

(21) It would have sufficed if Scripture had stated: All that openeth the womb is the Lord's. The term 'cause to pass' here is therefore free for the deduction of an analogy between it and the term used in connection with tithing, as we do not refute an analogy drawn from congruent expressions, since the latter is a tradition. Therefore the text 'It shall not be redeemed' is redundant, and we consequently compare it with a similar text in connection with haramim, deducing that tithes must not be sold as well as not redeemed.

(22) That a firstling must not be sold, though the Hebrew expressions in each are different, קָדָשׁ in the one and גָּאֵל in the other, identical in meaning.

(23) Therefore we make the analogy of firstling with haramim.

(24) In the first place, it is required for its own sake, to show that the animal cannot be redeemed, and secondly for the analogy between 'passing' and 'passing'.

(25) And for the analogy with tithing.

(26) To compare with haramim with regard to selling.

(27) That just as in the case of haramim selling is forbidden, so a firstling must not be sold.

(28) Mentioned in connection with haramim and tithing respectively.

(29) V. supra p. 205, n. 3.

(30) Since both the words pedyah and ge'ulah mean the same thing.

(31) Lev. XIV. 39 and 44 (with reference to leprosy of house).

(32) Although the words are not identical, yet the ruling is the same. v. Hul 85a.

(33) That it must not be sold.

(34) Lev. XXVII. 28.

(35) And is forbidden to be sold.

(36) As regards the prohibition of selling, and to exclude the case of a firstling, since the expression used there is pedyah.

(37) And cannot therefore unless blemished be redeemed.

(38) Num. XVIII, 14.

Bechoroth 32b

What need then is there for the text 'It shall not be redeemed'? If it has no bearing on the subject of haramim, make it bear on the subject of tithing [as regards selling]. But why not say: Make it bear on the subject of a firstling? — [It is reasonable to maintain that] the word ge'ulah used in connection with haramim is [to be applied to tithing since the identical word] ge'ulah [is used with reference to tithing] as with the former.¹

R. Ashi says: 'It shall not be redeemed' mentioned in connection with tithing means that it shall not be sold. Said R. Ashi: Whence can I prove this? [Scripture writes]: Then both it and that for which it is changed shall be holy; it shall not be redeemed.² Now, when is it that the law of Substitution applies? When [the animal] is alive. Therefore, when may it not be redeemed? When it is alive, thus implying that after having been slaughtered it may be redeemed. But does it not require presentation and valuation?³ Therefore you must deduce from here that the text 'It shall not be redeemed' means that it shall not be sold. This would indeed hold good according to him who holds that objects consecrated for the altar are included in the law of presentation and valuation. But according to him who holds that objects consecrated for the altar are not included in the law of

BECHOROS –31b-61a

presentation and valuation, what can you reply? —

We mean this [R. Ashi argues]: Is there any object which cannot be redeemed when alive and can yet be redeemed after being slaughtered! — But why not? [It is natural that] when an object is alive, its holiness being strong, it cannot be redeemed, whereas after its slaughtering, its holiness having been weakened, it may be that it can be redeemed! — But is it not a matter of course? For if when the animal is alive, when it is qualified to effect redemption [Scripture says that] it cannot be redeemed, after having been slaughtered, when it has not the strength to effect redemption, how much more so is it the case that it cannot be redeemed? Consequently [we deduce from here that] the text ‘It shall not be redeemed’ means that it shall not be sold. But why does not the Divine Law then write explicitly ‘It shall not be sold’? — If the Divine Law had written ‘It shall not be sold’. I might have thought that it cannot indeed be sold, since he performed a secular action [in exchanging], but it can be redeemed, because its money enters [the coffers of] the Sanctuary, the Divine Law therefore writes ‘It shall not be redeemed’ teaching that it can neither be sold nor redeemed.

MISHNAH. BETH SHAMMAI SAY: AN ISRAELITE MUST NOT BE INVITED TO SHARE [A BLEMISHED FIRSTLING] WITH A PRIEST, WHEREAS BETH HILLEL PERMIT THIS. EVEN IN THE CASE OF A HEATHEN.

GEMARA. Whose view does the Mishnah represent? — That of R. Akiba. For it has been taught: Only a company all of whom are priests may enter for a share of a firstling. These are the words of Beth Shammai. But Beth Hillel permit even strangers.⁴ R. Akiba permits [according to Beth Hillel] even heathens. What is the reason of Beth Shammai? — It is written, And the flesh of them shall be thine, as the wave-breast and as the right shoulder [are

thine].⁵ Just as there⁶ priests may [eat] but not a lay Israelite,⁷ so here priests are allowed [to eat] but not an Israelite.

(1) Rashi for various reasons rejects this version and gives the following version: Without the analogy between tithing and haramim one can infer that tithing must not be sold, for the text ‘It shall not be sold’ in connection with haramim is not necessary, for if haramim are in the possession of the owners then they are holy, and if in the possession of the priest, then they are Hullin. We therefore, declares Raba, maintain that the text ‘It shall not be sold’ refers to tithing.

(2) Lev. XXVII. 33.

(3) Therefore you must admit it does not come under the law of redemption and that its value does not assume any holiness, the selling being prohibited because a secular action was performed with the animal.

(4) I.e., non-priests.

(5) Num. XVIII, 18.

(6) In connection with the wave-breast and shoulder.

(7) For Scripture writes, Thou and thy sons and thy daughters with thee, thus excluding a lay Israelite.

Bechoroth 33a

And Beth Hillel?¹ — This is only the case in connection with an unblemished firstling.² but with reference to a blemished firstling, the text says. The unclean and the clean person shall eat it alike.³ Now, if an unclean person who is forbidden to eat sacrifices of a minor grade may eat a firstling, how much more should a non-priest who may eat sacrifices of a minor grade be allowed to eat a firstling! But this argument can be refuted. The case of an unclean person is different, for he was permitted [and exempted] from the general rule in that he may officiate in the Temple service for the public.⁴

And Beth Hillel? — Does [the Baraita] refer to Temple service? We are speaking of eating, and as regards eating, a non-priest has a better right!⁵ ‘And R. Akiba permits even in the case of a gentile’. What is the reason of R. Akiba?⁶ —

BECHOROS –31b-61a

[Scripture says]: As the gazelle and as the hart:⁷ as the gazelle and the hart are permitted to be eaten by a gentile, so a firstling is permitted to be eaten by a gentile. And the other authority? — There are three texts [in Deuteronomy]⁸ mentioning the gazelle and the hart. One text is for what R. Isaac and R. Oshaiah taught,⁹ the other for what R. Eleazar ha-Kappar taught:¹⁰ and the last [to interpret as follows]: As a gazelle and hart are not subject to the law of the firstling and the priest's gift, so consecrated objects rendered unfit for sacrifices are not subject to the law of the firstling and the priest's gifts.

Our Rabbis taught: A firstling must not be given to eat to menstruant women. These are the words of Beth Shammai, whereas Beth Hillel say: We are allowed to give it to eat to menstruant women.

What is the reason of Beth Shammai? — Scripture writes [with reference to a firstling]: ‘And the flesh of them shall be thine [as the wave-breast and as the right shoulder]’:¹¹ as there [in the case of the wave-breast, etc.] menstruant women are forbidden to eat, so here menstruant women are forbidden to eat [the firstling].

And Beth Hillel?¹² This is only the case with an unblemished firstling, but as regards a blemished firstling, ‘the unclean as well as the clean may eat it alike’.

And Beth Shammai? — This is only the case [that an unclean person may eat it] where the impurity does not issue from the body, but where the impurity issues from the body, it is not so, for we find that the Divine Law makes a distinction between impurity which issues from the body and impurity which does not issue from the body. For we have learnt: The paschal lamb which is offered [by those] in a state of uncleanness must not be eaten by Zabim, zaboth,¹³ menstruant women or confined women.¹⁴

And Beth Hillel? There, [Zabim, etc. are forbidden to eat the paschal lamb] because Scripture explicitly made this clear in the text: ‘By reason of a dead body’,¹⁵ whereas here in connection with a firstling, the text says: ‘The unclean person’ in general, implying, without any distinction.

Our Rabbis taught: We must not flay an animal from the feet on a Holy Day;¹⁶ nor [on a weekday] when the animal is a firstborn [even blemished]; nor sacrifices rendered unfit.¹⁷ Now, we understand this as regards a Holy Day. because he undertakes a labor of which he can make no use [on that day], but as regards a firstling, who is the authority [for the law just quoted]? —

Said R. Hisda: It is the view of Beth Shammai,¹⁸ who say: We must not give it to eat to menstruant women. ‘Nor sacrifices rendered unfit’. Who is the authority [for this]? —

Said R. Hisda: It is the opinion of R. Eleazar b. R. Simeon.¹⁹ For it has been taught: If he has two sin-offerings²⁰ in front of him, one unblemished and the other blemished, the unblemished one shall be offered up and the blemished one shall be redeemed.²¹ If, however, the blemished one was slaughtered²² before the blood of the unblemished animal was sprinkled, it may be eaten;²³ but [if it was slaughtered] after the blood of the unblemished animal was sprinkled, it is forbidden [to be eaten].²⁴ R. Eleazar b. R. Simeon however says: Even if the flesh [of the blemished one] is already in the pot, if the blood of the unblemished one had been sprinkled, it is forbidden [to be eaten].²⁵ And why does not R. Hisda interpret [the above Baraita] altogether in accordance with Beth Shammai?²⁶ —

Perhaps Beth Shammai is stringent only with reference to a firstling, since its holiness is from birth, but in the case of sacrifices which have become unfit, whose holiness is not from birth, the case is different.

BECHOROS –31b-61a

- (1) What is their reason?
- (2) Only in this case do we compare it with the wave-breast and shoulder, as the text there deals with an unblemished animal.
- (3) Deut. XV, 22.
- (4) If there was no priest Levitically clean in that particular priests' division on duty, the Temple service on behalf of the community may be performed by a priest even in a state of Levitical uncleanness, there being a scriptural text, 'In its appointed season', which implies that even on the Sabbath or in a state of uncleanness the Paschal lamb may sometimes be brought. v. Pes. 66b.
- (5) To eat than an unclean priest, as stated above, for there is no example where an unclean priest is allowed to eat and a non-priest is forbidden.
- (6) The first Tanna who states that according to Beth Hillel the permission only refers to an Israelite but not to a gentile.
- (7) Deut. XV, 22.
- (8) Ibid. XII. 15. 22; XV, 22.
- (9) In Mak. 22a; v. Tosaf. a.l.
- (10) Hul. 28a.
- (11) Num. XVIII, 18.
- (12) How will they interpret this text?
- (13) Men and women afflicted with gonorrhoea.
- (14) For although where the greater part of the community is unclean, the Paschal lamb may still be brought, this only applies to those who were unclean through handling a corpse; Pes. 95b.
- (15) Num. IX, 10.
- (16) For the purpose of making e.g., a mechanics' bellows with it.
- (17) Although they were redeemed and ritually cut for food.
- (18) Who hold that a blemished first-born remains holy even after its slaughtering, and since in the case of an unblemished firstling, flaying in this manner would be prohibited because he impairs the flesh for fear of cutting the skin, so the same ruling applies to a blemished firstling.
- (19) Who imposes restrictions on sacrifices rendered unfit for the altar.
- (20) Setting two animals apart so that in case one is lost or becomes blemished, the other would take its place.
- (21) And the money is placed in the special Temple chest for free will-offerings.
- (22) After its redemption.
- (23) And although the sprinkling of the blood of the unblemished animal took place before the flesh of the blemished animal was eaten, it is still permissible to eat the latter, once it has been permitted to be eaten when slaughtered.
- (24) Not even to benefit therefrom in any way, for it is a sin-offering whose owner has already been atoned for and is therefore condemned to die.

(25) Although its slaughtering took place before the sprinkling of the blood of the unblemished animal and although the flesh in the pot is considered as boiled, since it was not to be eaten till after the sprinkling of the other animal, it is forbidden to be eaten altogether, for it is like a sin-offering whose owner has already atoned for, retaining its holy status even after its slaughtering, v. Tem. 24a.

(26) It is now assumed that just as Beth Shammai are stringent with regard to a firstling, so they are stringent with regard to other unfit sacrifices after being slaughtered.

Bechoroth 33b

And why not interpret [the above Baraitha] altogether in accordance with R. Eleazar son of R. Simeon?¹ —

Perhaps R. Eleazar son of R. Simeon holds that it is forbidden only in the case of sacrifices which have become unfit, for they are competent to be redeemed, but in the case of a firstling which is not competent to be redeemed, it is different.² But does not R. Eleazar son of R. Simeon accept [the preceding Mishnah]: All consecrated objects which become unfit may be sold in the market, slaughtered in the market and weighed by the pound? From this we see that since there is a benefit for the Sanctuary, the Rabbis permitted it;³ here also then, since there is a benefit for the Sanctuary, let the Rabbis permit its flaying? —

Said R. Mari the son of R. Kahana: What benefit he obtains through selling the skin [at a high price], he loses by spoiling the flesh.⁴ In the Palestinian colleges⁵ it was said in the name of Rabina: [The reason is] because it appears like doing work with sacrificial animals.⁶ R. Jose b. Abin says:⁷ [It is a precautionary measure] lest he raise herds from them.⁸

MISHNAH. IF A FIRSTLING HAS AN ATTACK OF CONGESTION WE MUST NOT LET ITS BLOOD EVEN IF IT DIES [AS A RESULT].⁹ THESE ARE THE WORDS OF R.

BECHOROS –31b-61a

JUDAH. BUT THE SAGES SAY: HE MAY LET BLOOD. ONLY HE MUST NOT MAKE A BLEMISH.¹⁰ AND IF HE MADE A BLEMISH, HE MUST NOT SLAUGHTER IT ON ACCOUNT OF THIS.¹¹ R. SIMEON HOWEVER SAYS: HE MAY LET BLOOD, EVEN THOUGH HE MAKES A BLEMISH.¹²

GEMARA. Our Rabbis taught: We may let blood of a firstling which had an attack of congestion, in a part [of the body] where it is not made blemished, but we must not let blood in a part [of the body] where a blemish is caused. These are the words of R. Meir. But the Sages say: He may let blood even in a part which makes it blemished,¹³ only he must not slaughter it on account of that blemish. R. Simeon however says: It may also be slaughtered on account of that blemish. R. Judah says: We must not let blood for it even if it dies [as a result].

R. Eleazar taught his son¹⁴ as follows: A similar difference of opinion exists with reference to a jug of Terumah. For we have learnt: If there is a jug of Terumah concerning which there is a doubt as to its Levitical cleanness, R. Eliezer says: If it was lying in a filthy place, he must put it in a clean place, and if it was open, he must cover it. R. Joshua says: If it was lying in a clean place, he must put it in a filthy place and if it was covered, he must open it, while R. Gamaliel says: He must not introduce any new factor.¹⁵ Now R. Meir will hold the view of R. Eliezer,¹⁶ the Rabbis will hold according to the view of R. Joshua¹⁷ and R. Judah will hold the view of R. Gamaliel.¹⁸ But whence [is this proven]?

It may be that R. Meir holds this view only here because he does it directly,¹⁹ but there, where the effect is caused indirectly,²⁰ he holds the view of R. Joshua. And it may be that R. Eliezer holds this view only [in connection with doubtful Terumah], in case Elijah should come and pronounce it clean,²¹ but in this case, where if you leave it

the animal dies, he holds the view of the Rabbis!

And [perhaps] the Rabbis hold their view only here, for if he leaves it, it dies, but there, in case Elijah should come and pronounce it clean, they hold with R. Eliezer!

[And perhaps R. Joshua holds his view only there because the effect is caused indirectly, but here, where the effect is direct, he may even hold the view of R. Eliezer!]²²

And [perhaps] R. Judah holds his view only here, for he does it directly, but where the effect is merely caused indirectly, he may agree with R. Joshua.

And [perhaps] R. Gamaliel may hold his view only there, in case Elijah should come and pronounce it clean, but here where if he leaves the animal, it dies, he agrees with the Rabbis!

And moreover the difference of opinion here is with reference to the interpretation of Scriptural texts, and there too the difference of opinion is with reference to the interpretation of Scriptural texts! [There the difference is with reference to the interpretation of texts] for R. Hiyya b. Abba reported in the name of R. Johanan: All are agreed²³ that one who added a transgression to the leavening effected by another person²⁴ is guilty [of breaking the law in this connection]. for Scripture says: It shall not be baked with leaven.²⁵ No meal-offering... shall be made with leaven.²⁶ All are also agreed in the case of one who adds [a transgression] to the mutilation caused by another person that he is guilty for Scripture writes: That which hath its stones bruised or crushed or torn or cut, [ye shall not offer unto the Lord].²⁷ Now if he is guilty for cutting [the stones],²⁸ how much more so is he guilty for tearing them! The purpose of the text is therefore to include the case of tearing after another person had cut as

BECHOROS –31b-61a

rendering him guilty. The point at issue, however, is with reference to causing a blemish to a blemished animal,²⁹ R. Meir holding [that we emphasize the text]: There shall be no blemish therein,³⁰ whereas the Rabbis hold [that we emphasize the full beginning]: It shall be perfect to be accepted.³¹ And what does R. Meir do with the text: ‘It shall be perfect to be accepted’? —

He requires it to exclude the case of an animal which possessed a blemish originally.³² But is not the case of an originally blemished animal obviously excluded, since it is just a palm-tree?³³ — Rather it is required to exclude the case of sacrifices rendered unfit [for the altar] after their redemption. You might be inclined to assume that since they must not be shorn or worked, they are also forbidden to be blemished. He therefore informs us [that it is not so]. And as regards the Rabbis, does not Scripture write: ‘There shall be no blemish therein’? —

[This text] forbids causing a blemish even indirectly, for it has been taught:³⁴ Scripture says: ‘There shall be no blemish therein’. I am here told

- (1) As he holds that unfit sacrifices retain holiness even after having been slaughtered, and it is the same with a blemished firstling.
- (2) And therefore one may flay the skin of a firstling from its feet.
- (3) We see therefore that the animal does not retain its holy status because of the advantage to Hekdesh in allowing it to be sold in the market, etc.
- (4) Cutting away some of the flesh together with the skin.
- (5) Lit. ‘the West’.
- (6) Preparing the skin for a bellows when it is still on the sacrificial animal, and one can still say that the Baraitha above which forbids the flaying of the skin from the feet expresses the view of all the authorities concerned.
- (7) The prohibition of flaying from the feet is according to all the authorities concerned.
- (8) If you permit him to flay the skin from the feet from the unfit sacrifices he may delay killing the animals until he finds somebody who wants

whole skins, meanwhile rearing stocks from these disqualified sacrificial animals. This might eventually lead to committing the offence of shearing or working them. Hence the flaying from the feet is prohibited by all the authorities concerned.

(9) Of not letting blood. It is forbidden even in a part of the animal where it can heal again, for if you permit in this case, since the owner's property is at stake, he may do the same in the case where an actual blemish might be caused.

(10) Not to cut nor damage the ear or lip, parts which cannot heal.

(11) Since he was responsible for the blemish, but must wait for another blemish to appear.

(12) For R. Simeon holds that a forbidden act done unintentionally is not penalized.

(13) For he must not let it die.

(14) Var. lec. Hiyya b. Abba taught his son.

(15) V. Ter. VIII, 8.

(16) For R. Meir, in order to save the animal, permits blood-letting where a blemish is not caused, and similarly R. Eliezer maintains that we must avoid increasing uncleanness and must put the Terumah in a clean place.

(17) For the Rabbis permit making a blemish in order that it may be fit for food like R. Joshua who holds that he put the Terumah in a filthy place so that it may become unclean and its liquid contents become fit for aromatic sprinkling.

(18) R. Judah who holds that, although the firstling dies without blood-letting, he must do neither one thing nor the other, is in accord with R. Gamaliel.

(19) Actually making a blemish. Therefore he maintains that, rather than do this, he must let the animal die.

(20) As he merely leaves it in a filthy place and thus causes it to become unclean eventually.

(21) By declaring that, for example, no dead reptile touched the Terumah.

(22) Inserted with Sh. Mek.

(23) Even the Rabbis, although they maintain that blood-letting of a first-born is not the same as causing a blemish to an animal; for what animal can be more blemished than one which might die without blood-letting?

(24) Viz., by baking it.

(25) Lev. VI. 10.

(26) Ibid. II, 11. Baking is included in making leaven, and Scripture means to inform us that just as baking is a single act and one is guilty on account of it, so any single act in connection with leavening, involves guilt.

(27) Ibid. XXII, 24.

(28) Scripture subsequently saying: Neither shall ye do thus in your land.

BECHOROS –31b-61a

(29) E.g., a first-born which had an attack of congestion.

(30) Lev. XXII, 21, the word בל, implying that any blemish is forbidden, even in an already blemished animal.

(31) Continuing: There shall be no, etc., intimating that the prohibition of blemishing refers to a sound animal.

(32) I.e., before the animal's consecration.

(33) Possessing no sanctification at all.

(34) Bez. 27b, Men. 56b.

Bechoroth 34a

only that he must not cause a blemish directly; whence is it learnt that he must not bring a case of pressed figs or dough and put it on the ear so that a dog may come and eat it, [with the possibility of a blemish being caused]? Therefore the text says 'There shall be no blemish'. [It says] blemish and [it adds] 'there shall be no blemish'.¹ And there also the difference of opinion is in the interpretation of Scriptural texts.

For Rab Judah reported in the name of Samuel, and so did Resh Lakish say, and likewise R. Nahman reported in the name of Rabbah b. Abbuha: [Scripture says]: And I, behold. I have given thee the charge of My heave-offerings.² R. Eliezer holds that Scripture refers to two kinds of terumah,³ one clean Terumah and the other Terumah held in suspense,⁴ and the Divine Law says: 'keep charge of it' [not to make it unnecessarily unclean]. And [how does] R. Joshua [explain this]? — The written text is 'My offering'.⁵ Does this mean to say that R. Eliezer holds that the traditional reading [vowels] must guide us?

The following was cited in contradiction. [Scripture says]: Seeing that he hath dealt deceitfully with her,⁶ since he spread his cloth over her,⁷ he is not permitted to sell her again. These are the words of R. Akiba, whereas R. Eliezer says: 'Since he hath dealt deceitfully with her',⁸ he cannot sell her again! Rather here the difference of opinion is in connection with the text 'Thee' [for Scripture⁹ says: And I, behold, I have given

thee the charge of My heave-offerings]. R. Joshua holds the interpretation is: The Terumah that is fit [to be eaten] by 'thee', protect from further uncleanness, whereas that which is not fit for thee, thou needest not protect. And [how does] R. Eliezer [interpret it]? —

Doubtful Terumah is also fit Terumah for thee, in case Elijah comes and pronounces it clean. Rab Judah reported in the name of Samuel: The Halachah is like R. Simeon. R. Nahman b. Isaac demurred: Which R. Simeon? Is it the R. Simeon of the Mishnah?¹⁰ But has not Samuel already informed us that a forbidden act effected unintentionally is permissible? Did not R. Hiyya b. Ashi report in the name of Rab that the Halachah was according to Rab Judah.¹¹ whereas R. Hanin b. Ashi reported in the name of Samuel that the Halachah is according to R. Simeon? And R. Hiyya b. Abin taught without naming any authorities¹² [as follows] : Rab says, the opinion of Rab Judah is the rule, whereas Samuel says: The opinion of R. Simeon is the rule?¹³ —

Rather you must say that it refers to the R. Simeon of the Baraitha.¹⁴ And R. Shisha b. Idid taught this explicitly: Rab Judah reported in the name of Samuel: The Halachah is like R. Simeon of the Baraitha.

MISHNAH. IF ONE¹⁵ MAKES A SLIT IN THE EAR OF A FIRSTBORN ANIMAL. HE MUST NEVER SLAUGHTER IT. THESE ARE THE WORDS OF R. ELIEZER. WHEREAS THE SAGES SAY: HE MAY SLAUGHTER IT ON ACCOUNT OF ANOTHER BLEMISH, WHEN IT APPEARS ON IT.

GEMARA. And does R. Eliezer penalize in perpetuity? The following was cited in contradiction: If one had a bahereth¹⁶

(1) One text referring to a direct blemish and the other to an indirect blemish.

(2) Num. XVIII, 8.

BECHOROS –31b-61a

(3) The emphasis is on the plural ‘heave-offerings’.

(4) Neither eaten nor burnt, there being a doubt concerning its Levitical purity.

(5) The word is written defectively. **ברומתי** not **תרוימתי** referring only to one terminal, viz. clean.

(6) Ex. XXI. 8.

(7) Since the master has taken her under his protection by espousing her unto himself for a wife, the father has no further claim on her, even if she became divorced. The word **בבגדו**, here is derived from the word **בגד**, a garment, the pointing being authoritative.

(8) Having sold her as a maid-servant, the father is not allowed to sell her again as a maid-servant, but he may sell her again if she became divorced. R. Eliezer holds that we follow the lettering of the text which is without a Yod as if from the word **בגידה**, R. Eliezer reads **בבגדה** (Rashi). V. Kid. 18b.

(9) So Sh. Mek. Cur. edd.: The difference is in the following.

(10) Who holds in the Mishnah that he may let blood although he makes a blemish, but he does not state that he may slaughter the firstling on account of this.

(11) Who holds that a forbidden act produced unintentionally is forbidden.

(12) R. Hiyya and R. Hanan.

(13) V. supra 25a.

(14) Who says that one may even slaughter the firstling on account of the blemish caused unintentionally.

(15) Viz., a priest.

(16) A bright white spot on the skin, ultimately one of the symptoms of leprosy.

either case]⁴ but as regards his body, can it be said that he would do it in either case?⁵ Said Raba: Is there only a contradiction between R. Eliezer here [in the Mishnah] and R. Eliezer [in Nega'im]? Is there not a similar contradiction between the Rabbis [in the Mishnah] and the Rabbis [in Nega'im]?⁶—

The difficulty with regard to R. Eliezer has already been solved and as regards the difficulty in the case of the Rabbis, this is also no problem. In the one case we punish him for what he did, and in the other also we punish him for what he did. In one case, [that of a firstling], we punish him for what he did, for how did he intend to make it permitted? By means of this blemish. The Rabbis therefore punished him by ordering that the firstling should not be permitted on account of this very blemish.⁷ And in the other case we punish him for what he did. For how did he intend to make himself appear clean? By cutting off this [Bahereth]. The Rabbis therefore punished him for this very cut.⁸ R. Papa inquired: Does it mean ‘He shall become clean’⁹ or ‘And then¹⁰ he shall become clean’? What is the practical difference?¹¹—

Bechoroth 34b

and it was cut off [unintentionally] he becomes clean. If, however, he cut it off intentionally. R. Eliezer says: When another plague spot appears on him [from which he is pronounced clean], then he is cleansed from [the first].¹ But the Sages say: [In order for him to be clean], either [the second plague] must break out all over his flesh,² or [before the cutting off of the first leprous spot], it must have decreased to less than the size of a bean?³—

Rabbah and R. Joseph both replied: R. Eliezer penalizes thus only where a person's property is concerned, not where his body is concerned. As regards his property [i.e. the firstling], one can say that he may do it [in

In the case of a bridegroom on whom there appeared this [second] leprous spot. For we learnt: In the case of a bridegroom on whom there appears a plague spot, we give him seven days [of the wedding week not to see the priest] — to him, to his garment and to his covering.¹² And likewise in the case of any person on a Festival, we give him the whole Festival [in which not to see a priest].¹³ Now if you say that it means ‘He shall become clean’ then he is clean¹⁴ from the first plague and as regards the second, we wait seven days for him. But if you say that it means ‘And then he shall become clean’ of what avail is it that he is not unclean from the second plague, if he remains unclean by reason of the first plague?¹⁵ What [is the answer]? — Let [the question] stand over.

BECHOROS –31b-61a

R. Jeremiah inquired from R. Ze'ira: If one slit the ear of a firstling and he died, what is the ruling as regards penalizing his son? Should you take as a guide the rule that if a man sells his slave to a heathen¹⁶ and he dies, his son is penalized after him, the reason [there] may be because every day he is prevented from carrying out commandments.¹⁷ And should you be guided by the rule that if a man plans some work¹⁸ for [the intermediate days of] the Festival and dies, his son is not penalized after him, the reason [there] may be because he did not actually do anything forbidden.¹⁹ What then is the ruling here?²⁰ Did the Rabbis penalize the man himself and he is no more, or perhaps does the penalty of the Rabbis apply to his property and this is still in existence?

—
He replied to him: We have learnt this [in a Mishnah]: A field which had its thorns removed in the sabbatical year may be sown in the period beginning with the end of the sabbatical year.²¹ If, however, the field had been improved²² or manured with [the excrement of cattle], it must not be sown in the period beginning with the end of the sabbatical year.²³ And R. Jose b. Hanina said: We hold a tradition: If he improved the field and died, his son may sow it. Consequently we see that the Rabbis punished the man himself, but the Rabbis did not punish his son; here also the Rabbis punish the man himself but not his son. Said Abaye: We hold a tradition:

- (1) For this proves that the first leprous spot would also have healed had it not been cut off.
- (2) Scripture saying: If the leprosy have covered all the flesh, he shall pronounce him clean. Lev. XIII. 13.
- (3) But if the Bahereth was of the size of a bean before being cut off, he is never clean. (Neg. VII, 5). Consequently, we see that R. Eliezer does not condemn him to be unclean for ever.
- (4) For we argue that if by causing the blemish he is permitted to slaughter the animal, then he benefits thereby, and if he has to wait till another

blemish appears, then he has lost nothing, as in any case he intended waiting for another blemish to appear. We therefore condemn him never to slaughter the firstling, so as to prevent him causing blemishes.

(5) That, if we do not make him unclean for ever, he will cut off the Bahereth, and put himself in a doubtful position and wait for the next plague. He will not do so, first because if there does not appear another plague spot he will never be clean, and secondly, because even if there appears another plague spot what benefit is it to him, since he is afflicted as before? It is therefore better for him not to cut off the Bahereth and to wait in case it heals.

(6) Who evidently condemn him to be unclean for ever unless it spreads over the whole flesh or it decreased, etc.

(7) Treating the firstling as if nothing at all had been done to it.

(8) Regarding him as if he had never cut off the Bahereth at all, so that even if he becomes clean from the second plague, he is not clean from the first, unless the latter plague covers all his flesh.

(9) Implying that directly there appears a second plague, he is clean from the first.

(10) That only after he is pronounced clean from the latter leprous spot is he clean from the former.

(11) Since in any case he remains unclean until the second plague heals, even if he is clean from the first.

(12) Should a plague appear on it.

(13) Neg. III. 2.

(14) Immediately when the other appears, and he is not unclean on account of the latter, as we wait until after the wedding week or after the Festival.

(15) Of what use is it that we wait in connection with the second plague, not allowing the priest to examine it, seeing that he is not clean from the first plague until the second is healed?

(16) There being a penalty for one who sells his slave to a heathen, the owner being required to redeem him even up to ten times his price.

(17) In his non-Jewish environment.

(18) To cut e.g., the grapes of his vineyard, since if a real loss would be entailed through not working during the Festival, the work is permitted, but this man deliberately arranged for this work to be done during the intermediate days, though he could have done it earlier.

(19) For he died before the Festival.

(20) Where he actually committed an offence in causing a blemish to a firstling.

(21) We do not penalize him, as the work done was of little value.

(22) By tilling oftener than usual or by unloading manure on it.

BECHOROS –31b-61a

(23) Since the work is important, and we therefore punish him.

Bechoroth 35a

If a man made unclean food Levitically prepared and died, his son is not punished after him.¹ What is the reason? A damage not discernible [in the object itself] is not regarded as a tangible damage.² It is therefore only a rabbinical penalty. Thus the Rabbis imposed a penalty upon the man himself, whereas the Rabbis did not impose a penalty upon his son.³

MISHNAH. IT HAPPENED THAT A QUAESTOR SAW AN OLD MALE LAMB WITH ITS LONG WOOL HANGING DOWN⁴ AND ASKED: WHAT IS THE MEANING OF THIS?⁵ — THEY REPLIED: ‘IT IS A FIRSTLING AND IS NOT TO BE SLAUGHTERED UNTIL IT HAS A BLEMISH’. [THE ROMAN] TOOK A DAGGER AND SLIT ITS EAR.

THE MATTER CAME BEFORE THE SAGES AND THEY PERMITTED IT.⁶ AFTER THEY HAD PERMITTED, HE WENT AND CUT INTO THE EARS OF OTHER [FIRSTLINGS]. THE SAGES THEREUPON FORBADE THEM. CHILDREN WERE ONCE PLAYING IN A FIELD. THEY TIED THE TAILS OF SHEEP ONE TO THE OTHER AND ONE TAIL WHICH BELONGED TO A FIRSTLING WAS SEVERED.

THE MATTER CAME BEFORE THE RABBIS AND THEY PERMITTED [THE FIRSTLING]. WHEN THE CHILDREN SAW THAT THEY HAD PERMITTED, THEY PROCEEDED TO TIE THE TAILS OF OTHER FIRSTLINGS. THE SAGES THEREUPON FORBADE [THE OTHER FIRSTLINGS].

THIS IS THE RULE: WHEREVER THE BLEMISH IS CAUSED WITH THE KNOWLEDGE AND CONSENT [OF THE OWNER].⁷ IT IS FORBIDDEN, BUT, IF IT IS

NOT WITH HIS KNOWLEDGE AND CONSENT, IT IS PERMITTED.⁸

GEMARA. CHILDREN WERE ONCE PLAYING, etc. It is necessary [to state both these cases⁹ in the Mishnah]. For if it had informed us only of the case of the heathen, I might have thought that the reason was because there can be no fear [if we permit] that he will acquire the habit [of making blemishes],¹⁰ but in the case of a minor, where he might acquire the habit [of making blemishes],¹¹ I might have said that it was forbidden. And if it had informed us only of the case of a minor, I might have thought that the reason was because one would not mistake [the case of a minor] for an adult,¹² but in the case of the quaestor, where one might mistake this for the case of any adult,¹³ I might have said that it was forbidden. There is need [therefore for the Mishnah to state both cases].

R. Hisda reported in the name of Kattina: This¹⁴ was taught only when they replied to him [in the words]: ‘Until it has a blemish’,¹⁵ but if they reply to him in the words: ‘Until it was made blemished’,¹⁶ it is as if they had told him: ‘Go, make a blemish’.

Said Raba: Now does not the permission come automatically?¹⁷ What difference then is it whether they replied to him in the words: ‘Until it has a blemish’ or ‘Until it was made blemished’? Even if they replied to him in the words ‘Until it was made blemished’ the permission comes automatically and thus there is no difference.

THIS IS THE RULE: WHEREVER THE BLEMISH IS CAUSED WITH THE KNOWLEDGE AND CONSENT [OF THE OWNER]. IT IS FORBIDDEN. What does this include? — It includes the case where the blemish was caused indirectly.¹⁸

BECHOROS –31b-61a

BUT IF IT IS NOT WITH HIS KNOWLEDGE. This includes the case where they casually mentioned the fact.¹⁹

MISHNAH. IF A FIRSTLING WAS RUNNING AFTER HIM AND HE KICKED IT AND THEREBY BLEMISHED IT. HE MAY SLAUGHTER IT²⁰ ON ACCOUNT OF THIS.

GEMARA. Said R. Papa: This²¹ was taught only when he kicked it while it was running, but if he kicked it after it had stopped running, it is not so. But is not this obvious? — I might have assumed that the reason why he kicked it was because he recalled his distress.²² He therefore teaches us [that this was not the reason]. Some there are who say: R. Papa said, Do not say that this applies only while it was running, but not after it had stopped running; for even after it had stopped running [the same law applies], for the reason that he recalled his distress.

Said Rab Judah: It is permitted to cause a blemish to a firstling before it is born.²³

Said Raba: [E.g.], a kid in its ears²⁴ and a lamb in its lips.²⁵ Some there are who say: A lamb even in its ears; for one can say that the animal came forth [from the womb] with its temples first.²⁶

Said R. Papa:²⁷ If when the animal eats, [the defect] is not visible,²⁸ but when it bleats the defect is visible, it is considered a blemish. What does he wish to teach us? We have already learnt this [in a Mishnah]: If the incisors were broken off or leveled [with the gum] or if the molars were torn out [completely],²⁹ it is considered a blemish.³⁰ Now, what is the reason in the latter case? Is it not because when the animal bleats [the defect is visible? —

Said Raba: R. Papa³¹ also merely explains the Mishnah [as follows]: Why is it that if they were torn out they are considered a

blemish? Because when the animal bleats, the defect is visible.

MISHNAH. IN RESPECT OF ALL BLEMISHES WHICH MIGHT COME THROUGH THE AGENCY OF A MAN,³² LAY ISRAELITE SHEPHERDS ARE TRUSTWORTHY³³ WHEREAS PRIESTS SHEPHERDS ARE NOT TRUSTWORTHY.³⁴ R. SIMEON B. GAMALIEL SAYS: HE IS TRUSTWORTHY AS REGARDS SOMEBODY ELSE'S FIRSTLING, BUT HE IS NOT TRUSTWORTHY AS REGARDS HIS OWN. R. MEIR SAYS: ONE WHO IS SUSPECTED OF NEGLECTING ANY RELIGIOUS MATTER MUST NOT PRONOUNCE JUDGMENT ON IT NOR GIVE EVIDENCE CONCERNING IT.

GEMARA. R. Johanan and R. Eleazar [differ as to the interpretation of the Mishnah]. One explains it [as follows]: The expression 'LAY ISRAELITE SHEPHERDS' means [lay Israelites] in the employ of priests are trustworthy, for we do not apprehend that their testimony may be influenced by their bread and butter.³⁵ The expression 'PRIESTS' SHEPHERDS means: [shepherds who are priests] in the employ of Israelites are not trustworthy, since the shepherd might say. 'Since I work for him, he will not pass over me and give it to another'.³⁶ And the same ruling [of the testimony being untrustworthy] applies to [a shepherd who was] a priest with reference to [the firstling of] another priest 'for we suspect them of favoring each other'.³⁷

And thereupon R. Simeon comes and says: HE IS TRUSTWORTHY AS REGARDS SOMEBODY ELSE'S FIRSTLING,³⁸ BUT HE IS NOT TRUSTWORTHY AS REGARDS HIS OWN.³⁹ And R. Meir then adds: HE WHO IS SUSPECTED OF DISREGARDING ANY RELIGIOUS MATTER MUST NOT PRONOUNCE JUDGMENT ON IT NOR GIVE EVIDENCE CONCERNING IT. But the other [teacher] explains it [as follows]: The expression ISRAELITE SHEPHERDS

BECHOROS –31b-61a

means: [Shepherds of Israelite sheep] even if priests, are trustworthy.

- (1) By being condemned to make compensation, although the man himself is compelled to do so.
- (2) For the food lies before him and no visible damage is perceived.
- (3) On this whole passage v. Git. 44a-b.
- (4) Having never been shorn, because it was a firstling.
- (5) That the animal was allowed to grow so old?
- (6) For one cannot say that the heathen planned to make it permissible.
- (7) I.e., where the owner gave instructions.
- (8) Therefore, in the cases of the quaestor and the children, the animals were permitted. When, however, other firstlings had their ears slit, the Sages forbade them, because the owners did not prevent this, and therefore it is as if this were done with their knowledge.
- (9) Of the quaestor and of the children.
- (10) Since he is a heathen, and in any case he is in the habit of doing forbidden things.
- (11) Therefore if you permit the case of the first animal when he makes a blemish, he may go on repeating this.
- (12) For it will not be said that because a blemish brought about by a minor is allowed, therefore the same ruling applies to an adult.
- (13) For an observer might mistake this gentile who causes the blemish for an Israelite, and might say that as it is permitted in one case it is permitted in all adult cases.
- (14) That the firstling is permitted through the heathen's action.
- (15) Implying that a blemish appeared automatically on the animal, for we cannot then say that the heathen will infer from their words that firstlings are rendered permitted when blemished by human action.
- (16) Implying, blemished by a man.
- (17) The heathen, not being aware that the animal is permitted on account of his action, did not intend to make it permitted.
- (18) E.g., where he placed dough or pressed dates on its ear and a dog came and took it.
- (19) Where the quaestor did not ask them anything, but they on their own accord innocently pointed out to him that the old firstling was not permitted unless it was blemished.
- (20) For he simply intended to save himself, and even in the case of a priest it is allowed.
- (21) That the animal is permitted.
- (22) How the animal ran after him but his intention was not to cause a blemish.

(23) Lit., 'came-forth into the lighted space of the world'. The reason is because a first-born is only hallowed after leaving the womb.

(24) Its ears being long, they emerge before the whole head leaves the womb, and therefore it is allowed to blemish them.

(25) Its lips appearing before its head, whereas the ears being small do not appear until after the head has come forth, when, of course, the animal becomes sanctified.

(26) The ears also coming forth before the other limbs.

(27) Sh. Mek. cur. edd. Raba.

(28) The cut in the lips. Firstlings may only be slaughtered on account of open blemishes or defects.

(29) But if they were merely broken or leveled, this is not considered a blemish.

(30) V. infra 39b.

(31) So Sh. Mek. cur. edd. R. Papa said: Raba also.

(32) That a man is capable of doing. e.g., blinding the eyes, slitting the ear, or breaking a leg.

(33) To declare that the blemished came of themselves.

(34) For they are suspected of deliberately bringing about a blemish.

(35) I.e., by their dependence on their employers. טאגן; means lit., 'quaffing', and in general eating and drinking. Aliter: by the share they would have in the firstling when slaughtered.

(36) And therefore we suspect them like the priest owners of causing a blemish.

(37) Thinking that by giving favorable evidence for his firstling now, he will on some future occasion be repaid when having obtained an unblemished firstling from an Israelite, he will make it blemished and this priest will testify that the blemish appeared of itself on the animal.

(38) Whether his master's or belonging to another.

(39) Where an Israelite had already given him a firstling.

Bechoroth 35b

for the shepherd might indeed say: 'My employer will not pass over a priest who is a rabbinic student, to give it to me'.¹ The expression **PRIESTS' ANIMALS** means, [animals of priests], and even if the shepherds are Israelites, they are not trustworthy, for we fear lest their testimony may be influenced by their bread and butter. And how much more so is this the case with a [shepherd] priest working for

BECHOROS –31b-61a

[an employer] priest, that the former's testimony is untrustworthy, for we suspect them of favoring each other as well as being apprehensive of their bread and butter.

Thereupon R. SIMEON SAYS: HE IS TRUSTWORTHY AS REGARDS SOMEBODY ELSE'S FIRSTLING,² BUT HE IS NOT TRUSTWORTHY AS REGARDS HIS OWN. And R. Meir comes and adds: HE WHO IS SUSPECTED OF DISREGARDING A CERTAIN RELIGIOUS MATTER³ MUST NOT PRONOUNCE JUDGMENT ON IT NOR GIVE HIS TESTIMONY CONCERNING IT.⁴ Now there is no difficulty according to him who says that the expression 'ISRAELITE SHEPHERDS' means shepherds of [Israelite animals] and, even if priests, they are trustworthy, it is for this reason that R. Meir thereupon says: HE WHO IS SUSPECTED OF IGNORING A CERTAIN RELIGIOUS MATTER MUST NOT PRONOUNCE JUDGMENT ON IT NOR GIVE EVIDENCE CONCERNING IT. But according to him who holds that the expression 'PRIESTS' SHEPHERDS' means [that shepherds who are priests] in the employ of Israelites are not trustworthy, what does R. Meir teach us [here]? Is not his view identical with that of the first Tanna quoted above? —

The difference between them is the ruling of R. Joshua the son of Kapusai. For it has been taught: R. Joshua the son of Kapusai says: Two independents witnesses are required to testify as regards a firstling in the possession of the priest. R. Simeon b. Gamaliel says: Even his son or his daughter may give evidence.⁶ Rabbi says: Even the evidence of ten people is not accepted if they are members of his household.⁷ According to which authority will be the ruling which R. Hisda reported in the name of R. Kattina, [who said]: An uncertain firstlings born in the possession of an Israelite requires two independent persons to give evidence?⁹ [You ask] according to which authority? —

It is, of course, according to that of R. Joshua the son of Kapusai.¹⁰ R. Nahman says: The owners are permitted to give evidence [in respect to an uncertain firstling].¹¹ For if you will not say so, [but that an Israelite is suspected], how according to the view of R. Meir¹² can he give evidence with reference to [the blemish of] a tithing animal? But surely with regard to a tithing animal [even the owner] is trustworthy, since if he wished he could have maimed the entire herd before tithing?¹³

Rather question [as follows]: In a case of an uncertain firstling.¹⁴ who can testify according to the view of R. Meir? And if you will say 'indeed it is so that there is no remedy [in these circumstances], have we not learnt: For R. Jose used to say: Wherever there is another [animal] in its stead in the hands of the priest.¹⁵ the Israelite is exempt from the priests' gifts. whereas R. Meir declares him liable?¹⁶ Hence, therefore, we can deduce that the owners are permitted to give evidence [with reference to a doubtful firstling], priests alone being suspected as regards blemishes, whereas Israelites are not suspected as regards blemishes.

It has been stated: R. Nahman says: The Halachah is like R. Simeon b. Gamaliel.¹⁷ Raba says. however: The Halachah is like Rabbi. But did Raba [actually] state this? Did not Raba say: If the owner [of a firstling] was with us outside the house, and the animal entered whole and emerged injured, they can testify concerning it?¹⁸ — Read: All its owners¹⁹ were with us we have no apprehension. If this be the case, what need is there to state it? — You might be under the impression that we entertain a suspicion.²⁰ He therefore teaches us [that it is not so]. And the law is in agreement with the view of R. Simeon b. Gamaliel; and only in the case of his son and his daughter is the testimony believed, but not in the case of his wife. What is the reason? —

BECHOROS –31b-61a

His wife is considered like himself. Said R. Papa to Abaye: According to the view of R. Meir who holds that one who is suspected of disregarding a religious matter must not pronounce judgment on it nor give evidence concerning it, and who also maintains that one who is suspected of disregarding one religious matter is suspected of disregarding the whole Torah, then a priest should not be able to act as a judge: But is it not written: And by their word shall every controversy and every stroke be?²¹

- (1) As a rule, shepherds were ignorant people. We therefore trust him, for why should he lie since he will not benefit?
- (2) In the case of a priestly shepherd with a master who is also a priest, the shepherd's testimony is believed.
- (3) As priests are suspected with reference to firstlings of causing them blemishes.
- (4) Differing with R. Simeon who permits even the testimony of a shepherd priest working for a priestly master, and also differing with the first Tanna above who holds that even a shepherd who is a priest looking after Israelite animals is trustworthy, whereas R. Meir holds that shepherds who are priests are always suspected.
- (5) Lit., 'from the market'. Two persons who have no connection with the priest and who may even be priests themselves.
- (6) R. Simeon's view is in accordance with his ruling above that one is trustworthy with reference to a firstling belonging to another but not his own, and his father's is also not his own.
- (7) Whereas even one independent person is trustworthy in these matters, or according to R. Joshua, two independent persons. Now the first Tanna mentioned above is in agreement with the view of R. Joshua. For the first Tanna holds that shepherds who are priests, whether with Israelite or priestly employers, are not trustworthy, but independent priests are trustworthy, even as regards firstlings of priests. R. Meir says that even an independent priest is suspected, a view which is opposed to that of R. Joshua. Rabbenu Gershom interprets this as follows: The first Tanna who says that Israelite shepherds even in the employ of priests are trustworthy does not agree with R. Joshua's view, for according to the latter only independent priests are trustworthy. But R. Meir agrees with R. Joshua that we only suspect the priest's testimony where there is dependence on others, but the evidence of two independent priests is accepted.

- (8) E.g., a ewe which gave birth to two males, the Mishnah (17a) stating that one belongs to the priest and the other remains in the possession of the Israelite as a doubtful firstling which is left to pasture until it is blemished and is then eaten.
- (9) That the blemish was not caused intentionally.
- (10) For just as he holds that two independent persons are necessary to give evidence where the master is a priest, similarly two independent persons are required to give evidence with reference to a doubtful firstling in the possession of an Israelite.
- (11) For only priests are suspected but not Israelites.
- (12) For R. Meir maintains that in a matter which one is suspected of disregarding, one is not believed even with reference to others, as according to R. Meir, even independent priests are not trustworthy (Rashi).
- (13) And this could have been done legitimately, as the animals were Hulin. Therefore, why not believe him that he did not maim the animal?
- (14) If the owners are suspected, then Israelite owners are suspected in the case of a firstling of causing a blemish, and certainly priests who possess an uncertain firstling in their herd would be suspected.
- (15) V. supra 18b for notes.
- (16) We therefore see that according to R. Meir a doubtful firstling after becoming blemished is regarded as positive Hulin.
- (17) That even his son and daughter are trustworthy.
- (18) That the blemish came of itself. This is assumed to refer to the other members of the household. We see, therefore, that only the priestly owner of a firstling is suspected and not the other members of the household.
- (19) Who have any connection with the animal, i.e., all the members of the household; and the shepherd within testifies with reference to the blemish.
- (20) That the shepherd himself caused the blemish, or that, after all, a member of the household remained within the house (Tosaf.). Another interpretation is: If witnesses testify that all the members of the household were outside when the animal emerged maimed, then their evidence is considered trustworthy and we do not suspect that the members of the household had been instrumental before leaving in bringing about the blemish by e.g., opening a pit or putting pressed dates on its ear so that a dog came and caused a blemish.
- (21) Deut. XXI, 5.

BECHOROS –31b-61a

Bechoroth 36a

R. Meir¹ meant that we have fear,² but did he actually presume [that he is to be suspected]?³ The following query was put: Is the testimony of a witness reporting another witness considered as evidence in connection with a firstling⁴ — R. Ammi forbids, whereas R. Assi permits.

Said R. Assi to R. Ammi: Did not the Tanna of the school of Manasseh teach: Only in connection with a woman⁵ is the evidence of a witness reporting an eye-witness valid? — Explain this [as follows]: It is valid only in respect of testimony which a woman is allowed to give.⁶ R. Yemar permitted the evidence of a witness reporting an eye-witness to be valid in connection with a firstling. Meremar designated to him the expression. ‘Yemar, the one who permits firstlings’.⁷ And the law is that the evidence of a witness reporting an eye-witness in connection with a firstling is valid.

Said R. Elai: If an animal was not thought to be a firstling and its owner [a priest] came and declared that it was a firstling with a blemish on it, he is believed. What does he teach us? ‘The mouth that bound is the mouth that loosens’.⁸ But have we not learnt this: A woman who said, ‘I was a married woman,⁹ but now I am divorced’ is believed,¹⁰ for ‘the mouth which bound is the mouth which loosens’?¹¹ — You might be under the impression that there¹² she is believed because if she wished she need not have said anything;¹³ but here,¹⁴ since it is impossible that he should not inform [the expert]¹⁵ — for [the priest] would not eat consecrated [unblemished] animals without the Temple walls¹⁶ — I might not have applied [the principle] ‘the mouth which bound is the mouth which loosens’. He therefore informs us [that he is believed]. For, if this were really so,¹⁷ he would have inflicted on it a recognizable blemish¹⁸ and have eaten it then.

Mar b. Rab Ashi demurred to this ruling. Why should this be different from the following case? Once, someone hired out an ass to a person and he said to him: ‘Do not go the way of Nehar Pekod, where there is water; go the way of Naresh where there is no water’. But he went the way of Nehar Pekod and the ass died. He then came before Raba and said to him: ‘Indeed I went the way of Nehar Pekod, but there was no water [and still the ass died]. Said Raba: Why should he lie? If he wished he could say ‘I went the way of Naresh’.¹⁹ And Abaye explained: We do not apply the principle ‘why should he lie’ where there are witnesses!²⁰ — But is the analogy correct? There [we are witnesses that] there certainly was water [on the way of Nehar Pekod], but here, [in connection with the firstling], is it certain that he caused the blemish? It is only a fear,²¹ and where there is only a question of a fear we do say ‘why should he lie’.

Rabina sat [lecturing] and reported this tradition²² without mentioning the authority. Said Raba junior to Rabina: We learnt this in the name of R. Ela. R. Zadok had a firstling. He set down barley for it in wicker baskets of peeled willow twigs. As it was eating, its lip was slit.

He²³ came before R. Joshua.²⁴ He²⁵ said to him: ‘Have we made any difference between [a priest] who is a Haber and [a priest] who is an ‘am ha-arez’? R. Joshua replied ‘Yes’.²⁶

He thereupon came before Rabban Gamaliel. He said to him. ‘Have we made any difference between [a priest] who is a Haber and a priest who is an ‘am ha-arez’? Rabban Gamaliel replied ‘No’.²⁷ R. Zadok said to him: ‘But R. Joshua told me "Yes"! He said: ‘Wait until the great debaters²⁸ enter the Beth Hamidrash’. When they entered the Beth Hamidrash, the questioner²⁹ arose and asked: ‘Have we made any difference between [a priest] who is a Haber and one who is an ‘am ha-arez’?

BECHOROS –31b-61a

R. Joshua replied ‘No’.³⁰ Thereupon Rabban Gamaliel said: ‘Was not the answer "Yes" reported to me in your name? Joshua, stand on your feet³¹ and let them testify against you’.³² R. Joshua stood up on his feet and said: ‘How shall I act? If indeed I were alive and he were dead, the living can contradict the dead. But since both he and I are alive, how can the living contradict the living’?³³ And Rabban Gamaliel was sitting and discoursing while R. Joshua stood on his feet, until all the people murmured³⁴ and said to Huzspith the interpreter.³⁵ ‘Silence’.³⁶ And he was silent.

MISHNAH. A PRIEST'S WORD IS TAKEN IF HE SAYS ‘I HAVE SHOWN THIS FIRSTLING³⁷ AND IT IS BLEMISHED’.³⁸

GEMARA. Rab Judah said that Rab said: A priest's word is taken if he says [to an expert]. ‘an Israelite gave me this firstling with a blemish on it’.³⁹ What is the reason? ‘People are not presumed to tell a lie which is likely to be found out’.⁴⁰

Said Raba: We have also learnt this: A PRIEST'S WORD IS TAKEN IF HE SAYS ‘I HAVE SHOWN THIS FIRSTLING AND IT IS BLEMISHED’. Now, what is the reason? Is it not because we say ‘people are not presumed to tell a lie which is likely to be found out’!⁴¹ — [No].⁴² There, where it is a case of consecrated animals without [the Temple precincts], he will not eat⁴³ but here, since priests are suspected,⁴⁴ they are suspected.⁴⁵

R. Shizbi raised an objection: He who says to one who is not trustworthy with reference to tithing,⁴⁶ ‘Purchase on my behalf produce from one who is trustworthy⁴⁷ or from one who tithes’, he is not believed.⁴⁸ Now why [is this so]? Let us adopt the principle that ‘people are not presumed to tell a lie which is likely to be found out’? — The case is different there,

(1) In ruling that one who is suspected of disregarding a certain religious matter is regarded as suspect in respect of the whole Torah.

(2) I.e., we entertain a fear and apprehension concerning other matters about which we have no ground for suspicion.

(3) Without some positive ground to go upon.

(4) To give evidence that the blemish was not caused intentionally.

(5) That her husband had died abroad, so that she can remarry. V. Shab. 145b.

(6) And with reference to a firstling, a woman's word is taken if she declares that a certain blemish was not brought about deliberately.

(7) Meant in a disparaging sense.

(8) The same person who said it was a firstling also said that it had a blemish on it for which he was not responsible and which he shows to the medical expert.

(9) The woman not being held to be married.

(10) And she may remarry.

(11) V. Keth. 22a.

(12) In the case of the woman.

(13) Since it was presumed that she was unmarried; therefore if there was a suspicion that she proposed marrying during her husband's lifetime without a divorce, she could have remained silent.

(14) In connection with a firstling.

(15) That the animal is a first-born, in order that the expert might inform him whether the blemish was a permanent or transitory one.

(16) As the penalty for this is excision, whereas maiming a firstling is only violating a negative precept.

(17) That we suspect the priest of causing the blemish.

(18) Which even an ignorant person would have recognized as such, and therefore, there would have been no need to bring the animal before us for the expert to declare that it was a permanent blemish, for no other person knew that he had a firstling. But where we are aware that the animal is a firstling, we do not believe him when he declares that the blemish was not caused by himself on the ground that he need not have come before us at all, for if he had slaughtered the animal without the expert's instructions, as everybody knew that he had a firstling, he would have been suspected of maiming the animal.

(19) V. Keth., Sonc. ed., p. 148 notes.

(20) For we are witnesses that water is there all the time, and similarly here also, since we are witnesses that priests are suspected concerning blemishes, we should not say ‘why should he lie’?

(21) That he caused a blemish.

(22) Of R. Ela.

(23) R. Zadok.

BECHOROS –31b-61a

- (24) To submit the case to his decision.
(25) R. Zadok. He was a Tanna of priestly descent.
(26) There is a difference, and therefore being a Haber you are not suspected.
(27) Tosaf. comments that this is the law, and there is in fact no distinction between a priest who is a Haber or an ‘am ha-arez.
(28) Lit., ‘shield-bearers’, the great defenders of the Torah and the scholars.
(29) R. Zadok (R. Gershom).
(30) Not wishing to give a contrary decision in the presence of Rabban Gamaliel.
(31) He intended to annoy him.
(32) Tosaf. omits the expression. ‘Let them testify’ etc as having no bearing in this connection.
(33) ‘I therefore certainly said it and withdraw’ (Rashi). Tosaf. explains however as follows: ‘I meant to conceal what I said but I am unable to do so now.
(34) Became rebellious.
(35) Of R. Gamaliel. He was one of the martyrs of the Hadrianic persecutions.
(36) Lit., ‘stand’.
(37) To a medical expert.
(38) I.e., that it possesses a permanent blemish provided that there are witnesses to testify that the blemish was not caused intentionally.
(39) Lit., ‘with its blemish’.
(40) Lit., ‘likely to be revealed’, And here the Israelite can be asked. V. R.H. 22b, Zeb. 93b.
(41) I.e., by inquiry from the expert.
(42) One may still say that we cannot deduce from the Mishnah the principle ‘people are not presumed to tell a lie’, etc., and the reason why he is believed is as follows.
(43) Unblemished consecrated animals. Consequently, unless the expert had permitted the firstling on the evidence of witnesses, he would not have declared that the firstling was permitted to be slaughtered by him.
(44) Of causing blemishes to firstlings.
(45) Even in this case of causing a blemish and pretending that an Israelite gave an animal to him in a blemished state.
(46) Who is known not to be observant as regards tithing.
(47) Not to purchase produce from an ‘am ha-arez or, if he does so, to give Dem’ai (v. Glos.) before selling it.
(48) On saying that he bought from a person trustworthy in these matters (Dem'ai IV, 5).

Bechoroth 36b

for¹ he can excuse himself by some subterfuge, [saying, ‘As far as I am

concerned, his word is taken’].² The second clause however [of the Mishnah just cited] certainly supports [Rab Judah's view], for it says: From that man,³ then he is believed!⁴ — There [again] since there is an inquirer, he is afraid.⁵

Said R. Jeremiah b. Abba: Whence does R. Judah know this?⁶ [It is my own ruling]. I taught it to Giddul⁷ and Giddul taught it to [R. Judah]. And this is how I imparted it to him: An Israelite's word is taken when he says: ‘This firstling I gave to a priest with a blemish on it’. [If it refers to] an Israelite,⁸ surely this is obvious! — No. The statement is required for the case where [the animal] was small [when he gave it to the priest] and it grew up. You might have the impression that the Israelite cannot now establish the identity [of the animal].⁹ He therefore teaches us [that it is not so]. In Sura they reported this in the last version,¹⁰ whereas in Pumbeditha [they reported this] in the former version. The law is decided in accordance even with the first version.

Rafram of Pumbeditha possessed a firstling which he gave to a priest without a blemish. The latter made it blemished. One day his¹¹ eyes were affected. [The priest] brought the [same] animal before him,¹² and said to him, ‘This firstling an Israelite gave to me with a blemish on it’! He [forcefully] opened his eyes [wide] and perceived his fraud.¹³ He¹⁴ said to him: ‘Was it not I who gave it to you’? Nevertheless, the incident did not make Rafram anxious,¹⁵ [because he held that] this priest happened to be impudent¹⁶ but everybody was not impudent.

Once a case of sarua¹⁷ came before R. Ashi.¹⁸ He said: What can we fear in connection [with the animal]? For whether [the owner be] a priest or Israelite, here is a firstling with a blemish on it.¹⁹ Said Rabina to R. Ashi: But perhaps [the animal] belongs to an Israelite and Rab Judah ruled: A firstling of an Israelite must not be examined unless a priest is present?²⁰ — He replied to

BECHOROS –31b-61a

him: But is the analogy correct? There,²¹ granted that he will not eat consecrated animals without [the Temple precincts],²² he is nevertheless suspected as regards the priest's property;²³ but here, well, he knew that this blemish was a well-marked one, and why did he bring it before the Rabbis? Out of respect for the Sage. Now, if he did not neglect showing respect to the Sage, will he actually commit an offence?²⁴

MISHNAH. ALL ARE TRUST WORTHY²⁵ AS REGARDS THE BLEMISHES OF A TITHING ANIMAL.

GEMARA. What is the reason? — Because if he wished he could cause a blemish originally [before the tithing]. But how does he know which goes out [through the door]?²⁶ And if you will say that he brings out an animal as the tenth²⁷ and blemishes it, does not the Divine Law say: He shall not search whether it be good or bad?²⁸ — Rather explain thus: If he wished he could have caused a blemish to the whole herd [of animals before tithing].²⁹

MISHNAH. A FIRSTLING WHOSE EYE WAS BLINDED³⁰ OR WHOSE FORE-FOOT WAS CUT OFF, OR WHOSE HIND-LEG WAS BROKEN, MAY BE SLAUGHTERED WITH THE APPROVAL OF THREE [PERSONS] OF THE SYNAGOGUE.³¹ BUT R. JOSE SAYS: EVEN IF A HIGH PRIEST WERE PRESENT, A FIRSTLING MUST NOT BE SLAUGHTERED EXCEPT WITH THE APPROVAL OF AN EXPERT.

GEMARA. Both R. Simlai and R. Judah the Prince reported in the name of R. Joshua b. Levi, (another version is: R. Simlai and R. Joshua b. Levi both reported in the name of R. Judah the Prince): The permitting of a firstling³² abroad³³ is by three persons of the Synagogue. Said Raba: This is so [even] in the case of prominent blemishes. What does he teach us? We have learnt this: A FIRSTLING WHOSE EYE WAS BLINDED OR WHOSE FORE-FOOT WAS

CUT OFF OR WHOSE HIND LEG WAS BROKEN, MAY BE SLAUGHTERED WITH THE APPROVAL OF THREE [PERSONS] OF THE SYNAGOGUE?³⁴ —

From the Mishnah I might have thought that blemishes which are not prominent are also permitted abroad, and the reason why the Mishnah speaks of 'prominent' [blemishes] is for the purpose of showing to what a length R. Jose is prepared to go [insisting that even so an expert is required]. He therefore informs us [that it is not so]. Rab Judah said that he was in doubt whether R. Jeremiah reported in the name of Rab or in the name of Samuel [the following ruling]: Three [ordinary] persons are required to permit a firstling [to be slaughtered when blemished] in a place where there is no expert. What does it teach us? We have learnt this: THE ANIMAL MAY BE SLAUGHTERED WITH THE APPROVAL OF THREE [PERSONS] OF THE SYNAGOGUE?

From the Mishnah I might have said that even where an expert is available, [three ordinary persons are required to permit it]. He therefore informs us that in a place where there is no expert it is [as the Mishnah states], but in a place where there is an expert, it is not so.

R. Hiyya b. Abin reported that R. Amram said: Three persons are necessary to permit a firstling [to be slaughtered] in a place where there is no expert. Three persons are required to annul vows, where there is no Sage. 'Three persons are necessary to permit a firstling in a place where there is no expert';

(1) When inquiries are made and it is discovered that he bought the produce from an untrustworthy person.

(2) That although the seller may not be trustworthy in the sender's opinion, he is regarded as trustworthy by his agent. Therefore the agent has no fear of being found out. The bracketed words are inserted from Sh. Mek.

BECHOROS –31b-61a

- (3) Whose name the sender explicitly mentioned.
- (4) For there is the fear here that the sender might make investigations as to whether his instructions were carried out. There is therefore here a confirmation of Rab Judah's view.
- (5) Since he sees that the sender is particular, having mentioned a specific name, he is aware that the sender will certainly make inquiries, and therefore the agent is believed, but not for the reason which Rab Judah states. In the case, however, of the firstling, the priest is not afraid, thinking that nobody will trouble to ascertain whether his statement is correct.
- (6) That a priest is trustworthy to declare that an Israelite, etc.
- (7) The name of a rabbinic teacher. Another explanation of the word Giddul is 'a great' man, from the word גדול.
- (8) And not to a priest who said 'this firstling an Israelite gave to me with its blemish'.
- (9) The animal having grown up. And therefore it might not be the same one which the Priest gave him, and thus it is possible that the Israelite actually caused the blemish. Rabbenu Gershom explains that קטן refers to an Israelite who was young when he gave the animal to the priest, and now when grown up he testifies that he gave the animal with a blemish on it. We are therefore informed that we trust the Israelite and we do not fear that he may not recollect whether or not it had a blemish when he received it.
- (10) That an Israelite is trustworthy to say 'this firstling, etc.'
- (11) Rafram's.
- (12) For Rafram to decide whether the blemish was of a permanent character, the priest thinking that now that Rafram's eyes were bad, he would not recognize the animal.
- (13) Recognizing that it was the firstling he had given him and that the priest was responsible for the blemish.
- (14) Rafram.
- (15) To decree that a priest in no circumstances should be believed when he declares that an Israelite gave him a blemished firstling.
- (16) For he exhibited inordinate impudence, in the first place in causing the blemish, and secondly in showing the firstling to the person who gave him the animal instead of to another expert.
- (17) An animal with one eye abnormally small and the other large.
- (18) To give a decision on the animal.
- (19) For in either case there can be no suspicion, since it was born with this defect.
- (20) Lit., 'with him'. The reason is because we fear that when the blemish is pronounced a permanent one, he will eat it himself and deprive the priest of his due.

- (21) With reference to Rab Judah's ruling.
- (22) As we see that he would not slaughter the animal before he showed it to the expert.
- (23) For the penalty is not as severe as for eating consecrated animals outside the Temple, which involves Kareth, and therefore the priest must be present when the examination takes place.
- (24) Of stealing, which is a much more serious thing than not showing respect to the expert by not showing him the animal in the case under discussion.
- (25) To testify that the blemish was not caused deliberately. The Mishnah refers to a doubtful tithing animal, e.g., where he called the ninth animal, when counting the tenth, the law being that it is not eaten unless blemished, v. infra 59a.
- (26) I.e., the tenth, so that he might cause a blemish at the outset.
- (27) Lit., 'the beginning of ten'.
- (28) Lev. XXVII. 33. Implying that he must not bring out the animal but it must go out by itself.
- (29) When the animals are all Hullin, and this is permissible. He can then proceed to tithe, for tithing takes effect even with blemished animals, the text saying 'Good or bad', i.e., unblemished or blemished. Therefore we believe him when he declares that the blemish on the doubtfully tithed animal was not caused intentionally.
- (30) I.e., a prominent and visible blemish.
- (31) Who are not necessarily experts.
- (32) To be slaughtered in consequence of a blemish.
- (33) Lit., 'outside the Land' (of Palestine.) The reason is because even in Temple-times it was not fit to be sacrificed.
- (34) And these are prominent blemishes. The Mishnahs here also deal with a firstling abroad and nowadays, a previous Mishnah speaking of an old male firstling with long wool etc'. Now if it referred to Temple-times and in Palestine, why did not the Priest offer it up?

Bechoroth 37a

this excludes the ruling of R. Jose [in the Mishnah]. 'Three persons are required to annul vows in a place where there is no Sage'; this excludes the ruling of R. Judah. For it has been taught: The annulment of vows requires three persons; 'R. Judah rules: One of them must be a Sage'. 'In the place where there is no Sage'. Who, for example?¹ — Said R. Nahman: for example, myself. 'R. Judah rules: One of them must be a Sage'. Does this imply, therefore, that the rest can be people of any kind?² — Said

BECHOROS –31b-61a

Rabina: They³ are explained to them and they understand.

BUT R. JOSE SAYS: EVEN IF A HIGH PRIEST WERE PRESENT, etc. R. Hananel reported in the name of Rab: The Halachah is not in accordance with R. Jose. Surely this is obvious, for ‘where a single opinion is opposed to the opinion of more than one, the law follows the latter’!⁴ — You might have thought that we must adopt R. Jose’s opinion, because he is known to have deep reasons [for his rulings]. He therefore informs us [that it is not so]. You may now infer from this⁵ that the former ruling⁶ was stated in the name of Samuel. For if it were in the name of Rab, what need is there for the repetition?⁷ — ‘One ruling was derived by implication’ from the other.⁸

MISHNAH. IF ONE SLAUGHTERED A FIRSTLING⁹ AND IT BECAME KNOWN THAT HE HAD NOT SHOWN IT [TO A SCHOLAR]. AS REGARDS WHAT [THE PURCHASERS] HAVE EATEN, THERE IS NO REMEDY¹⁰ AND HE MUST RETURN THE MONEY TO THEM.¹¹ AS REGARDS, HOWEVER, WHAT THEY HAVE NOT YET EATEN, THE FLESH MUST BE BURIED¹² AND HE MUST RETURN THE MONEY TO THEM. AND LIKEWISE IF ONE SLAUGHTERED A COW AND SOLD IT AND IT BECAME KNOWN THAT IT WAS TREFAH, AS REGARDS WHAT [THE PURCHASERS] HAVE EATEN THERE IS NO REMEDY, AND AS REGARDS WHAT THEY HAVE NOT EATEN, THEY RETURN THE FLESH TO HIM AND HE MUST RETURN THE MONEY TO THEM. IF [THE PURCHASERS] [IN THEIR TURN] SOLD IT TO HEATHENS OR CAST IT TO DOGS, THEY MUST PAY HIM THE PRICE OF TREFAH.¹³

GEMARA. Our Rabbis taught: If one sells flesh to another which turned out to be flesh of a firstling, or if one sells produce and it turns out to be untithed or if one sells wine and it turns out to be forbidden wine,¹⁴ what

[the purchasers] have eaten cannot be remedied and he must return the money to them.

R. Simeon b. Eleazar, however, says: In the case of objects for which a man has a loathing, he must return the money to them, [as there was no benefit to them after knowing], whereas in the case of objects for which a man has not a loathing, he deducts from the price [what had been eaten]. And the following are the objects for which a person has a loathing: Carcasses, Trefahs, forbidden animals and reptiles. And the following are objects for which a person has no loathing: Firstlings, untithed products and forbidden wine. [Do you therefore say that in the case of] a firstling [he deducts]? But why should not [the buyer] say to [the seller] ‘What loss have I caused you’?¹⁵ —

No; the statement is required for the case where he sold him the flesh from the place where the blemish was, for he says to him: ‘Had you not eaten it, I would have shown it to [a scholar] and he might have permitted it, in accordance with the ruling of R. Judah.¹⁶ As regards untithed things,¹⁷ he can say: ‘I might have prepared them [ritually] and eaten them’. With reference to forbidden wine,¹⁸ [one can explain that he sold it to him] mixed [with permitted wine], [and had he not consumed it he would have been able to benefit by it] according to the ruling of R. Simeon b. Gamaliel. For we have learnt: If forbidden wine falls into a vat [of permitted wine], it is forbidden to profit from the whole of it. R. Simeon b. Gamaliel, however, says: He can sell the whole of it to a heathen, except for the value of the forbidden wine in it.¹⁹

CHAPTER VI

MISHNAH. THESE ARE THE BLEMISHES IN CONSEQUENCE OF WHICH A FIRST-BORN ANIMAL MAY BE SLAUGHTERED;²⁰ IF ITS EAR HAS BECOME DEFECTIVE, [BEING CUT OR BORED THROUGH] FROM THE

BECHOROS –31b-61a

CARTILAGES [INWARD] BUT NOT IF THE DEFECT IS IN THE EAR-LAP;²¹ IF IT IS SLIT ALTHOUGH THERE WAS NO LOSS [OF SUBSTANCE]; IF IT IS PERFORATED WITH A HOLE AS LARGE AS A KARSHINAH²² OR IF [THE EAR] HAS BECOME DRY. WHAT IS CALLED 'BECOMING DRY'? IF IT IS PERFORATED NO DROP OF BLOOD WOULD ISSUE. R. JOSE B. HA-MESHULLAM SAYS: [IT] IS CALLED DRY WHEN IT IS LIABLE TO CRUMBLE.

GEMARA. Why is this so?²³ Does not Scripture say 'Lame or blind'?²⁴ It also writes: And if there be any blemish therein.²⁵ But why not argue that [the text] 'And if there be any blemish therein' is a general statement while 'lame or blind' is a specification; and where a general statement is followed by a specification the scope of the general statement is limited by the things specified, so that only lameness or blindness [in a firstling] are [legal blemishes], but other [defects] are not [legal blemishes]? —

[The text]: 'Any ill blemishes whatsoever'²⁶ is another general statement. We have, therefore, a general statement followed by the enumeration of specifications which are in turn followed by a general statement and in such a case we include only such things as are similar to those specified. Hence, just as the specifications²⁷ are exposed blemishes which cannot become sound again, so all [legal] blemishes must be exposed and unable to become sound again. But why not reason: As the specifications are exposed blemishes which render the animal incapable of carrying out its normal functions²⁸ and cannot become sound again. so all [legal] blemishes must be exposed rendering the animal incapable of carrying out its normal functions and unable to become sound again? Why then have we learnt: IF THE EAR IS DEFECTIVE FROM THE CARTILAGES,²⁹ BUT NOT IF THE DEFECT IS IN THE EAR-LAP?—

[The text]: 'Any³⁰ ill blemish whatsoever' is a widening of the scope of what constitutes a blemish. If this be so, why not also [slaughter a firstling] in consequence of hidden blemishes? Why then have we learnt: If the incisors are broken off or leveled [to the gum] or the molars are torn out [completely].³¹

- (1) Is meant by the term Sage?
- (2) Even ignorant people. But how can we take their views into consideration?
- (3) The rules and regulations appertaining to vows.
- (4) Ber. 9a.
- (5) The ruling of R. Hananel.
- (6) Which Rab Judah reported that R. Jeremiah gave. viz., that three Persons are required to permit a firstling.
- (7) By declaring in the name of Rab that the law is not in accordance with the ruling of R. Jose, R. Hananel indicates that three persons are required, and therefore, if the former statement had been reported in the name of Rab, there would be two similar rulings by the same authority. Hence we can solve the doubt whether R. Jeremiah reported in the name of Rab or Samuel; it must have been in the name of Samuel.
- (8) The above ruling of Rab Judah may still have been reported to him by R. Jeremiah in the name of Rab, and there is no difficulty, for R. Hananel's statement here in the name of Rab may be only an inference from Rab Judah's earlier ruling and not an explicit statement on the part of Rab.
- (9) And sold of its flesh.
- (10) Lit., 'what they have eaten they have eaten'.
- (11) For being instrumental in causing them to eat forbidden food he is penalized.
- (12) As it is forbidden to benefit from an unblemished firstling.
- (13) Since they did not eat the Trefah, they must pay him the cheap price of Trefah and he compensates them for the rest, as they paid the higher price for kosher flesh.
- (14) Wine of idolatrous libation.
- (15) For even if it were in your possession. it would have required burial, having been slaughtered in an unblemished state.
- (16) V. supra 28a.
- (17) The question also arises, why should the seller take a part of the money, since in any case he could not have used the untithed produce.
- (18) Cf. previous note mutatis mutandis.
- (19) I.e., he deducts the value from the price, so as not to benefit from the forbidden wine.

BECHOROS –31b-61a

(20) After the destruction of the Temple.

(21) Lit., 'from the skin', because a blemish at this spot can become sound again.

(22) A species of vetch, probably horse-bean.

(23) Why should the defects enumerated in the Mishnah be regarded as legal blemishes in connection with a firstling?

(24) Deut. XV, 21. As being blemishes in consequence of which a firstling may be killed, the text continuing 'Thou shalt eat it within thy gates'. This implies that no other defects are considered legal blemishes.

(25) The opening passage of the text just cited; from this we deduce that there are other blemishes which have the same ruling as lameness and blindness.

(26) A continuation of the above text.

(27) Lameness and blindness.

(28) The lame not being able to walk and the blind to see. Lit., 'idle from its work'.

(29) Why should this be considered a blemish, since the animal is not in consequence deprived of hearing.

(30) The word לֵב is a comprehensive term which includes other defects as blemishes.

(31) Infra 39a.

Bechoroth 37b

[thus implying that] when torn out completely [they are blemishes] but not where they are broken off or leveled [to the gum]?¹ — We require [that it should appear] 'an ill blemish',² which is not the case [where it is not torn out]. If this be so,³ why should not [a firstling be slaughtered] in consequence of a transitory blemish?⁴

Why have we learnt: **BUT NOT IF THE DEFECT IS IN THE EAR-LAP?** — There is a logical reason [why we do not slaughter a firstling] in consequence of a transitory blemish, for seeing that we do not redeem [a consecrated animal]⁵ in consequence [of a transitory blemish], shall we slaughter in consequence of it?" For it has been taught: [Scripture says]: And if it be any unclean beast of which they may not bring an offering unto the Lord.⁶ The text deals here with sacrifices rendered unfit which were redeemed. You say sacrifices rendered unfit. Perhaps it is really not so, but it speaks actually of an unclean animal?

Since it says: 'And if it be of an unclean beast, then he shall ransom it according to thy valuation'⁷ the case of an unclean animal is already stated. How then do I interpret the text 'Of which they may not bring an offering unto the Lord'? You must say that it refers to sacrifices rendered unfit which were redeemed. I might, however, conclude that one may redeem in consequence of a transitory blemish, hence Scripture explicitly states: 'Of which they may not bring an offering unto the Lord', thus intimating [that it refers to] a sacrifice which is completely unfit [for the altar], but excluding this case of a transitory blemish, which although unfit for sacrifice today, is fit tomorrow. And if you prefer [another solution]⁸ I may say: If this be a fact [that a transitory defect is a legal blemish] then of what avail is the text 'Lame and blind' [which implies only permanent blemishes]?

IF IT WAS SLIT, ALTHOUGH THERE WAS NOT ANY LOSS [OF SUBSTANCE]. Our Rabbis taught: A slit may be as small as you please.⁹ A defect [a cut] may be either through the agency of man or by nature.¹⁰ Does this imply that a slit has not the same ruling when brought about by nature? — Rather state it thus: A slit may be as small as you please, and both a slit and a cut may be either through the agency of man or by nature. And how large is a cut? — A notch deep enough to stop the finger nail.¹¹

IF IT WAS PERFORATED AS LARGE, etc. Our Rabbis taught: How large is the perforation of the ear? — As large as a Karshinah. R. Jose son of R. Judah says: As large as a lentil. What is called dry? If when perforated [the sore] does not bring forth a drop of blood. R. Jose b. Ha-meshullam says: [It is called] 'dry' as long as it is liable to crumble. A Tanna taught: Their views are nearly alike. Whose views [are meant]? Shall I say the views of the first Tanna [quoted above] and R. Jose b. Ha-meshullam? Surely there is a considerable difference!¹² —

BECHOROS –31b-61a

Rather you must say, the views of the first Tanna [quoted above] and R. Jose son of R. Judah.¹³ [But does R. Jose son of R. Judah maintain that a blemish is constituted] by [a hole] the size of a lentil and not by less than the size of a lentil? Against this I quote: Scripture says ‘An awl’.¹⁴ I have here mentioned only an awl [wherewith to bore the ear of a slave]; whence do you include also a prick, a thorn, a borer, and a stylus? Hence the text states: Then thou shalt take,¹⁴ thus including everything which can be taken in a hand. This is the view of R. Jose son of R. Judah. Rabbi says, [Since the text says] ‘An awl’, we infer that as an awl is exclusively of metal, so anything used must be of metal.

And it is stated in the following clause: Said R. Eleazar: Judan the son of Rabbis¹⁵ used to expound as follows: The boring is only done through the ear-lap. The Sages, however, rule: A Hebrew slave who is a priest must not have his ear bored, because he becomes blemished. Now if you maintain that the boring was done through the ear-lap, then the Hebrew slave who is a priest cannot become blemished, hence we only bore through the top part of the ear!¹⁶ — Said Rab Hana b. Kattina: This offers no difficulty. Here for the purpose of slaughtering,¹⁷ [the size of a lentil is required] but there in the case of causing a disqualification [even a needle can render the animal blemished for the altar]. What is Karshinah? Said R. Sherabya: Indian vetch.

R. Oshaiah inquired from R. Huna the Great: [Must the hole be] of a size so that the Karshinah may enter and come out [with ease] or as to contain a karshinah¹⁸ [only with difficulty]? — He replied to him: I have not heard the answer to this particular query, but I have heard [a solution of] a similar query. For we have learnt: A spinal column and a skull which have shrunk [do not cause uncleanness].¹⁹ And how great

must be the shrinkage in the spinal column in order not to cause uncleanness?

Beth Shammai say: Two vertebrae, whereas Beth Hillel say: One vertebra. And as regards the skull, Beth Shammai say: [The amount of the shrinkage] must be equal to a borer;²⁰ and Beth Hillel say: As much as is required to be taken away from a living person in order to prove fatal.²¹ Now R. Hisda sat discoursing and inquired: [You say] as much as is required to be taken from a living person [so as to prove fatal]. And how much would this be? —

R. Tahlifa b. Abudimi said to him: Thus did Samuel say: As much as a sela’.²² (And it was stated; R. Safra said: [R. Tahlifa] reported to [R. Hisda] a ruling [in the name of Samuel], whereas Rab Samuel b. Judah says: [R. Tahlifa] quoted [to Rab Hisda] a Baraitha [reported by Samuel]. And the way to remember²³ this is by the sentence: R. Samuel b. Judah reported a Baraitha).²⁴ Said [R. Hisda] to him [R. Tahlifa]: If so,²⁵ then you have made the views of Beth Shammai and Beth Hillel identical.

For we have learnt: In a light-hole which was not made by the agency of man,²⁶ the size²⁷ required is as large as a big fist, such as the fist of Ben Battiah.²⁸ Said R. Jose: And this [fist] is as large as a big head of a man. If [the light-hole], however, was made by the agency of man, [the Sages] fixed the size to be as large as a hole made with the large [carpenter's borer kept in the Temple cell,²⁹ which is as large as an Italian dupondium³⁰ or as large as a Neronian sela’]. And it³¹ has

- (1) I.e., only hidden blemishes.
- (2) And therefore there must be a complete tearing out, as ‘an ill blemish’ is only when it is seen.
- (3) That the word כּ is an extension of the scope of what is a blemish.
- (4) Since such a defect appears to be an ill blemish.
- (5) Which became unfit for sacrifice. (11) A firstling outside Palestine.

BECHOROS –31b-61a

- (6) Lev. XXVII, 11.
(7) Ibid XXVII, 27.
(8) To the question why, in view of the word לָב we should not be allowed to slaughter a firstling by reason of a transitory blemish?
(9) Lit., 'whatever it may be'.
(10) Lit., 'By the hands of heaven', i.e., born with a defect.
(11) When passing over its edge as with a slaughtering knife.
(12) Between the two views set forth.
(13) For a Karshinah is only slightly larger than a lentil.
(14) Deut. XV, 17.
(15) A name applied to a great scholar, v. J.E. s.v.
(16) I.e., from the cartilage inward. Nevertheless we see that the boring causes a blemish. R. Jose holding that even a needle's point which makes a hole much smaller than a lentil, is capable of maiming.
(17) Outside the Temple.
(18) Lit., 'a Karshinah which stands'.
(19) The spinal column and the skull cause Levitical uncleanness, rendering any object unclean under their shelter, like the greater number of the limbs of a dead body or the greater part of a dead body. If however, they are not complete, they do not cause this uncleanness.
(20) V. Oh. II, 3.
(21) Defined infra p. 38a.
(22) A weight and a coin.
(23) Lit., 'And thy sign' so as not to make a mistake who said it was a ruling and who said it was a Baraitha.
(24) For we find elsewhere R. Samuel b. Judah frequently quoting a Baraitha.
(25) That Beth Hillel say a sela'.
(26) A wall breaking a little of itself between two houses, thus making an opening letting in light.
(27) So as to bring uncleanness from one house to the other. As this was not made by the agency of a man, therefore less than this size does not bring about impurity.
(28) Nephew of R. Johanan b. Zakkai, one of the leaders of the terrorists during the siege of Jerusalem by the Romans.
He was a big man physically.
(29) For purposes of Temple repair.
(30) V. Glos.
(31) The sela' or the Dupondium.

Bechoroth 38a

[a size] as large as a hole of a yoke!¹ — Hez was silent.

Said R. Hisda to him: perhaps what we have learnt³ refers to the borer and [the removal of] what stopped up [the hole].⁴

Thereupon R. Tahlifa said to him: You should not say 'perhaps', it certainly refers to the borer and [the removal of] what stopped up [the hole], and you can confidently accept this explanation as we accept the evidence of Hezekiah the father of Ikkesh.⁵ For it has been taught: This which follows is the evidence given by Hezekiah the father of Ikkesh before Rabban Gamaliel in Jabneh which he reported in the name of Rabban Gamaliel the Elder: Wherever an earthen vessel has no inside,⁶ it is not regarded as having an independent back.⁷ If then the inside becomes unclean, the back becomes unclean, and if the back becomes unclean, the inside becomes unclean. But did not the Divine Law teach that the uncleanness of an earthen vessel depends on the inside?⁸ If it has an inside [receiving uncleanness] then the vessel becomes unclean, but if it has no inside, then it does not become unclean? —

Said R. Isaac b. Abin: This is what is meant: Wherever an earthen vessel has no inside in a corresponding case with a rinsing vessel⁹ it has no back which is treated independently. If then its inside becomes unclean, its back [outside] becomes unclean, and if its back becomes unclean, then its inside is unclean. What need however is there to make it depend on an earthen vessel? Let him say as follows: Wherever in the case of a rinsing vessel there is no inside, there is no back which is treated independently? —

He informs us of this very thing, that if it has an inside, then it is like an earthen vessel, as much as [to say]: As in the case of an earthen vessel, if the inside becomes unclean, then the back becomes unclean, and if the back becomes¹⁰ unclean, the inside does not become unclean, so it is in the case of a rinsing vessel, if the inside becomes unclean then the back becomes unclean, and if the

BECHOROS –31b-61a

back becomes unclean, the inside does not become unclean. Now we may readily grant this in the case of an earthen vessel, the Divine Law having revealed explicitly in that connection that uncleanness depends on the inside [receiving uncleanness]; but as regards a rinsing vessel, did the Divine Law reveal explicitly that uncleanness depends on the inside [receiving uncleanness]? —

If we were referring to a case of biblical uncleanness, it would indeed be so.¹¹ We are dealing here¹² however with unclean liquids [which have come in contact with a rinsing vessel], the resulting uncleanness being due to a rabbinic enactment. For we have learnt: If the back [outside] of a vessel has been defiled by unclean liquids, its back becomes unclean, but its inside, its edge,¹³ its handle and its projectors remain clean. If its inside however becomes unclean, the whole vessel becomes unclean;¹⁴ for according to the biblical law, food cannot make a vessel unclean nor can unclean liquid make a vessel unclean, and only the Rabbis have declared uncleanness on account of the liquid of a Zab and a Zabah.¹⁵ The Rabbis consequently declared it¹⁶ to have uncleanness of an earthen vessel but they did not declare it [in this particular instance] to be biblically unclean on its own account, the Rabbis differentiating in order that Terumah and holy objects might not be burnt on its account.¹⁷ But if this be so,¹⁸ where there is no inside, let there also be a distinction made?¹⁹

Since where there is an inside, the Rabbis differentiated, it will indeed be known that where there is no inside the uncleanness is a rabbinic enactment [and that therefore Terumah must not be burnt in consequence of it]. But with regard to a rinsing vessel, where there is no inside, is it susceptible of becoming unclean according to the biblical law?²⁰ For we do not require [in order that a vessel may become unclean] that it should resemble a sack²¹ that is [to say], As a sack is handled either fully or empty, so anything

[in order to receive uncleanness] must be in a condition to be handled either full or empty?²² — It refers to those [articles] which are fit to be used as seats.²³ If this be so, then why not also declare an earthen vessel²⁴ unclean [rabbinically]?²⁵ — Midras²⁶ is not employed with an earthen vessel, [for fear of breaking it].

R. Papa says:²⁷ The Mishnah above states distinctly a 'large borer', from which we can deduce that an ordinary borer is smaller than a sela'.²⁸ This would indeed hold good according to the view of R. Meir²⁹ but according to the view of the Rabbis, what answer would you give? For we have learnt: To what kind of borer did Beth Shammai refer? To a small one, belonging to doctors.³⁰ The Sages said however: They refer to the large [carpenter's] borer kept in the Temple cell.

But is it satisfactory even according to the view of R. Meir? Would this not then be a case where the ruling of Beth Shammai would be easier³¹ and the ruling of Beth Hillel severer; and [as regards examples of this kind of ruling] what we have learnt³² we accept³³ and what we have not learnt in the Mishnah we do not accept! — Said R. Nahman:³⁴ A Neronian sela' is distinctly mentioned above.³⁵ A Neronian sela' is as large as a large borer, but an ordinary sela' is even smaller than an ordinary borer.³⁶

MISHNAH. ONE WHOSE RIS [EYELID] IS PERFORATED, NIPPED OR SLIT, OR IF IT HAS A CATARACT OR A TEBALLUL,³⁷ HALAZON [SNAIL-SHAPED], NAHASH [SNAKE-SHAPED]³⁸ AND A [BERRY-SHAPED] GROWTH ON THE EYE, [IS DISQUALIFIED]. WHAT DOES TEBALLUL MEAN? THE WHITE OF THE EYE BREAKING THROUGH THE RING AND ENCROACHING ON THE BLACK, BUT IF THE BLACK BREAKS THROUGH THE RING AND INVADES THE WHITE, IT IS NOT A [DISQUALIFYING] BLEMISH, [BECAUSE THERE ARE NO DISQUALIFYING

BECHOROS –31b-61a

BLEMISHES AS REGARDS THE WHITE OF THE EYE].³⁹

(1) In which a peg is fastened in order to bind the straps (v. Kel. XVII, 12). Consequently we see that the carpenter's borer הקמ is the size of a sela' and, therefore, what is the difference between Beth Hillel and Beth Shammai?

(2) Rab Tahlifa.

(3) The 'borer' referred to above in connection with the skull.

(4) The borer being narrow below and wide at the top, some scraping away of the hole is necessary in order that it may enter and come out freely. This would therefore make the hole larger than a sela' and, therefore, Beth Shammai and Beth Hillel would differ in the extent of the diminution required in the case of the skull. Incidentally this would solve R. Oshaiah's query above.

(5) Though his statement which follows appeared difficult, every effort was made to explain it, since it was known to have been reliable in substance.

(6) I.e., is not hollowed out so as to be capable of containing something.

(7) Lit., 'a back for distinction', i.e., its back (outside) cannot become unclean independently of its inside or vice versa. The inside here would mean the part which is customarily used (Tosaf.).

(8) v. Lev. XI, 32.

(9) I.e., a wooden vessel, as Scripture writes: And every vessel of wood shall be rinsed in water. (Lev. XV, 12.) A suggestion that the vessel referred to here is a metal one is refuted by Rashi.

(10) So Sh. Mek. Cur. edd. 'if the back does not become'.

(11) That if the outside of a rinsing vessel becomes unclean, the inside too becomes unclean, whether it is capable of containing or not.

(12) When we say that where it is capable of containing and the outside becomes unclean, the inside does not become unclean as in the case of an earthen vessel, and where it is incapable of containing, Hezekiah requires to inform us that there is no distinction as regards the back and inside and whichever becomes unclean, the other also becomes unclean.

(13) Or its basin (Rashi).

(14) Kelim XXV, 6.

(15) One afflicted with gonorrhoea. His or her spittle is one of the direct causes of Levitical impurity and it makes a vessel unclean biblically, whereas other unclean liquids cannot do so, but only make the vessel rabbinically unclean.

(16) A rinsing vessel.

(17) Thus not causing unnecessary burning of holy things.

(18) If the uncleanness here be a rabbinic enactment and therefore a distinction between the inside and the back was made, just as in the case of an earthen vessel, in order not to burn holy things unnecessarily.

(19) That where the back becomes unclean, the inside does not become unclean.

(20) That there should be need to take a precaution in case an unclean liquid comes in contact with it. Moreover, it states above that if the case were one of biblical uncleanness, etc. The objection therefore arises that where it is not capable of containing there can be no uncleanness biblically!

(21) Scripture saying. 'It shall be unclean whether it be any vessel of wood, or raiment, or skin or sack (Lev. XI, 32).

(22) I.e., capable of containing.

(23) As couches, stools or chairs.

(24) Without an inside, but fit to be used as a chair, etc.

(25) According to the view of R. Isaac b. Abin above.

(26) Causing uncleanness by treading, lying or sitting on it.

(27) The difficulty you raised above concerning Beth Shammai and Beth Hillel apparently holding the same view, can be solved in the following manner.

(28) And Beth Shammai in connection with the passage above referring to the loss in the skull mean by the term 'borer' the ordinary one, which is smaller than a sela'. Therefore the measurements of the two schools are not alike.

(29) Who explains below that a physician's borer is meant in the statement referring to the size of the shrinkage in the skull. This is less than a sela', and thus there is a difference between Beth Shammai and Beth Hillel.

(30) With which the head is bored when a wound has to be examined.

(31) For Beth Shammai would then hold that a smaller portion is required in order to free the skull from uncleanness of Ohel, whereas Beth Hillel would demand a greater decrease.

(32) In 'Ed. V, I, where only six cases are enumerated in which Beth Shammai are more lenient in their rulings than Beth Hillel.

(33) Lit., 'we have learnt'.

(34) Explaining the view of R. Meir.

(35) In the Mishnah referring to the light-hole, etc.

(36) Therefore Beth Shammai, requiring a shrinkage in the skull of the size of a borer before it can be exempt from the impurity of overshadowing would be severer in their ruling than Beth Hillel, who only require the decrease of

BECHOROS –31b-61a

the size of an ordinary sela', which is even less than the size of an ordinary borer.

(37) Explained below in the Gemara.

(38) The Gemara explains this below.

(39) For only the black part is looked upon as the eye. Added with Sh. Mek.

Bechoroth 38b

GEMARA. What is the meaning of the RIS?¹ R. Papa said: The eyelid.² OR IF IT HAS A CATARACT OR A TEBALLUL. Our Rabbis taught: A cataract which causes the eye to sink is a [disqualifying] blemish, but if it is floating, it is not a disqualifying blemish. But has not the opposite been taught? — This offers no difficulty. One statement refers to the black part of the eye, and the other case to the white.³ But surely blemishes in the white of the eye do not disqualify! One statement then refers to a white spot, and the other to a black spot. For Rabbah b. Bar Hana said: R. Oshaiah of Usha told me, A black spot which causes the eye to sink is a [disqualifying] blemish, but if it is floating it is not a [disqualifying] blemish. A white spot if it causes the eye to sink is not a disqualifying blemish, but if it is floating, it is a disqualifying blemish.

And mnemonic for this is,⁴ *BARKA*.⁵ *HALAZON, NAHASH AND A GROWTH IN THE EYE.*

A query was put forward: Does [the Mishnah mean that] HALAZON is the same thing as NAHASH or does it mean Halazon or Nahash? —

Come and hear: For Rabbah b. Bar Hana said: R. Johanan b. Eleazar told me: A certain old man [a priest] lived in our quarter whose name was R. Simeon b. Jose b. Lekunia. Never had I passed in front of him.⁶ Once, however, I passed in front of him. He said to me: Sit down my son, sit. This⁷ Halazon is a permanent blemish, in consequence of which [the animal] may be slaughtered and this is what the Sages called Nahash. And although the Sages have said:

A man must not examine his own [animals] to discover their blemishes, yet he is allowed to teach the rule to his pupils and the pupils are permitted to examine. But surely it is not so! For did not R. Abba say that R. Huna reported in the name of Rab: Wherever a scholar comes before us and teaches a [new] rule, if he enunciated it before a practical case arose for the application of the rule, then we listen to him, but if not, we do not listen to him?⁸ — He too came to us and taught it before the case arose.

WHAT DOES TEBALLUL MEAN? THE WHITE OF THE EYE BREAKING THROUGH THE RING AND ENCROACHING ON THE BLACK. Whose opinion does this⁹ represent? — It is that of R. Jose. For it was taught: If the white of the eye encroaches on the black or if the black encroaches on the white, it is a disqualifying blemish. This is the view of R. Meir.

R. Jose says: If the white encroaches on the black it is a blemish, whereas if the black of the eye encroaches on the white, it is not a blemish, for blemishes do not disqualify in the white of the eye. Said Rab: What is the reason of R. Jose? Scripture says: Their eyes stand forth from fatness.¹⁰ [The white of the eye] is called the fat of the eye, but not simply their eyes.¹¹ And what is the reason of R. Meir? — Said Raba:¹² What is the meaning of Teballul? — Anything which disturbs [Mebalbel] the action of the eye.

MISHNAH. HAWARWAR [WHITE SPOTS]¹³ ON THE CORNEA AND WATER CONSTANTLY DRIPPING FROM THE EYE, [ARE DISQUALIFYING BLEMISHES]. WHAT DO WE MEAN BY A PERMANENT HAWARWAR? IF IT REMAINED FOR A PERIOD OF EIGHTY DAYS.¹⁴ R. HANINA B. ANTIGONUS SAID: WE MUST EXAMINE IT THREE TIMES IN THE EIGHTY DAYS.¹⁵ AND THE FOLLOWING ARE CASES OF CONSTANT DRIPPING FROM THE EYE [AND HOW TO TEST ITS PERMANENCY]: IF IT ATE [FOR A CURE] FRESH [FODDER]

BECHOROS –31b-61a

AND DRY [FODDER]¹⁶ FROM A FIELD SUFFICIENTLY WATERED BY RAIN, OR FRESH [FODDER] AND DRY [FODDER] FROM A FIELD REQUIRING ARTIFICIAL IRRIGATION, [IT IS A PERMANENT BLEMISH, IF NOT CURED]. IF IT ATE DRY [FODDER] FIRST AND THEN FRESH [FODDER]¹⁷ IT IS NOT A BLEMISH. UNLESS IT EATS DRY [FODDER] AFTER¹⁸ THE FRESH.¹⁹

GEMARA. What opinion does our Mishnah²⁰ represent? — It is that of R. Judah. For it has been taught: A permanent hawarwar must remain for forty days, and water constantly dripping [from the eye] must remain so for eighty days. This is the view of R. Meir.

But R. Judah says: A permanent hawarwar must remain for eighty days. And the following are cases of permanent hawarwar [and how to test their permanency]: if it ate fresh [fodder] with dry [fodder] from a field sufficiently watered by rain,²¹ but not fresh [fodder] and dry from a field requiring irrigation. Or if it ate dry [fodder] followed by fresh, it is not a blemish,²² unless it ate dry [fodder] after fresh. And this [treatment] must last for three months.²³ But have we not learnt both [kinds of fields]: IF IT ATE FRESH [FODDER] AND DRY [FODDER] FROM A FIELD SUFFICIENTLY WATERED BY RAIN, OF IF IT ATE FRESH [FODDER] AND DRY [FODDER] FROM A FIELD REQUIRING IRRIGATION?²⁴—

There is a lacuna in the Mishnah and it should read thus: IF IT ATE THE FRESH [FODDER] AND DRY [FODDER] FROM A FIELD SUFFICIENTLY WATERED BY RAIN, it is a blemish.²⁵ [IF IT ATE] FROM A FIELD REQUIRING IRRIGATION, it is not a blemish, [EVEN IF IT DID NOT BECOME CURED]. [And even in the case of a field] watered by rain, IF IT ATE DRY [FODDER] AND AFTERWARDS FRESH

IT IS NOT A BLEMISH, UNLESS IT ATE DRY [FODDER] AFTER FRESH.

‘And this treatment must last for three months.’ But surely this is not so!²⁶ Has not R. Idi b. Abin reported in the name of R. Isaac b. Ashian: [In] Adar and Nisan [it is given] fresh [fodder], in Elul and Tishri dry [fodder]?²⁷ — Read rather as follows: [In] Adar and a half of Nisan fresh [fodder], [in] Elul and half of Tishri dry.²⁸ The following query was put forward: [Does the Mishnah mean that] the fresh [fodder] [given to the firstling to eat for a cure] must be in the period of fresh [fodder]²⁹ and, similarly, the dry in the period of dry,³⁰ or [does the Mishnah mean that] we give it to eat fresh [fodder] together with dry in the period of fresh [fodder]?³¹ —

Come and hear:³² For R. Idi b. Abin reported in the name of R. Isaac b. Ashian: [In] Adar and Nisan [it is given] fresh [fodder] and [in] Elul and Tishri dry. It may be, however, that this passage means that the [dry] produce of Elul and Tishri is given to the animal to eat in Adar and Nisan.³³ And how much [of this] do we give it to eat daily? —

R. Johanan reported in the name of R. Phinehas b. Aruba: The size of a dry fig. Said ‘Ulla: In the Palestinian colleges³⁴ it was asked: Does the amount mentioned refer only to the animal's first meal,³⁵

- (1) Mentioned in the Mishnah above as being a blemish.
- (2) Lit., ‘the outer row of the eye’.
- (3) The first impression was that the passage referred to the two parts of the eye.
- (4) By which to remember which of the two affections of the eye is considered a blemish.
- (5) An affection of the eye-sight occasioned by lightning which is white and cataract and similarly the floating white spot in the eye is a disqualifying blemish.
- (6) He being a great man of his generation.
- (7) He possessed a firstling which had a Halazon.
- (8) Since it is on account of the case that he is induced to pronounce the new rule. And here

BECHOROS –31b-61a

also how can we listen to him when he says that the animal has a permanent blemish?

(9) The Mishnah which states that a blemish does not disqualify the white part of the eye.

(10) Ps. LXXIII, 7. The wicked man has become degenerate because of the excessive fatness in his eye, and the fatness of the eye is in the white part.

(11) The white part has therefore a qualification, 'fat', implying that it is not actually the eye. R. Jose therefore maintains that a blemish does not disqualify in the white part of the eye.

(12) Added with Sh. Mek.

(13) Or a membrane (Gershom).

(14) Without diminishing from what it was originally.

(15) And failing this examination, even if the white spots are found on the eightieth day, they are not considered a blemish, as probably during this period the defect disappeared and has now returned. This defect would, therefore, be a natural thing.

(16) Lit., 'dry' grass which grows in Tishri, the fresh grass (lit., 'moist') growing in Nisan.

(17) And although it was not cured, it is not a blemish, as this is not the way to cure the animal.

(18) So Sh. Mek. cur. edd. 'and after'.

(19) And if the animal is not cured then, it is a blemish.

(20) Which says that a permanent hawarwar must remain so for eighty days.

(21) This is for the purpose of curing the animal.

(22) For it is not the way of curing it.

(23) The animal eating the fresh fodder and then the dry for the period mentioned.

(24) How then can you say that the Mishnah is the view of R. Judah?

(25) If it did not become cured thereby.

(26) That only three months are required for the treatment in order to ascertain whether it is a permanent blemish or a transitory one.

(27) We therefore see that more than three months are necessary for the treatment.

(28) I.e., three months are required in all.

(29) I.e., in Adar and Nisan.

(30) I.e., in Elul and Tishri, and we do not slaughter the firstling until the 'whole summer has passed; thus the animal is tested with both foods.

(31) V. note 7.

(32) A solution, that the fresh fodder we give to eat in Adar and Nisan and the dry in Elul and Tishri.

(33) There is consequently no proof here that the foods must be given at the particular periods of their growth.

(34) Lit., 'the West'.

(35) Which it eats daily as a cure.

Bechoroth 39a

or to every single meal? If you say that the first meal is meant, then the question arises, has it to be given before the meal or after the meal.¹ — [The treatment]² before a meal certainly does the animal good, like medicine.³ But suppose it is given after the meal, what then?⁴ Also, do we give it [the treatment] before drinking or after drinking? —

It certainly does it more good before drinking, like barley.⁵ But suppose it is given after drinking?⁶ [When it is given the treatment] should it be tied, or must it be unloosened?⁷ —

It certainly does it more good when it is unloosened. But suppose it is given when it is tied? Also, [do we give it the treatment] when it is by itself or together with another [animal]?⁸ —

It certainly does it more good when it is together with another. But suppose it is given when it is by itself? Further, [do we give it the treatment] in the city or in the field?⁹ —

It certainly does it more good in the field. But suppose it is given in the city? R. Ashi inquired: If you will say that [it is preferable] in a field, what is the ruling as regards a garden adjacent to a field?¹⁰ Let all this stand undecided.

R. HANINA B. ANTIGONUS SAYS, etc. Said R. Nahman b. Isaac. Provided that the cure is administered at three¹¹ intervals [during the eighty days]. Phinehas the brother of Mar Samuel inquired of Samuel: If the firstling [ate this for a cure] and did not get better, is it considered a blemish retrospectively or is it considered a blemish only from then onwards? What is the practical difference? For deciding whether the law of Sacrilege applies to redemption money,¹² [if it is redeemed within the three

BECHOROS –31b-61a

months]. If you say therefore that it¹³ is a disqualifying blemish retrospectively, then he commits sacrilege.¹⁴ But if it counts as a blemish only from then onwards, there is no Sacrilege. What is the ruling? — Samuel applied [to R. Phinehas] the verse: The¹⁵ lame take the prey.¹⁶

MISHNAH. IF ITS NOSE IS PERFORATED, NIPPED, OR SLIT, OR ITS UPPER LIP PERFORATED, MUTILATED, OR SLIT [THESE ARE DISQUALIFYING BLEMISHES].

GEMARA. Our Rabbis have taught: If the partitions of the nostrils are perforated right through from the outside, this is a disqualifying blemish, if the perforation is inside,¹⁷ it is not considered a blemish.¹⁸

IF ITS UPPER LIP WHICH IS PERFORATED, MUTILATED, OR SLIT. Said R. Papa: The outer line [edge] of its lip is meant.¹⁹

MISHNAH. IF THE INCISORS ARE BROKEN OFF OR LEVELLED [TO THE GUM] OR THE MOLARS ARE TORN OUT [COMPLETELY], [THESE ARE DISQUALIFYING BLEMISHES IN A FIRSTLING]. BUT R. HANINA B. ANTIGONUS SAID: WE DO NOT EXAMINE BEHIND THE MOLARS,²⁰ NOR THE MOLARS THEMSELVES.²¹

GEMARA. Our Rabbis have taught: Which are the molars?²² Inside from the molars, the molars themselves being considered like the inside. R. Joshua b. Kapuzai²³ says: We are permitted to slaughter the firstling in consequence only of [a defect in] the incisors.²⁴

R. Hanina b. Antigonus says: We pay no attention whatever to the molars.²⁵ What does it mean?²⁶ Moreover, is not the view of R. Joshua b. Kapuzai the same as that of the first Tanna [quoted above]? — There is a lacuna [in the Baraitha] and it should read thus: Which are regarded as the inside teeth?²⁷ Inside from the molars, and the

molars themselves, are all regarded as the inside teeth. When does this rule apply? When they were broken off or leveled [to the gum], but if they were torn away [completely], we may slaughter [the firstling as a consequence].

R. Joshua b. Kapuzai says: We must not slaughter [the firstling] except in consequence of the incisors [becoming defective]. But if the molars were torn away [completely], we must not in consequence of this, slaughter [the firstling], though they do disqualify.²⁸

R. Hanina b. Antigonus, however, says: We do not pay any attention whatever to the molar teeth and they do not even disqualify.

R. Ahadboi b. Ammi asked: Does [the law of] the loss of a limb apply to what is inside [an animal],²⁹ or does [the law of] a loss of a limb not apply to the inside [of an animal]? To what does this query refer? If to a firstling, does not Scripture write: ‘Lame or blind’?³⁰ If to a sacrificial animal, does not Scripture write: ‘Blind or broken’?³¹ I am not inquiring as regards slaughtering³² or redeeming [a sacrificial offering].³³ My inquiry relates to disqualifying [the animal from the altar]. “What is the ruling? The Divine Law says: It shall be perfect to be accepted.³⁴ This implies that if it is ‘perfect’ then it is valid [as a sacrifice], but if there is anything missing [even inside the animal], then it is not so. Or shall I say while the text ‘It shall be perfect to be accepted’, is inclusive, the text ‘There shall be no blemishes therein’ [informs us] that as a blemish is from the outside, so anything must be missing from the outside [in order to disqualify the animal]? —

Come and hear: [Scripture says]: ‘And the two kidneys’³⁵ implying that an animal with one kidney or with three kidneys [is not offered up]. And another [Baraitha] taught, [Scripture says]: ‘He shall remove it’³⁶ which includes a sacrificial animal

BECHOROS –31b-61a

possessing one kidney only, [as fit for the altar]. Now, all [the authorities concerned here] hold that a living creature is not created with one kidney only, and in the case here there was a definite loss of a kidney. Shall it therefore be said that this is the point at issue, that one Master holds that a deficiency inside the animal is considered a loss [which can disqualify], whereas the other Master holds that a deficiency inside the animal is not considered a deficiency [to disqualify]? —

Said R. Hiyya b. Joseph: All [the authorities] agree that a living creature can be created with one kidney only, and the deficiency inside is considered a deficiency; and still there is no difficulty.³⁷ In one case,³⁸ we are dealing with an animal which was created with two [kidneys] and there was a loss [of a kidney], whereas in the other case, it speaks of where it was created originally with one kidney only [and therefore the animal was not disqualified from the altar]. But is not the case [of one kidney]³⁹ stated to be similar to the case of three kidneys; consequently as three kidneys were created originally, so one kidney was created originally?⁴⁰ —

Rather the point at issue here is whether a living creature can be created [with one kidney only]. One Master holds that a living creature can be created with one kidney only [and therefore an animal with one kidney is permitted for the altar] whereas the other holds that a living creature cannot be created with one kidney only.⁴¹

R. Johanan however said: All agree that a living creature [cannot be created] with one [kidney] only, and that the deficiency [of a limb] inside an animal is considered a deficiency. And still there is no difficulty [as regards the two Baraithas above]. In one case, the loss took place before it was slaughtered,⁴² and in the other, after the slaughtering. But even if the loss took place after the slaughtering, only before the blood

was received [in a vessel]⁴³ is it permitted [to offer it]?

(1) For if we adopt the view that every single meal is meant, then it is immaterial whether before or after the meal, since when the second meal arrives, although it is after a meal (the first one), we still give it this food to eat.

(2) This does not apply to a firstling to which no redemption money applies, but to consecrated animals in general.

(3) Which is usually given before a meal, and it does more good then than after a meal.

(4) Do we regard this as a satisfactory test so that if it is not cured the defect is pronounced a disqualifying blemish.

(5) It being the custom of clean animals to eat barley before drinking, as it does them more good then than after drinking.

(6) Do the fresh and dry fodder have any good effect?

(7) The animal being more content when it eats in such a condition.

(8) Enjoying its food better in company.

(9) The animal preferring the open space of the field.

(10) Where the animal is fed with fodder (fresh and dry) for a cure. Does it enjoy the air here as well as in a field?

(11) That it is examined for example, to-day and at the end of twenty-six and a half days, then further at the end of twenty-six and a half days and subsequently at the end of the period of twenty-seven days. There is usually a change at these three particular periods, and consequently if he did not examine the animal at these specific times, then we cannot declare that the animal had a permanent blemish. Tosaf, explains it as meaning that the examination must take place at the commencement of the eighty days, at the conclusion of the period and in the middle, a three-fold examination.

(12) If it is used for a secular purpose.

(13) The defect of the dripping eye.

(14) If he has derived a benefit from the redemption money and he must bring a suitable sacrifice.

(15) Isa. XXXIII, 23.

(16) The verse states something almost incredible, viz., that the lame take prey. Similarly although Samuel was the much greater scholar than Phinehas, yet the latter asked him a question which he confessed was beyond him.

(17) The partition which divides the nose inside.

(18) For it is in a hidden part.

(19) I.e., but not its breadth.

BECHOROS –31b-61a

(20) Lit., 'from the molars and within', as in those teeth a defect is not recognized either when the animal caws or bleats.

The molar is called תימות (twin) from its shape, each tooth possessing two roots and looking like two.

(21) If they were completely torn out, as it is not a blemish from the inside.

(22) This passage is explained below in the Gemara.

(23) Var. lec. Kapusai.

(24) In the centre of the mouth.

(25) Even for the altar the animal is not disqualified.

(26) The Baraita asking the question, What are the molar teeth? and then proceeding to say, 'From the molars etc'.

(27) With reference to which the Mishnah says, If they were torn away it is a blemish and if they were broken off it is not a blemish.

(28) The animal for offering up on the altar, and he must wait until another blemish occurs, after which he may slaughter it.

(29) E.g., the loss of a kidney or milt.

(30) Implying that only open defects are disqualifying blemishes. The verse is in Deut. XV, 21.

(31) Again implying that only open defects are regarded as blemishes. The verse is in Lev. XXII, 22.

(32) A firstling, in consequence of a loss inside the animal.

(33) For to such an extent it would not be a blemish.

(34) For the altar. The verse is in Lev. XXII, 21.

(35) Lev. VII, 4 in connection with sacrifices.

(36) Ibid. Emphasis on the singular 'it'.

(37) As regards a contradiction between the two Baraitas.

(38) The Baraita which disqualifies an animal where there is the loss of a kidney.

(39) In the Baraita where it says that an animal with one kidney or three kidneys is disqualified.

(40) And still it disqualifies the animal.

(41) And therefore if we find only one kidney, we say that the animal originally possessed two kidneys and has been deprived of one, thereby becoming disqualified from the altar.

(42) The loss therefore disqualifies the animal from the altar.

(43) For sprinkling purposes.

disqualified, as it is written in the Scriptures: And he shall take of the blood of the bullock,² [implying] the bullock as it had been before?³

Rather [the explanation] is that in one case,⁴ the loss took place before the blood was received, and in the other after the blood was received. But is a defect in the sacrifice after the blood was received, but before the sprinkling permitted? Has it not been taught: [Scripture says]: Your lamb shall be without blemish, a male of the first year.⁵ [This intimates] that it must be unblemished and a year old at the time of slaughtering. Whence do we infer that the same rule applies at the time of the receiving of the blood, its carrying [to the altar] and its sprinkling? Because the text states: 'It shall be', [implying] that it must be unblemished and a year old in all the phases [of the sacrificial rite]? —

Explain this⁶ to refer only to the law of a year old.⁷ It also stands to reason.⁸ For it was taught, R. Joshua said: In all the sacrificial animals mentioned in the Torah, if there is left [a piece of flesh] the size of an olive or [a piece of fat] the size of an olive, the blood may be sprinkled,⁹ it stands proved. But does there exist an object which at the time of slaughtering is a year old and at the time when the blood is received and carried is two years old? —

Said Raba: This proves that [even] hours disqualify in the case of [sacrifices].¹⁰ Shall we say [that R. Ahadobi's query above] goes back to Tannaim?¹¹ [For it was taught, Scripture says]: That which hath its stones bruised or crushed¹² or torn¹³ or cut,¹⁴ all these blemishes must be in the stones. This is the view of R. Judah. [Do you say] 'in the stones' but not in the membrum virile?¹⁵ —

Read then: Also in the stones. This is the view of R. Judah. R. Eleazar b. Jacob says: All these blemishes must be in the membrum. R. Jose however says: 'Bruised

Bechoroth 39b

Has not R. Ze'ira said in the name of Rab. If one makes a slit in the ear of the bull¹ and subsequently receives its bloods, it is

BECHOROS –31b-61a

or crushed' can be in the stones also, whereas 'torn or cut' in the membrum is [a blemish], but in the stones is not [a blemish]. What does it mean? Does it not mean that the point at issue is that one Master¹⁶ holds that a deficiency inside [the animal] is considered a deficiency, whereas the other Master holds that a deficiency inside [the animal] is not considered a deficiency! But do you consider this as reasonable?¹⁷ What in this case does R. Jose hold? If he holds: A deficiency inside [an animal] is considered a deficiency, then 'torn or cut' should apply [to all parts]. And if he holds: A deficiency inside [an animal] is not considered a deficiency, then even 'bruised or crushed' should not apply [to all parts]!

Rather [explain that] the point at issue here is whether they are open blemishes.¹⁸ R. Judah holds: 'Bruised or crushed' are blemishes because [the stones or membrum] shrink afterwards. 'Torn or cut' are blemishes because they are hanging.¹⁹ R. Eleazar b. Jacob, however, holds: 'Bruised or crushed' are not blemishes, for originally [when the animal is well] they²⁰ also sometimes shrink. 'Torn or cut' are not blemishes, for originally [when the animal is well] they some times also hang. And R. Jose holds: 'Bruised or crushed' are blemishes, for they are not in existence now.²¹ 'Torn or cut' however, are not blemishes because they are still in existence.

MISHNAH. [OTHER BLEMISHES ARE] IF THE BAG²² IS MUTILATED OR THE GENITALS OF A FEMALE ANIMAL IN THE CASE OF SACRIFICIAL OFFERINGS;²³ IF THE TAIL IS MUTILATED FROM THE BONE²⁴ BUT NOT FROM THE JOINT;²⁵ OR IF THE TOP END [ROOT] OF THE TAIL DIVIDES THE BONE²⁶ OR IF THERE IS FLESH BETWEEN ONE JOINT AND ANOTHER [IN THE TAIL] TO THE AMOUNT OF A FINGER'S BREADTH.

GEMARA. Said R. Eleazar: [The Mishnah particularly means a bag] which is

mutilated, but not if it is removed.²⁷ [The mutilation also only applies to] the bag, but not to the membrum itself.²⁸ It has been taught likewise: [If the bag was] mutilated [it is a blemish], but not if it was removed. [The mutilation applies to] the bag and not to the membrum. Said R. Jose b. ha-Meshullam: It happened at En-Bul²⁹ that a wolf took [the whole bag] of one and it returned to its normal condition.

IF THE TAIL IS MUTILATED FROM THE BONE, etc. A Tanna taught: The measurement of a finger's breadth mentioned [by the Sages] is one-fourth of any man's handbreadth, [i.e., a thumb's breadth]. What is the legal import of this?³⁰ Said Raba: It is in connection with the subject of purple blue.³¹ For it has been taught: How many threads does he put into [the hole of the corner for fringes]? Beth Shammai say: Four; whereas Beth Hillel say: Three. And how far must the threads of the show-fringes hang down [beyond the border]?³² —

Beth Shammai say: Four finger-breadths, whereas Beth Hillel say: Three finger-breadths. And the three finger-breadths mentioned by Beth Hillel are each equal to one of the four finger-breadths of any man's hand.³³ R. Huna son of R. Joshua says: [The measurement of a fingerbreadth here mentioned has reference to] the two standard-cubits, as we have learnt: Two standard-cubits were deposited

- (1) Belonging to the anointed priest, after its slaughter but before the receiving of the blood.
- (2) Lev. XVI, 14.
- (3) And just as at the slaughtering the bullock was unblemished, so it must be perfect when its blood is received in the vessel.
- (4) When it says that a loss inside the animal disqualifies.
- (5) Ex. XII, 5.
- (6) The statement just cited: In all phases, etc.
- (7) But as regards the rule of being unblemished, this is only necessary at the slaughtering and receiving of the blood.

BECHOROS –31b-61a

(8) That the loss after receiving the blood does not disqualify the animal.

(9) For since the size of an olive remains of the flesh, which is sufficient for the eating of a man, and the size of an olive of fat, which is adequate for burning on the altar, we may proceed to sprinkle the blood. If, however, nothing remains, then there cannot be any sprinkling. We thus see that if everything is lost except the size of an olive of flesh and fat, we can still conclude the sacrificial rite. Therefore the statement that 'in all phases it must be perfect' quoted in the Baraitha just mentioned, can only refer to the law of its being a year old.

(10) Hence, for example, if the lamb was born last year on the fourteenth of Nisan at the eighth hour, he must be careful to slaughter and sprinkle its blood before the ninth hour, for the ninth hour disqualifies it and it is as if it had entered the second year.

(11) I.e., Tannaim differ in the matter.

(12) E.g. with stones (Rashi).

(13) Completely by hand, only still hanging on to the bag.

(14) With a knife, only still hanging on to the bag. Lev. XXII, 24.

(15) Surely since the latter is more open and visible a blemish in it should certainly disqualify.

(16) R. Judah.

(17) That the point at issue is as you say.

(18) All unanimously hold that a loss of a limb inside the animal is not considered a loss, and the reason of the authority who disqualifies the balls is not because it is considered a loss but because it is regarded as a blemish.

(19) Knocking against the bag and being visible outside, since not attached above.

(20) The stones

(21) And therefore it is a loss.

(22) Containing the male animal's membrum.

(23) This cannot refer to a first-born animal, as the law of a first-born only applies to a male.

(24) This is a blemish because it cannot recover.

(25) I.e., between the joints, for this can heal.

(26) I.e., if the backbone is branched at the place where the tail begins appearing like two tails. Rashi explains מַעְצִיל 'peels' the backbone, i.e., if the end of the backbone is bare of skin and flesh.

(27) For then it can return to its normal condition.

(28) As this is hidden and can heal.

(29) N.W. of Saffed.

(30) Has the measure of a finger's breadth been mentioned?

(31) The fringes, which require the blue show-fringes.

(32) Another explanation is: What is the length of the twisted thread, independently of the show-fringes? And the word מְשֻׁלֶּשֶׁת is employed to

indicate that it is a third of the whole, i.e., that the show-fringes together with the twisted thread are twelve finger-breadths, that is three handbreadths.

(33) Making altogether the size of three thumbs.

Bechoroth 40a

in [the gate called] the Castle of Shushan,¹ one in the north-east corner, and the other in the south-east corner. That in the northeast corner was larger than the Mosaic cubit by half a finger's breadth and that of the south-east corner was larger than its companion by half a finger's breadth. Consequently the latter was a finger's breadth larger than the Mosaic cubit. And why were there a large and small standard-cubit? So that while the workmen used to undertake their tasks according to the smaller cubit [of Moses] but executed in accordance with the large, in order that it should not come to commit sacrilege.² And what need was there for two standard-cubits? —

One standard-cubit [which was half a finger's breadth larger than that of Moses] was used for measuring gold and silver³ and the other [which was a whole finger's-breadth larger] was used for building [the wall]. R. Nahman b. Isaac or you may say R. Huna b. Nathan, said: [The exact measurement of a finger's breadth mentioned above has] reference to what we have learnt: OR IF THERE IS FLESH BETWEEN ONE JOINT AND ANOTHER TO THE AMOUNT OF A FINGER'S BREADTH.

MISHNAH. IF [A FIRSTLING] HAS NO STONES OR IF IT ONLY HAS ONE STONE, [IT IS A BLEMISH]. R. ISHMAEL SAYS: IF IT HAS TWO BAGS, THEN IT HAS TWO STONES, BUT IF IT ONLY HAS ONE BAG, THEN IT ONLY HAS ONE STONE. R. AKIBA SAYS: [THE ANIMAL] IS PLACED ON ITS BUTTOCK⁴ AND HE RUBS [THE BAG],⁵ IF A TESTICLE IS [THERE, INSIDE THE BAG] IT WILL EVENTUALLY COME OUT. IT

BECHOROS –31b-61a

HAPPENED THAT ONE RUBBED IT AND [THE STONE] DID NOT COME OUT, BUT WHEN IT WAS SLAUGHTERED [THE STONE] WAS FOUND ATTACHED TO THE LOINS, AND R. AKIBA PERMITTED [THE ANIMAL]⁶ WHILE R. JOHANAN B. NURI PROHIBITED IT.⁷

GEMARA. If in a case where it only has one stone, you say [in the Mishnah] that it is a blemish, in a case where it has no stones at all, is there any question?⁸ — Something is omitted,⁹ and it must read thus: IF [THE FIRSTLING] HAS NOT the two STONES in two bags, only in one bag, OR IF IT HAS two bags containing ONLY ONE STONE, IT IS A BLEMISH. R. ISHMAEL SAYS:¹⁰ IF IT HAS TWO BAGS, IT CERTAINLY HAS TWO STONES. IF HOWEVER IT HAS ONLY ONE BAG, IT IS AS IF IT HAS ONLY ONE STONE. WHEREUPON R. AKIBA SAYS: We do not say ‘it certainly has’ BUT WE PLACE THE ANIMAL ON ITS BUTTOCK AND RUB [THE BAG] AND IF THERE IS A STONE [INSIDE] THEN IT COMES OUT EVENTUALLY. IF HAPPENED THAT HE RUBBED IT AND THE STONE DID NOT COME OUT, etc.

It has been taught: Said R. Jose: It happened at Peran¹¹ in the house of Menahem that he rubbed [the bag] and [the stone] did not come out. When however it was slaughtered, the stone was found attached to the loins and R. Akiba permitted [the animal to be eaten] whereas R. Johanan b. Nuri prohibited it. Said R. Akiba to R. Johanan b. Nuri: ‘How long will you waste the money of Israel?’¹² Said R. Johanan b. Nuri to R. Akiba: ‘How long will you allow Israel to eat nebelahs?’¹³ But do we not ritually cut it? — Rather [R. Johanan] must have said trefahs.¹⁴ But it is not a case here of the prohibition of Trefahs! Then [this is what he said to R. Akiba]: How long will you allow Israel to eat consecrated sacrifices without [the wall of Jerusalem]?¹⁵

MISHNAH. IF [A FIRSTLING] HAS FIVE FEET OR IF IT HAS ONLY THREE FEET OR IF ITS FEET ARE CLOSED¹⁶ LIKE THAT OF AN ASS OR A SHAHUL OR A KASUL [THESE ARE BLEMISHES]. WHAT IS MEANT BY SHAHUL? [AN ANIMAL] WITH A DISLOCATED HIP [WITHOUT THE SINEWS BEING SEVERED]. WHAT IS MEANT BY KASUL? [AN ANIMAL] ONE OF WHOSE HIPS IS HIGHER THAN THE OTHER.

GEMARA. Said Rab Huna: This¹⁷ is meant only when [the animal] has one foot too few or one too many in front;¹⁸ but if behind, it is also trefah,¹⁹ for ‘every addition is considered equal to the entire absence [of the respective limb]’.²⁰

OR WHOSE FEET ARE CLOSED LIKE THAT OF AN ASS. Said R. Papa: You should not say that they are round as well as not cloven,²¹ but even if their feet are only round [like that of an ass] although they are not cloven, [it is a blemish].²²

A SHAHUL OR A KASUL, etc. Our Rabbis taught: What is meant by kasul and what is meant by shahul? Shahul means [an animal] whose hip became dislocated [without the severing of the sinews]. Kasul means [an animal] one of whose legs is fixed in the loin²³ and the other over the loin.

A Tanna taught: What is meant by a sarua’ or a kalut? Sarua’ means [an animal] one of whose legs is longer than the other, kalut means one whose feet are uncloven like that of an ass or a horse.

MISHNAH. IF THE BONE OF THE FORE-FOOT [OF A FIRSTLING] OR OF ITS HIND-FOOT IS BROKEN, EVEN THOUGH IT IS NOT NOTICEABLE,²⁴ [THIS IS A BLEMISH]. THESE BLEMISHES ILA²⁵ ENUMERATED IN JABNEH AND THE SAGES AGREED WITH HIM. HE ALSO ADDED ANOTHER THREE CASES [OF BLEMISHES]. THEY THEREUPON SAID TO HIM: WE HAVE ONLY HEARD THESE [ALREADY

BECHOROS –31b-61a

MENTIONED PREVIOUSLY]. ONE WHICH HAS ITS EYEBALL ROUND LIKE THAT OF A MAN OR A MOUTH LIKE THAT OF A SWINE OR ONE WHICH HAS LOST THE GREATER PART OF THE ANTERIOR OF THE TONGUE, [THESE ARE THE ADDITIONAL BLEMISHES]. A SUBSEQUENT BETH DIN RULED HOWEVER:²⁶ EACH OF THESE CASES IS A [DISQUALIFYING] BLEMISH.

GEMARA. You say EVEN THOUGH IT WAS NOT NOTICEABLE. But is it then a blemish? — Said R. Papa: [The break] is not noticeable in itself but it is noticeable owing to the animal's inability to carry out its normal functions.²⁷

THESE BLEMISHES ILA RECORDED, etc. Does this mean to say that this is not a usual thing?²⁸ The following was cited in contradiction. If a woman gives birth to a kind of animal, beast or bird, whether clean or unclean, if it is a male she must observe the regulations relating to the birth of a male,²⁹ and if it is a female she must observe the regulations relating to the birth of a female.³⁰ If [the sex], however, is not known, then she must keep the regulations relating both to a male and a female.³¹ These are the words of R. Meir. And Rabbah b. Bar Hana reported in the name of R. Johanan: What is the reason of R. Meir?³² Since its eyeball is round like that of a man.³³ — Said R. Joseph: This offers no difficulty. In one case the shape of the black of the eye is meant,³⁴ and in the other the slit³⁵ [in which the eye is seated is meant].

OR HAS A MOUTH LIKE THAT OF A SWINE. Said R. Papa: You should not say³⁶ that the mouth must be pointed besides the lip being parted, but if [the lip] is parted, even though the mouth is not pointed.³⁷

OR ONE WHICH HAD THE GREATER PART OF THE ANTERIOR OF THE TONGUE REMOVED. Whose opinion does this represent? — It is that of R. Judah. For

it has been taught: And one which has the greater part of the tongue removed; R. Judah, however, says: The greater part of the anterior of the tongue.³⁸

MISHNAH. AND IT HAPPENED THAT THE LOWER JAW [OF A FIRSTLING] WAS LARGER THAN THE UPPER JAW. R. SIMEON B. GAMALIEL ASKED THE SAGES [FOR A RULING] AND THEY SAID: THIS IS A BLEMISH.

GEMARA. What has he taught that he cites an incident?³⁹ — Since we have learnt [in the previous] Mishnah: Or its mouth was like that of a swine, and the Rabbis differ from R. [Ila].⁴⁰ And it is with reference to this that we are now told that the Rabbis differ from R. [Ila] only where the upper lip is larger than the lower one, but where the lower lip is larger than the upper one, [they agree that] this is a [disqualifying] blemish.

- (1) The eastern gate of the Temple mount on which the picture of the Castle of Shushan was sculptured, v. Mid, I, 3.
- (2) Illegally benefiting from a sacred object. For if the workmen followed the Mosaic cubit, since it is not always possible to be exact, there was a fear that what was actually holy might be used in a secular manner.
- (3) The Mosaic cubit being stipulated but the workmen in executing the work, giving the larger cubit.
- (4) Lit., 'hollow, arched pitcher'.
- (5) And the loins, as a test.
- (6) To be eaten, for it was a blemish, owing to the fact that it was not in its place.
- (7) Since the stone was eventually found.
- (8) About its being a blemish?
- (9) In the Mishnah.
- (10) R. Ishmael differs therefore only as regards the second clause of the Mishnah, but as regards the first, he agrees that where the animal has only one bag it is a blemish, for it is as if there was only one stone.
- (11) The name of a village (Rashi). Tosaf. renders the passage מעשה בפירן 'It happened in the stables of the house of Menahem', etc. deriving פירן from פרה.
- (12) For since you forbid the eating of the animal as an unblemished firstling without Jerusalem, there is no other remedy except burying it.

BECHOROS –31b-61a

(13) Animals not ritually slaughtered or which died of themselves.

(14) Animals afflicted with a fatal organic disease.

(15) For it is an unblemished firstling which can only be eaten in Jerusalem and, according to your ruling, it will be eaten outside the walls of Jerusalem.

(16) I.e., uncloven hoofs.

(17) The statement of the Mishnah, A FIRSTLING WHICH HAS FIVE FEET, etc.

(18) E.g., if in the one case it has three fore-feet as well as its two hind-feet, and in the other, it has the two hind-feet and one fore-foot. The reason is that Trefah does not apply to the fore-foot.

(19) As well as being a blemish.

(20) And the law is that if the part from the knee upwards is cut then the animal is Trefah.

(21) I.e., that in every respect it must resemble an ass in order to constitute a blemish.

(22) For the hoofs of a clean animal are not round.

(23) Normally the leg of an animal is attached to the fat-tail in proximity of the loin but not over it.

(24) This is explained in the Gemara below.

(25) A medical expert v. supra 29a.

(26) Contrary to the Sages above who oppose the additional cases of blemishes mentioned by Ila.

(27) Of walking naturally, as at present it limps.

(28) That the eyeball should be round?

(29) I.e., seven days of impurity and then the continuation for thirty-three days in blood of purification. Lit., 'she sits'.

(30) I.e., fourteen impure days and then continue with sixty-six days of the blood of purification.

(31) The stricter rules of both sexes i.e., fourteen impure days and only thirty-three pure days.

(32) Who maintains that if a woman gives birth to a species of animal, etc. it is considered as a genuine offspring.

(33) We therefore see that a round eyeball is not an abnormal feature.

(34) Which is a usual thing.

(35) It is unusual for this to be round. The reading of the text is צייריא, according to Rashi and R. Gershom. R. Hananel has ציהרא, referring to the red parts surrounding the black of the eye. Cur. edd. היוריא, 'the white part'.

(36) That we compare it with the swine in all particulars in order to constitute a blemish.

(37) It is a blemish. Another interpretation of פרוס דשפידל given by Rashi is: The mouth is round besides the upper lip and upper jaws overlapping the lower jaws.

(38) And since the Mishnah speaks of the anterior part of the tongue, must represent the view of R. Judah and not that of the first Tanna quoted.

(39) Similar to that quoted in the Mishnah and on a similar subject.

(40) When they declare above: We have only heard these already mentioned, etc.

Bechoroth 40b

AND IT HAPPENED also THAT THE LOWER JAW WAS LARGER THAN THE UPPER ONE, AND R. SIMEON B. GAMALIEL ASKED THE SAGES [FOR A RULING], AND THEY SAID: THIS IS A BLEMISH. But did we not learn of this [blemish] only with reference to a human being;¹ 'If the upper lip is larger than the lower one or the lower lip is larger than the upper one, this is a blemish'? Now only with reference to a human being does Scripture write: What man soever of the seed of Aaron,² [implying] that among the seed of Aaron man must be normal but not with regard to a beast? Said R. Papa: This offers no difficulty. In one case there is a bone,³ whereas in the other there is no bone.⁴

MISHNAH. IN REGARD TO THE EAR OF A KID WHICH WAS DOUBLED,⁵ THE SAGES RULED [AS FOLLOWS]: IF IT IS ALL ONE BONE,⁶ IT IS A BLEMISH, BUT IF IT IS NOT ALL ONE BONE,⁷ IT IS NOT A BLEMISH. R. HANINA THE SON OF GAMALIEL SAYS: IF THE TAIL OF A KID IS LIKE THAT OF A SWINE, OR IF THE TAIL DOES NOT POSSESS THREE VERTEBRAE, THIS IS A BLEMISH.

GEMARA. Our Rabbis taught: If a firstling's mouth is shrunk⁸ or if its feet are shrunk, if it is on account of [lack of] room⁹ then it is not a blemish, but if it is on account of the bone,¹⁰ it is a blemish. Doubled ears with one system of cartilages constitute a blemish, but with two systems of cartilages are not a blemish.

R. GAMALIEL SAYS: THE TAIL OF A KID WHICH WAS LIKE THAT OF A SWINE. Said R. Papa: Do not say that it must be round as well as [very] thin;¹¹ enough if it is round, even though it is thick.

BECHOROS –31b-61a

OR IF THE TAIL DOES NOT POSSESS THREE VERTEBRAE, etc. Said R. Huna: In a kid, two vertebrae in the tail constitute a blemish, but three are not a blemish. But in a lamb, three vertebrae constitute a blemish, whereas four are not a blemish. An objection was raised: In a kid, one vertebra in the tail is a blemish, whereas two are not a blemish. But in a lamb two vertebrae are a blemish while three are not a blemish. Is not this a refutation of R. Huna? How then does R. Huna [explain his position]? — Our Mishnah misled him. He was under the impression that just as the first part¹² [of the Mishnah] referred to a kid, similarly the second part¹³ referred to a kid. It is not so, however. The first part refers to a kid, whereas the second part refers to a lamb.

MISHNAH. R. HANINA THE SON OF ANTIGONUS SAYS: IF [A FIRSTLING] HAS A YABELETH¹⁴ IN ITS EYE OR IF A BONE OF ITS FORE-FOOT OR HINDLEG IS DEFECTIVE,¹⁵ OR IF THE BONE OF THE MOUTH¹⁶ SPLIT OR ONE EYE IS [ABNORMALLY] LARGE AND THE OTHER SMALL, OR ONE EAR [ABNORMALLY] LARGE AND THE OTHER SMALL, BEING VISIBLY SO AND NOT MERELY IN ACTUAL MEASUREMENT.¹⁷ ALL THESE ARE DISQUALIFYING BLEMISHES. R. JUDAH SAYS: IF ONE STONE IS AS LARGE AS TWO OF THE OTHER. [THIS IS A BLEMISH]. THE SAGES, HOWEVER, DID NOT CONCUR WITH R. JUDAH'S RULING.

GEMARA. Does this mean to say that a yabeleth is a [disqualifying] blemish? Against this I quote the following: We must not slaughter a firstling either in the Temple¹⁸ or in the country¹⁹ in consequence of the following blemishes: One affected with garab,²⁰ or yabeleth!²¹ — But do you consider it reasonable [that yabeleth should not be a real blemish]? Is there not a text 'or yabeleth'²² in Scripture? — There is no contradiction. In the one case,²³ the body is referred to and in the other [our Mishnah],

the eye. But let us see now. Holy Writ makes no distinction; what difference then does it make whether the blemish is in the eye or on the body? —

Rather say that there is no difficulty [for the following reason].²⁴ In one case it has a bone and in the other it has no bone. [The yabeleth of] the text refers to where it has a bone.²⁵ [The yabeleth of] our Mishnah,²⁶ however, refers to where it has no bone. Therefore [if it is] in its eye, it is considered a [disqualifying] blemish, but on its body, it is not a [disqualifying] blemish. But if there is no bone on the body, does it really disqualify [from the altar]? Is it not then a mere wart? For it has been taught: R. Eleazar says: Those with warts, if human beings, are unfit for the altar, if beasts, they are fit for the altar? —

Rather explain as follows: In one case as well as in the other,²⁷ it refers to the eye, and yet there is no difficulty. In one case²⁸ it refers to the black part [of the eye] and in the other it refers to the white.²⁹ But surely blemishes do not disqualify in the white part of the eye?³⁰ —

Rather explain this [as follows]: In one case as well as in the other³¹ we are dealing with the white part of the eye, [nevertheless] said Resh Lakish: It offers no difficulty. In one case [the yabeleth] has hair on it,³² in the other, it has no hair on it.³³

ITS ONE EYE WAS ABNORMALLY LARGE, etc. A Tanna taught: 'Large' means as large as that of a calf, and 'small' means as small as that of a goose.

ITS ONE EAR WAS ABNORMALLY LARGE, etc. And the Rabbis,³⁴ what is their limit?³⁵ — It was taught, Others say: Even if the second stone is only the size of a bean, it is permitted.³⁶

MISHNAH. IF THE TAIL OF A [FIRSTBORN] CALF DOES NOT REACH THE 'ARKUB³⁷ ,

BECHOROS –31b-61a

[IT IS A BLEMISH]. THE SAGES SAID: THE GROWTH OF ALL CALVES IS IN THIS MANNER.³⁸ AS LONG AS [THE ANIMALS] GROW, THE TAILS ALSO EXTEND [BELOW]. WHICH ARKUB MENTIONED IS MEANT? R. HANINA. B. ANTIGONUS SAYS: THE 'ARKUB IN THE THIGH.

(1) A priest. How then can we compare the two things?

(2) Lev. XXII, 4.

(3) If the bone of the lower jaw is larger than the upper one, it is regarded as a blemish even in an animal.

(4) Only the lower lip overlaps and is larger than the upper. This is a blemish in a human being but not in an animal.

(5) It has two ears on one side, an ear within an ear. The Mishnah speaks here of a kid, because this animal often has its ear somewhat folded and doubled.

(6) I.e., if the tip of the outside ear is bent over and is connected with the inside ear. We do not regard this as a case of an additional limb, because the deformity is not visible.

(7) So Rashi. I.e., if the tips of the outside ear and the inside one are not connected. According to this interpretation, the word **תניק** refers to the 'tip of the ear', and the reason why it is called 'a bone' is because it is a hard physical substance, like that of a bone. Maimonides, however, apparently reads: 'If it is another' and explains it as follows: If the external ear appears like a separate and distinct member, then it is a blemish, but if it does not seem like an extra member, then it is not a blemish. This interpretation would remove the difficulty why according to Rashi's version it is not regarded as an additional limb where it is 'one bone'. Cur. edd.: If it has no bone.

(8) Or swollen (Rashi).

(9) In the mouth, so that the animal is not able to open its mouth well.

(10) The animal opens its mouth well, but the jaws are tight and prevent it from opening the mouth wide enough. According to Rashi's second explanation the meaning is: If the swelling is due to the air, (reading **רייה** not **רייה**) which it breathes, then it is not blemished and it will recover. But if it is because of the bone being unduly thick, it is a blemish.

(11) That it is required to be like that of a swine in every way, in order to be a disqualifying blemish.

(12) THE EAR OF A KID, etc.

(13) OR IF THE TAIL, etc.

(14) An excrescence or large warts on the skin.

(15) For this defect is noticeable. The case where it was broken has already been stated previously.

(16) I.e., the jaw (R. Gershom), not the teeth.

(17) For if it is not recognized by sight as a deformity but is only found to be so by measurement, then it is not a disqualifying blemish, since a disqualifying blemish must be visible and noticeable.

(18) To offer it on the altar, since it is disqualified.

(19) A term used in contra distinction to the Sanctuary and Temple. It is forbidden to slaughter a firstling under such circumstances, unless it is actually blemished.

(20) A scurf or itch.

(21) Infra 41a. We see therefore that it is not regarded as a genuine blemish.

(22) Lev. XXII, 22.

(23) That of the text and also of the Mishnah quoted.

(24) In reality even in the body yabeleth is a blemish.

(25) Therefore even in the body yabeleth is considered a blemish.

(26) And also the Mishnah quoted. Therefore a yabeleth in the eye is a blemish, as our Mishnah holds, even without a bone, and as the other Mishnah refers to the body, a yabeleth in such a case is not a disqualifying blemish, since it has no bone.

(27) I.e., in both the other Mishnah and the Baraitha, but not to the scriptural text.

(28) Our Mishnah which regards yabeleth as a blemish.

(29) A yabeleth in the white part of the eye only renders an animal unfit for the Temple.

(30) V. supra 38a.

(31) The Mishnah infra 41a, like the statement of the quoted Mishnah that no blemishes disqualify the white part of the eye.

(32) Therefore although it is in the white part, since there is hair on the yabeleth it is not acceptable for a sacrifice.

(33) Therefore the rule of the Mishnah stands that blemishes do not disqualify in the white part of the eye. Our Mishnah here however which declares a yabeleth to be a real blemish refers to a case where it is in the black part of the eye, even without a bone, while the scriptural text refers to where there is a bone; consequently both on the body and in the eye, a yabeleth constitutes a blemish.

(34) Who do not agree with Rabbi Judah in connection with the case of one ball being as large as two of the other (Rashi).

(35) How small may its companion stone be and still not be regarded as a blemish.

(36) But if it is less, then it is a blemish.

(37) Explained later in the Gemara.

BECHOROS –31b-61a

(38) To reach the ‘arkub, and if not, it is a blemish, Another version (Tosaf. Yom Tob.) is that the tail does not usually reach the ‘arkub and therefore if it is short of the ‘arkub, it is not a blemish.

Bechoroth 41a

GEMARA. It has been taught: The upper joint, [the inner part of the knee] not the lower joint [knuckle]. And the corresponding part¹ in a camel is [easily] recognized.

MISHNAH. IN CONSEQUENCE OF THESE BLEMISHES WE MAY SLAUGHTER A FIRSTBORN ANIMAL, AND CONSECRATED ANIMALS RENDERED UNFIT [FOR THE ALTAR] IN CONSEQUENCE OF THESE BLEMISHES MAY BE REDEEMED.²

GEMARA. What need is there to state this again? Has not [the Tanna] stated this in a previous part [as follows]: In consequence of these blemishes we may slaughter the first-born animal?³ — There was need [for the Tanna to state this] on account of the second clause in our Mishnah: CONSECRATED ANIMALS RENDERED UNFIT [FOR THE ALTAR] IN CONSEQUENCE OF THESE BLEMISHES MAY BE REDEEMED. But surely this too is obvious, for if we may slaughter [the animal in consequence of these blemishes], is there any question about redeeming it?

Rather [the explanation is as follows]: Since it stated [in a previous Mishnah]: [Ila] also added three cases [of blemishes], and the Sages said to him: We have only heard of these [already mentioned],⁴ the [Tanna] then proceeds [in subsequent Mishnahs] to give the opinions of individual teachers.⁵ Therefore he states without mentioning names in reference to all these [individual rulings]: IN CONSEQUENCE OF THESE BLEMISHES WE MAY SLAUGHTER A FIRST-BORN ANIMAL, AND CONSECRATED ANIMALS RENDERED UNFIT [FOR THE ALTAR] IN

CONSEQUENCE OF THESE BLEMISHES MAY BE REDEEMED.⁶

MISHNAH. AND IN CONSEQUENCE OF THE FOLLOWING BLEMISHES WE MUST NOT SLAUGHTER A FIRSTLING EITHER IN THE TEMPLE⁷ OR WITHOUT THE TEMPLE:⁸ WHITE SPOTS ON THE CORNEA AND WATER [DRIPPING FROM THE EYE] WHEN NOT PERMANENT FEATURES, OR MOLARS WHICH HAVE BEEN BROKEN BUT NOT TORN OUT [COMPLETELY] OR [AN ANIMAL] AFFECTED WITH GARAB,⁹ YABELETH,¹⁰ OR HAZZAZITH,¹¹ AN OLD [ANIMAL] OR A SICK ONE, [AN ANIMAL] OF OFFENSIVE SMELL OR APPEARANCE, OR [AN ANIMAL] WHICH WITH A TRANSGRESSION HAS BEEN COMMITTED¹² OR AN ANIMAL WHICH IS KNOWN TO HAVE KILLED A HUMAN BEING ON THE TESTIMONY OF ONE WITNESS OR OF THE OWNERS.¹³ A TUMTUM¹⁴ OR A HERMAPHRODITE¹⁵ CAN BE SLAUGHTERED NEITHER IN THE TEMPLE NOR WITHOUT THE TEMPLE.¹⁶ R. ISHMAEL HOWEVER SAYS: THERE IS NO GREATER BLEMISH THAN THAT [OF A HERMAPHRODITE].¹⁷ BUT THE SAGES SAY: IT HAS NOT [THE LAW] OF A FIRST-BORN AND MAY BE SHORN AND WORKED WITH.¹⁸

GEMARA. And is not Garab [a blemish]? Is it not written in the Scriptures: ‘or a garab’?¹⁹ And also, is not Hazzazith [a blemish]? Is it not written in the Scriptures ‘or yallefeth’?²⁰ For it has been taught: Garab is the same as heres,²¹ Yallefeth is the same as the Egyptian Hazzazith? And Resh Lakish explained: Why is it called Yallefeth? Because it continues to cling²² [to the body] to the day of death. Now there is no difficulty as regards [different meanings of] the Hazzazith [of the text] and the Hazzazith [of our Mishnah], as here the text refers to Egyptian Hazzazith and [the Mishnah] refers to a general Hazzazith. But does not the [interpretation of] Garab [in the text]

BECHOROS –31b-61a

and Garab [of the Mishnah] present a contradiction? —

The [different interpretations of] Garab of the text and Garab [of our Mishnah] also offer no difficulty, for in one case it refers to where it is moist and in the other to where it is dry, the moist healing whereas the dry does not heal, [and therefore it is a blemish]. But does the moist Garab heal? Is it not written: The Lord will smite thee with the boil of Egypt and with the emerods and with the Garab [scab] and with Heres [itch]²³ and since it says: ‘And with Heres’ [a dry eruption], then the Garab [scab] must be moist, and the text continues: ‘Whereof thou canst not be healed’? —

Rather explain that there are three kinds of Garab. The Garab of the text²⁴ refers [to a scab] which is dry both inside and outside. The Garab of our Mishnah refers to where it is moist both inside and outside. The Garab of Egypt²⁵ is where it is dry inside and moist outside, for R. Joshua b. Levi said: The boil which the Holy One, blessed be He, brought upon the Egyptians was moist outside and dry inside, for it is written: And it became a boil breaking forth with blains upon man and upon beast.²⁶

AN OLD ANIMAL OR A SICK ONE OR AN ANIMAL OF OFFENSIVE SMELL OR SIGHT. Whence is it proven?²⁷ — Our Rabbis taught: Scripture says: Of²⁸ the flock, ‘or of the sheep’, ‘or of the goats’, [intimating] the exclusion of an old [animal], a sick one, and one with an offensive [smell or appearance]. And all [the three restrictive texts] are necessary. For if the Divine Law had only written [one restrictive text] [I would say it is] to exclude the case of an old animal [from Temple sacrifice], I might have thought that this was because it cannot recover its former strength, but as regards a sick animal, since it may recover its health, I might have said that it is not so.²⁹ Or if the Divine Law had only written [one restrictive text] [I would say it is]³⁰ to exclude the case

of a sick animal, I might have thought that the reason was because it is not usual for an animal to be ill, but in regard to an old animal, since it is a usual thing,³¹ I might have said it is not so. And if the Divine Law had written [two restrictive texts], [I might have thought that] they only excluded the two cases where [the animals] are weak, but as regards an animal with an offensive smell or sight but which is not [physically] weak, I might have said that it was not so. And even if [a scriptural text had been written] to exclude the case of [an animal] with an offensive smell or appearance, I might have thought that the reason was because it was repulsive, but in the case of the other animals which are not repulsive, I might have said that it was not so. There is need therefore [for the three restrictive texts].

OR AN ANIMAL WITH WHICH A TRANSGRESSION HAD BEEN COMMITTED, etc. Whence is it proven [that we must not slaughter it in the Temple]? — Our Rabbis taught: [Scripture says]: Of the cattle³² intimating the exclusion of an animal which covered³³ [a woman] and the animal that was covered [by a man]; ‘even of the herd’³⁴ [intimates] the exclusion of an animal which was worshipped as an idol; ‘of the flock’ [intimates] the exclusion of one designated for idolatrous purposes. The text ‘or of the flock’ intimates one which has gored a person [to death]. But are not these³⁵ liable to the penalty of death? — The reference here is to cases where there is only one witness or where the owners confess.³⁶

[A TUMTUM OR A HERMAPHRODITE]. Now we quite understand a Tumtum being disqualified for the Temple, the reason being in case it is a female.³⁷ It is also disqualified without the Temple, in case it is a male and not blemished.³⁸ As regards a hermaphrodite also, we understand its being disqualified for the Temple, in case it is a male. But in regard to slaughtering it without the Temple, granted that it is a

BECHOROS –31b-61a

male, let it at least be regarded as having a depression at its female genitals, in consequence of which he may slaughter the animal? —

Said Abaye: Scripture says: ‘Or broken’, ‘or haruz’,³⁹ [intimating] that ‘Haruz’ must be like ‘broken’; just as ‘broken’ must be in a bone, [in order to disqualify], so ‘Haruz’ must be in a bone, [but not in a fleshy part]. Raba says: Even without [the comparison] with ‘broken’, you could not say that a depression in the fleshy part is considered a blemish. For if you were to assume that a depression in the fleshy part is a blemish, since a Master said: garab,⁴⁰ [a dry scab], is the same as heres,⁴¹ [a dry scab] is cut into [deeper than the surface],⁴² for Scripture says: ‘And the appearance thereof be deeper than the skin’,⁴³ like the sun-lit spots which have a semblance of being deeper than the shaded spots [which appear to be raised]. Consequently, let Scripture write haruz⁴⁴ and then there would be no need to write Garab, for I would argue, if Haruz [in the fleshy part] which is not repulsive is yet regarded as a blemish, how much more so ought this to be the case with Garab, which is repulsive? The Divine Law therefore mentions Garab, [intimating] that a depression in the fleshy part is not a blemish.⁴⁵

R. ISHMAEL SAYS: THERE IS NO GREATER BLEMISH [THAN THAT OF A HERMAPHRODITE]. He does not hold the opinion of Abaye, for we do not draw the analogy between Haruz to ‘broken’.⁴⁶ He also does not hold the opinion of Raba, for it may be that a depression in the fleshy part is not a blemish where the Haruz is not distinguishable, but where it is distinguishable,⁴⁷ we apply the scriptural text ‘Ill blemish’.⁴⁸

(1) The upper joint, as it has there a bone projecting outside, and also because its ‘arkub is very thick (R. Gershom). Another interpretation (Rashi) is: The ‘arkub of a camel is noticeable, as its tail reaches that part. V. Hul., Sonc. ed., 76a.

(2) After which the animal becomes genuine Hullin (v. Glos.).

(3) V. supra 37a.

(4) V. supra 40a.

(5) R. Hanina b. Antigonus and R. Hanina b. Gamaliel who mention several blemishes in connection with a firstling. One might therefore have thought that the Rabbis do not accept as blemishes also those cited by these teachers.

(6) Thus teaching that the view of R. Hanina b. Antigonus and that of R. Hanina b. Gamaliel are legal decisions. There was therefore need for stating the Mishnah.

(7) As the animals cannot be regarded as unblemished.

(8) As they are not genuinely blemished. Lit., ‘Province’, ‘district’, in contradistinction to the Temple.

(9) V. Gemara.

(10) An excrescence or large wart, having, however, no bone, for otherwise it would be a real blemish, v. supra 40b.

(11) Scabs or swollen lumps.

(12) Having copulated with a human being.

(13) For where there are two witnesses of the copulation or the boring, then the animal is stoned and no benefit can be derived from it.

(14) Where the sex of the animal is unknown, as the genitals are covered with a skin.

(15) The animal possessing both the male and the female characteristics. Both in this case and that of a Tumtum we are uncertain whether we should regard the animal as a male or a female.

(16) The passage CAN NEITHER BE SLAUGHTERED, etc. is repeated here by the Tanna to teach us that even in the case of a Tumtum or a hermaphrodite, we may not slaughter it in the Temple or outside the Temple in consequence of this defect, as it is not a genuine blemish, unlike the view of R. Ishmael which follows.

(17) For in the sexual part it is virtually blemished. It has therefore the law of a blemished firstling which may be slaughtered, but shearing or working with it is prohibited.

(18) For we regard it as a special type of animal, distinct from all others.

(19) Lev. XXII, 22. E.V. ‘scabbed’.

(20) E.V. ‘scurvy’.

(21) A dry eruption of the skin, as hard as a potsherd.

(22) ילפת comes from the word to cling, to join, the word ויהבר (in Ex. XXXVI) being translated in Targum Onkelos וילפף.

(23) Deut. XXVIII, 27.

(24) Lev. XXII, 22.

(25) Mentioned in the imprecations in Deut. XXVIII.

BECHOROS –31b-61a

(26) Ex. IX, 10 The word אֲבֵעֵבֶה in the text is connected with נִבְעַע 'pouring forth', implying something wet and moist.

(27) That we must not slaughter these animals in the Temple.

(28) Lev. I, 2, 10. The word נָךְ (of) in each case is partitive implying that some cattle, herd, etc. cannot be offered up on the altar.

(29) And that it is not disqualified for the Temple.

(30) Cf. Sh. Mek.

(31) A normal thing for an animal which grows old not to retain its former vigor and therefore this should not be regarded as a disability.

(32) Lev. I, 2.

(33) I.e., had connection with a beast.

(34) Ibid.

(35) A goring animal, one which covered a woman and which was covered by a man.

(36) The animal is not stoned in such circumstances, as the law is that one who confesses an act which entails a fine is exempt from the fine; and the stoning of an animal is a fine on its owner.

(37) And if he brings it as a first-born, when it is not consecrated as such, since a firstling must be a male, he brings Hullin into the Temple court.

(38) In which case it should be brought to the Temple.

(39) Lev. XXII, 22. E.V. 'Maimed' by a deep incision or abnormal cavity and depression.

(40) A dry eruption, or scab.

(41) A skin eruption, as hard as a potsherd. v. supra.

(42) And is therefore a skin plague.

(43) Lev. XIII, 25. In connection with leprosy.

(44) V. supra n. 4.

(45) Which shows that Garab is a blemish, not because of the depression, as it is in the fleshy part, and that Haruz only applies to a bone.

(46) But hold that even in a fleshy part it is a Haruz.

(47) As for example, in the case of the female genitals, although it is the fleshy part.

(48) Deut. XV, 21. As the kind of animal which must not be offered in the Temple.

permitted, since it has a blemish. What is the practical difference? — [The difference is] as regards liability to the punishment of lashes, in consequence of shearing it or working with it,³ or indeed, as regards giving it to the priest.⁴

Come and hear: R. Ila'i reported in the name of R. Ishmael: A hermaphrodite is a firstling with a blemish. Deduce then from this that R. Ishmael is convinced [that it is a firstling]. But perhaps he permits it by using the argument 'If you assume', [though in reality he has a doubt concerning its sex]!

Come and hear: [Scripture says]: 'A male',⁵ [implying] but not a female. When it, however, repeats later [the words] 'A male',⁶ which were not necessary, it intimates the exclusion of a Tumtum and a hermaphrodite. Now whose opinion⁷ does this represent? Shall I say it is that of the first Tanna [of our Mishnah]? But since he holds [that a hermaphrodite] is a doubtful case [as regards its sex], is there any need for a scriptural text for the exclusion of a case of doubt?⁸ Again if it is the opinion of the last Rabbis [quoted in the Mishnah],⁹ but why not infer this¹⁰ from a single scriptural text, for in connection with [the law of] a firstling, there is only one scriptural text 'A male' and yet we derive all therefrom. [Why then is there need for the latter text 'A male']?

Plainly then [the above passage] represents the opinion of R. Ishmael [in the Mishnah].¹¹ Now this is quite intelligible if you say that R. Ishmael was convinced that [a hermaphrodite] is a firstling; for that reason there was need for the scriptural text to exclude the case of a hermaphrodite.¹² But if you say that R. Ishmael had a doubt [as to its sex], is there any need for the exclusion of a case where there exists a doubt?¹³ — The above passage may still represent the view of the last Rabbis,¹⁴ And with reference to [the law of] a firstling also Scripture has two

Bechoroth 41b

Raba enquired:¹ What is the reason of R. Ishmael? Is he convinced that a hermaphrodite is a firstling [male] with a blemish² or is it because he has a doubt [as to its sex], and he means [to permit it to be slaughtered] by using an argument of the form 'If you assume' [as follows]: If you assume that it is a firstling, it should be

BECHOROS –31b-61a

texts, 'The male'¹⁵ and 'The males shall be the Lord's'.¹⁶

BUT THE SAGES SAY IT HAS NOT THE LAW OF THE FIRSTLING, etc. Said R. Hisda: The difference of opinion¹⁷ relates only to a hermaphrodite but as regards a Tumtum all agree that there is a doubt as to its sex¹⁸ and therefore it is hallowed by reason of this uncertainty [its shearing and slaughtering being therefore prohibited]. Said Raba to him: According to this, the law of valuation¹⁹ should apply to a Tumtum?

(1) According to one commentator this enquiry will follow immediately after the citation of R. Ishmael's ruling from the Mishnah. R. Gershom, however, reads the ruling of R. Ishmael before 'He does not hold the opinion of Abaye', etc.

(2) Lit., 'And its blemish with it'.

(3) For it is forbidden to shear the wool or work with even a blemished firstling. In the case of a doubtful firstling, however, there is no punishment of lashes.

(4) If it is a certain firstling, he gives it to the priest, which the latter eats in its blemished state. But if it is a doubtful firstling, then the Israelite retains the animal, since the priest, the claimant, must produce evidence that it is a firstling.

(5) Lev. I, 3. In connection with the offering of oxen.

(6) Lev. I, 10. In connection with an offering of sheep.

(7) That the latter text 'A male' excludes a Tumtum, etc.

(8) For before God there is no doubt as to the sex of the animal, it must therefore be regarded as a creature apart and distinct, and for that reason it is excluded as a sacrifice, unlike the opinion of the first Tanna.

(9) Who hold that a hermaphrodite is Hullin.

(10) A female, a Tumtum, and a hermaphrodite.

(11) For according to his view, the animal is holy as a firstling, only it is blemished. He therefore informs us that it is only holy as a firstling, but in respect of being a consecrated sacrifice, the latter text 'A male' disqualifies it from being offered in the Temple.

(12) That although it is a male, it does not receive any holiness if he consecrated it as a burnt-offering. and the animal may even be shorn and worked. And from the first text 'A male' in connection with sacrifices, one could not have derived this, for, in connection with a firstling itself, the single text 'A male' does not make the

shearing and working permissible, only that its slaughtering is allowed.

(13) As before Heaven all is clear and manifest.

(14) And as regards the objection raised above about deriving all the three cases of a female, Tumtum, etc., from a single text, this can be met in the following manner.

(15) 'All the firstling males', etc. (Deut. XV, 19).

(16) Ex. XIII, 12. Just as in connection with sacrifices two texts are required to exclude a female, Tumtum, etc., similarly two texts are available in connection with the firstling for the same purpose.

(17) Where the last Rabbis in the Mishnah hold that a hermaphrodite is a creature apart, differing in this from the first Tanna and R. Ishmael.

(18) In case the skin tears and reveals it as a male.

(19) V. Lev. XXVII, 1ff.

Bechoroth 42a

Why then is it taught: [Scripture says]: 'Of the male',¹ [intimating] the exclusion of a Tumtum and a hermaphrodite?² — Delete Tumtum from this [Baraitha].

Come and hear: You might think that the case of a Tumtum or that of a hermaphrodite is not included in the [law of] valuation relating to a man but is included in the law of valuation of a woman.³ There are two texts, therefore, 'Of the male', 'And if it be a female',⁴ [intimating] the exclusion of Tumtum and hermaphrodite. — Delete Tumtum from this [Baraitha].⁵

Come and hear: [Scripture says]: 'Whether it be a male or a female',⁶ [intimating], the exclusion of a Tumtum and a hermaphrodite?⁷ — Delete Tumtum from this [Baraitha].

Come and hear: [Scripture says]: 'A male',⁸ [intimating] but not a female. When therefore [Scripture] repeats below 'a male'⁹ which there is no need to say, it intimates the exclusion of a Tumtum and a hermaphrodite.¹⁰ — Delete Tumtum from [the Baraitha].

BECHOROS –31b-61a

Come and hear: [Doves] worshipped as an idol or assigned to idolatrous purposes or a harlot's hire [as an offering] or the price obtaining by selling a harlot [and brought as an offering], or a Tumtum or a hermaphrodite, — all these make garments unclean by [contact with one's] oesophagus.¹¹ R. Eleazar says: Tumtum and a hermaphrodite do not make the garments unclean of one who eats them. For R. Eleazar used to say: Wherever you find [in the Scriptures] 'Male' or 'Female', you exclude the case of a Tumtum or a hermaphrodite therefrom. But in the case of a bird, since [Scripture] does not in that connection mention 'Male' or 'Female', you do not exclude the case of a Tumtum or a hermaphrodite!¹² — Delete Tumtum from this [Baraita].

Come and hear: R. Eleazar said: Trefah, kil'ayim,¹³ a fetus extracted by means of the caesarean section, Tumtum and a hermaphrodite cannot become consecrated, nor can they cause consecration.¹⁴ And Samuel explained this as follows: They do not become consecrated in substitution¹⁵ nor do they cause consecration by effecting substitution.¹⁶ — Delete Tumtum from this [passage].

Come and hear: R. Eleazar says: There are five instances where animals do not become consecrated nor cause consecration and they are these' Trefah, Kil'ayim. a fetus extracted by means of the caesarean section, Tumtum and a hermaphrodite. And were you to assume that here also the answer is 'Delete Tumtum from here,' then R. Eleazar has only brought four instances?—

Omit Tumtum and include the case of an orphaned [animal].¹⁷ May we say that Tannaim differ on this point?¹⁸ [For it was taught]: R. Elai reported in the name of R. Ishmael: A hermaphrodite is considered a firstling with a blemish, whereas the Sages say: Holiness cannot attach to it.¹⁹ R. Simeon b. Judah reported in the name of R.

Simeon: Scripture says that 'The male' and wherever the text says 'A male' its object is to exclude Tumtum and a hermaphrodite.²⁰ And should you say 'Delete Tumtum from this [passage]' then the view of R. Simeon b. Judah would be identical with that of the Rabbis? Must you not therefore say that the difference between them lies in the case of a Tumtum, the first Tanna [quoted above], [the Sages] maintaining that the ruling 'Holiness cannot attach to it' refers to a hermaphrodite, whereas a Tumtum is considered a doubtful animal [as regards sex], and therefore it can be holy owing to this uncertainty. Thereupon comes R. Simeon

(1) Lev. XXVII, 3.

(2) We therefore see that a Tumtum is not included in the law of valuation.

(3) There being a difference in the valuation between the sexes.

(4) Ibid. 4. And from the additional תרומה we derive the law of Tumtum and hermaphrodite. The text cannot therefore exclude this for the reason that it is a doubtful animal as to sex, for there is no doubt before Heaven, the revealer of the Law. Therefore the exclusion of a Tumtum must be, because it is considered a creature apart, so that this raises a difficulty with reference to R. Hisda's ruling above.

(5) As, from the text, we can only exclude the case of a hermaphrodite.

(6) Lev. III, 6. In connection with a peace-offering.

(7) And the exclusion here of a Tumtum cannot be because of the uncertainty of its sex, since a peace-offering is brought from either sex. The reason therefore must be because a Tumtum is regarded as a creature apart and distinct from others.

(8) Lev. I, 3 with reference to a burnt-offering.

(9) Ibid. 10.

(10) V. supra 41b.

(11) I.e., in the process of eating it. This is the manner of defilement by the Nebelah (carcass) of a clean bird. The pinching (v. Lev. I, 15) is not recognized as valid, since the birds are not regarded as consecrated sacrifices. But except for the fact that we regard a Tumtum as a creature apart, why should not the pinching be valid, for in the case of birds the sex is immaterial?

(12) And an objection to R. Hisda can be urged even from R. Eleazar's teaching, for only with reference to birds does he not exclude Tumtum,

BECHOROS –31b-61a

etc. but otherwise where the text says 'Male' or 'Female', Tumtum and a hermaphrodite are excluded, the reason clearly being because they are regarded as creatures apart; v. Yeb. 83b.

(13) The product of a cross-breeding of animals.

(14) V. Yeb. 83b and Tem. 11a, 13a.

(15) Even a substitution which has effect on a blemished animal both becoming holy, has no effect on the cases enumerated here.

(16) If they are holy (having received their holiness through their mothers, as the offspring of consecrated animals) they do not cause the other animal improperly substituted for them to become holy as well. Now if a Tumtum is a doubtful animal as regards sex, why should it not become holy?

(17) The case of an animal whose mother died during or soon after childbirth, which is disqualified as a sacrifice. V. Hul. 38b.

(18) Viz., R. Hisda's ruling, one Tanna holding that it is a different creature, entirely, and the other that it is a doubtful animal as regards sex.

(19) For it is regarded as a creature apart.

(20) For a Tumtum is also a creature apart. V. supra 41b and notes.

Bechoroth 42b

b. Judah and says: A Tumtum is a creature apart and therefore it cannot be holy? —

No. All [the authorities] agree that there is no doubt that a Tumtum should be considered a creature apart.¹ The doubt is only whether it is to be regarded as a male or a female. Now if it urinates in the male part, then all agree that it is a male. The doubt arises however if it urinates in the female part. One teacher² holds: We fear lest his male sex may have changed into a female sex, whereas the other teachers³ holds: We have no apprehension of such a thing.⁴ This agrees with what is told of R. Elai⁵ who gave a decision that a Tumtum animal which urinates in the female part is hullin⁶ and R. Johanan was thereupon astonished,⁷ and exclaimed: 'Which authority is it which does not take into consideration the first Tanna [quoted in our Mishnah above]⁸ and R. Ishmael'⁹? But let R. Johanan also say: Who is the authority that does not take into consideration the view of the last Rabbis [in the Mishnah]? For R. Hisda said: The

difference of opinion in the Mishnah relates only to a hermaphrodite, but as regards a Tumtum all agree that it is a case of a doubtful animal [as to sex]. —

R. Johanan does not hold R. Hisda's opinion.¹⁰ But if R. Johanan does not hold R. Hisda's opinion, why does he not explain that he [Elai] follows the view of the last Rabbis [mentioned in the Mishnah]?¹¹ This is [precisely] what R. Johanan means: Who is the authority that ignores the views of two teachers¹² and follows the view of a single teacher? And as regards R. Elai whose view does he follow? — It is that of Resh Lakish [as follows]: The ruling that a Tumtum is a doubtful case [as regards sex] relates only to a human being, since his male and female parts are in the same place.¹³ But in the case of an animal, if it urinates in the male part, then it is a male, whereas if it urinates in the female part, it is a female.

To this R. Oshaiah demurred: And why not apprehend¹⁴ lest its male sex may have changed to female? — Said [Abaye] to¹⁵ him: Whose view will [this question] represent? Will it be R. Meir's, who takes into consideration the minority?¹⁶ Both Abaye b. Abin and R. Hanania b. Abin said: You may even say that this question arises also on the view of the Rabbis [the disputants of R. Meir]. for since its condition has changed,¹⁷ there is a different animal?¹⁸

[The question can be met in this way]: One authority [the first Tanna quoted in the above Baraitha] holds: Since its condition has changed, it is a different animal [and therefore it possesses holiness] whereas the other authority, [R. Simeon] holds: We do not say [with reference to an animal] that since its condition has changed, it is therefore a different animal.¹⁹ May we say that the principle that the change of condition makes a different [human being or animal] is a matter in which Tannaim differ?

BECHOROS –31b-61a

For it has been taught: If a Tumtum betroths a woman, his betrothal is valid.²⁰ If he was betrothed, the betrothal is valid.²¹ He submits to halizah,²² his wife must be released by halizah²³ and his brother may marry his wife.²⁴ And another [Baraitha] taught: The wife of a Tumtum must be released by Halizah but she must not marry her brother-in-law. Now it was assumed that all agree with R. Akiba who said: A born saris²⁵ does not submit to Halizah, nor perform levirate marriage?²⁶

The point at issue will therefore be [as follows]: According to the [Tanna of the Baraitha] who holds that a Tumtum submits to Halizah, that his wife must be released by Halizah and his brother may marry his wife, we do not maintain that since the status has been changed,²⁷ therefore he is a different person,²⁸ and according [to the Tanna in the Baraitha] who holds: The wife of a Tumtum must be released by Halizah but must not marry his brother, we maintain that since the status has changed, he is a different person!²⁹ —

No. All [the authorities concerned] agree that we maintain that since the status is changed, he is a different person.³⁰ [One Baraitha]³¹ is in accordance with the view of R. Eleazar³² and the [other Baraitha]³³ is in accordance with the view of R. Akiba. And who [of R. Akiba's pupils is the Tanna] who holds this opinion according to R. Akiba?³⁴ Shall I say it is R. Judah? But does he not declare a Tumtum to be a sure saris?³⁵ For we have learnt, R. Judah says: A Tumtum [whose skin covering the sexual part] was torn and who was discovered to be a male, need not submit to Halizah because he is like a saris!³⁶ —

Rather it is R. Jose b. Judah.³⁷ For it has been taught, R. Jose b. Judah says: A Tumtum does not release his sister-in-law by Halizah lest the skin is torn and he will be found to be a born saris.³⁸ [But is the Tanna

sure that he will be discovered to be a male]? Do you mean to say that when the skin is torn he might be discovered to be a male but never a female?³⁹

Rather [the explanation is]: [R. Judah means that there are two possibilities]. [First], his skin may be torn and it will be found that he is a female. Secondly, even if he is indeed a male, there is a possibility that he will be found to be a born saris. What is the practical difference?⁴⁰ —

Said Raba:

- (1) As there is no question that it is not considered a creature apart and thus we cannot speak of Tannaim differing on this point.
- (2) The first Tanna (the Sages).
- (3) R. Simeon. And when it urinates in the male or female part R. Hisda also admits that according to one Tanna it is a sure male or female respectively and not merely a doubtful animal. R. Hisda, however, when he says that all agree that it is a doubtful animal, refers to the view of the last Rabbis in the Mishnah above, explaining that one should not say that the reason for the view of the last Rabbis is because the Tumtum is a creature apart and thus it can never receive holiness, as all the authorities are agreed that a Tumtum is at least a case of a doubtful animal.
- (4) But we maintain that it is a sure female and that therefore it possesses no holiness of a first-born.
- (5) Rashi has the reading אילעאי. He was an Amora and not the R. Ila'i of the Baraitha above who reported in the name of R. Ishmael.
- (6) An unconsecrated animal. It is considered a sure female, as we entertain no fears about the sex being changed, and the law of the firstling does not apply to a female.
- (7) At this decision of R. Elai.
- (8) Who holds that a Tumtum is neither slaughtered in the Temple nor without the Temple, because it is a doubtful animal as regards sex.
- (9) As R. Ishmael's ruling in the Mishnah only relates to a hermaphrodite and not to a Tumtum.
- (10) But that the ruling of the last Rabbis in the Mishnah refers also to a Tumtum, which is regarded as a creature apart and not a firstling at all.
- (11) Why then is R. Johanan astonished at R. Elai's decision, since the latter only follows the ruling of the last Rabbis in the Mishnah.

BECHOROS –31b-61a

(12) The first Tanna and R. Ishmael.

(13) Urination therefore does not provide a test. In the case of a Tumtum animal, however, there need be no doubt as to its sex according to all the authorities concerned. The first Tanna in the Mishnah who says that the animal must not be slaughtered, refers to where it urinates in the male part, and then it is assuredly holy and therefore it must not be slaughtered outside the Temple. It is also not suitable for sacrifice in the Temple, for it has the appearance of a blemished animal, as it does not possess male genitals, a defect which Scripture excludes by the text 'A male'. And both R. Ishmael and the last Rabbis only refer to a hermaphrodite, but as regards a Tumtum they are all agreed that if the animal urinates in the male part, then it is a male, and if in the female part, then it is a female. R. Elai's decision will thus be in accordance with the views of all the authorities concerned. Tosaf. however maintains that Resh Lakish's view will not be shared by all the authorities; the ruling of the first Tanna of the Mishnah, for example, that it is a doubtful animal, will not be in accordance with the view of Resh Lakish who will concur with the view of R. Simeon b. Judah.

(14) Both according to R. Elai and Resh Lakish.

(15) So Sh. Mek.

(16) I.e., the possibility of rare cases, v. supra 19b. And surely we do not follow the view of the individual as against that of the majority!

(17) It being a Tumtum.

(18) Its male part changing into a female. Lit., 'Since it has changed (in one direction), it has changed also in another direction'.

(19) And therefore we maintain that the animal was originally a female, in which case there is no holiness whatsoever. R. Elai will consequently agree with R. Simeon.

(20) The woman requires a Get (a divorce bill) and also his near relations are forbidden in marriage to her, in case he is a male.

(21) And the party who betrothed him is forbidden in marriage to the Tumtum's relations, e.g., his mother and sister for fear that he might, after all, be a female.

(22) V. Glos. As a restrictive measure, that where there is no other brother his sister-in-law must be released by him before she can be married.

(23) Another merely restrictive measure, for fear that he might be a male.

(24) For if he is a male, then his brother rightly marries her according to the law of Yabam (levir). And if he is a female, then the brother of the Tumtum is betrothing an unmarried woman.

(25) A eunuch. *קמח* means lit., 'from seeing the sun', i.e., a eunuch from birth, in contradistinction to *טריט אדמ* by the agency of man.

(26) V. Yeb. 79b.

(27) The deceased brother becoming a Tumtum.

(28) That even if the skin were torn and he were found to be a male, we have no fear that it might be discovered that he is a saris, a different person entirely, the wife of a saris not being able to marry a deceased husband's brother.

(29) In case he is a born saris, even if he be a male. She therefore cannot marry her deceased husband's brother, for as he is as male, the betrothal is valid, but since he is a born saris, his wife is not subject to Yibbum. She is therefore like a woman who has children and the brother would be marrying a sister-in-law of that status, this being one of the forbidden marriages of consanguinity. Halizah, however, would be necessary, in case he is not a saris.

(30) We therefore have a doubt as to whether he is a born saris in addition to being a male.

(31) Which says that the husband's brother may marry the Tumtum's wife.

(32) Who holds that the wife of a born saris marries her husband's brother, as there are similar cases in Alexandria which recover. Therefore whether a Tumtum is a female or male, this would be permissible.

(33) Which says she must not marry her husband's brother.

(34) That she is released by Halizah and must not marry her brother-in-law, for R. Akiba himself maintains that a born saris can neither release his sister-in-law by Halizah nor marry her.

(35) And even Halizah is not then necessary, as there are no levirate ties in such circumstances.

(36) V. Yeb. 88a.

(37) Who holds that he is not a sure saris but that there is a possibility of him being one and, therefore, Halizah is necessary, in case the Tumtum is a male and not a saris. He cannot, however, marry his sister-in-law, lest he be a saris as well as a male, in which case she is not subject to Yibbum.

(38) And where there are other suitable brothers, we may say that he does not give Halizah merely as a restrictive measure, in case he is a born saris and the woman is not then subject to Yibbum. Where, however, there is no other suitable brother, he must give her Halizah, in case he is not a saris. His own wife, therefore, requires Halizah, as he may not have been a saris, but she must not marry her brother-in-law, as her husband may have been a saris.

(39) That only uncertainty is as regards him being discovered a born saris, and that there is no possibility of the Tumtum being found to be a female.

(40) Between R. Judah and R. Jose, for in the matter of a Tumtum whose brother died, both

BECHOROS –31b-61a

maintain that he need not release his sister-in-law by Halizah.

Bechoroth 43a

The difference is with reference to disqualifying [the woman] where there are suitable brothers.¹ There is also a difference as to whether Halizah should be performed where there are no other brothers.²

CHAPTER VII

MISHNAH. THESE BLEMISHES [NAMED ABOVE], WHETHER PERMANENT OR TRANSITORY, MAKE HUMAN BEINGS UNFIT.³ TO THEM MUST BE ADDED [IN THE CASE OF BLEMISHES OF HUMAN BEINGS]. KILON,⁴ LIFTAN, MAKKABAN, ONE WHOSE HEAD IS ANGULAR AND ONE WHOSE OCCIPUT HAS THE SHAPE OF SEKIFAS [LINTEL]. AS REGARDS HUMPBACKED MEN, R. JUDAH CONSIDERS THEM FIT,⁵ WHEREAS THE SAGES CONSIDER THEM UNFIT. A BALD-HEADED PERSON IS UNFIT [FOR THE PRIESTHOOD]. BALD-HEADED [IN THE LEGAL SENSE] IS HE WHO HAS NOT A LINE OF HAIR FROM EAR TO EAR. IF HOWEVER HE HAS, THEN HE IS FIT.

GEMARA. But why [do these blemishes make a human being unfit]? And is there not the case of yabeleth,⁶ which is not written in the Scriptures in connection with the blemishes of a human being?⁷ And, moreover, daks and teballul⁹, [mentioned above as blemishes in regard to a firstling], are not mentioned in the Law in connection with the blemishes of an animal?¹⁰ — We infer one from the other.¹¹ For it was taught: In connection with a human being, yabeleth is not stated [as a blemish] and in connection with an animal, Dak and Teballul are not stated as blemishes. Whence do we infer that we apply the expressions used in connection with one to the other and vice versa? The text states ‘Garab’, [a dry scab], [in connection with a human being] and repeats ‘Garab’ [in connection with an animal]; also

‘Yallefeth’, [lichen] is stated [in connection with a human being] and ‘Yallefeth’ is repeated [in connection with an animal], in order to conclude a Gezarah shawah.¹² Now [these] expressions are free [for interpretation]. For if they were not free [for interpretation], it can be objected [as follows]: We cannot infer [the blemishes in connection with] a human being from those of an animal, for in the latter case the animal itself is offered on the altar.¹³ Again we cannot infer [blemishes in connection with an] animal from those in connection with a human being, as the latter has many commands to carry out.¹⁴ Surely it is so? [These expressions] are indeed free [for interpretation]. For the Divine Law should say that ‘Yallefeth’ is a blemish, and there would be no need to state ‘Garab’, as I would have argued [as follows]: If ‘Yallefeth’, which is not repulsive, is yet considered a disqualifying blemish, how much more so is this the case with reference to Garab, which is repulsive?¹⁵ What need is there therefore for the Divine Law to write, ‘Garab’, ‘garab’?¹⁶ They must consequently be free [for interpretation]. And why does not the Divine Law state all the blemishes¹⁷ in one connection¹⁸ and ‘Garab’ and ‘Yallefeth’ both here [in connection with a human being] and there [in connection with an animal], and then we would have inferred one [section of blemishes] from the other [section]?¹⁹ — In connection with which [section of blemishes] should the Divine Law have stated [all the blemishes]? If it had stated them in connection with a human being, I might have thought that whatever blemish disqualifies a human being also disqualifies an animal; closed hoofs and defective teeth, however, which do not apply to a human being,²⁰ do not make the animal unfit either.²¹ And if the Divine Law had stated all [the blemishes] in connection with an animal, I might have thought that whatever makes an animal unfit makes a human being unfit, but the blemishes of a defective eyebrow or flat nose, which do not apply to an animal,²² do not make a human

BECHOROS –31b-61a

being unfit either. And why does not the Divine Law state all the [appropriate] blemishes in connection with one [section of blemishes],²³ and those blemishes which do not apply to a human being,²⁴ let the Divine Law mention in connection with [the blemishes of] an animal and let those blemishes which do not apply to an animal be stated in connection with human blemishes, together with Garab and Yallefeth written both here [among the blemishes of a human being] and there [among the blemishes of an animal], so that one²⁵ may be inferred from the other?²⁶ — Rather [the explanation is] as a Tanna of the school of R. Ishmael taught. For a Tanna of the school of R. Ishmael taught: Wherever a section of the Law is taught and afterwards repeated, the section is repeated for the sake of a new point added.²⁷

Said Raba: What need is there for the Divine Law to state blemishes in connection with a human being, [a priest], consecrated sacrifices, and a first-born animal?²⁸ It was necessary [to state all these sections of blemishes]. For if the Divine Law had only stated the section of blemishes in connection with a human being, we might have thought that the reason was because he carries out many commands.²⁹ We cannot again infer [the blemishes] of a human being from those of a first-born animal, as we might have thought that the reason in the latter case was because the animal itself was offered up on the altar.³⁰ You cannot either infer [the blemishes of] consecrated animals from those of a first-born animal,³¹ as we might have thought that the reason in the latter case was because it was consecrated from the womb.³² Nor can you infer [the blemishes of] a human being from those of consecrated animals,³³ as we might have thought that the reason in the case of the latter was that they themselves are sacrificed. Neither can you infer [the blemishes of] a first-born animal from those of consecrated animals, for we might have thought that the reason in the case of the

latter was because the holiness [of a consecrated animal] has a wider scope.³⁴ We cannot therefore infer one [section of blemishes] from another single [section of blemishes]. Why not, however, infer one [section of blemishes] from the other two?³⁵ — Which [section] should the Divine Law have omitted? Should the Divine Law have omitted [the section relating to blemishes of] the first-born animal, leaving it to be inferred from the other [two sections of blemishes]?³⁶ We might then have thought that the other [two sections] are different, seeing that their holiness has a wider scope and that they also apply to plain, [non-first-born].³⁷ Should the Divine Law have omitted [the section of blemishes relating to] consecrated animals, leaving me to infer it from the other two [sections]?³⁸ We might then have thought that the reason in the latter case was because they are holy on their own accord.³⁹ Should the Divine Law have omitted [the section of blemishes relating to] a human being, which we would then have inferred from the other two sections?⁴⁰ I might have thought that the reason in the latter case was because they themselves are sacrificed on the altar. Hence it was necessary [to state the three sections of blemishes].

TO THESE MUST BE ADDED IN CONNECTION WITH BLEMISHES OF HUMAN BEINGS. Whence is this proven? Said R. Johanan: Scripture says: ‘No man of the seed of Aaron the Priest that hath a blemish’,⁴¹ [intimating] that a man who is like the seed of Aaron⁴² [is rendered unfit by a blemish].⁴³

(1) If there are other suitable brothers and the Tumtum hastens to release his sister-in-law by Halizah. Now according to R. Judah his action is of no consequence and it does not prevent one of the others from carrying out the Halizah ceremony, or marrying her; whereas according to R. Jose, since we only have a doubt lest the Tumtum should be a saris, the action of the Tumtum disqualifies her for the brothers, as it may be that the Halizah is valid and, therefore,

BECHOROS –31b-61a

none of the brothers may marry her. They have, in consequence, to give her Halizah again.

(2) If there are no other suitable brothers except the Tumtum. According to R. Judah, the woman is released without Halizah, for we regard him as a sure saris; whereas according to R. Jose, Halizah is necessary in case he is not a saris. For R. Jose when he states in the Baraitha above that a Tumtum gives no Halizah, refers to a case where there are other suitable brothers who can perform the ceremony of Halizah.

(3) For Temple services in the case of priests.

(4) V. Gemara.

(5) For Temple services.

(6) A wart or withered excrescence.

(7) And is yet mentioned in connection with the blemishes of an animal?

(8) A cataract (Lev. XXI, 20).

(9) The white of the eye encroaching on the black and vice versa. Ibid.

(10) But are mentioned only among the blemishes of a human being. For, as regards some of the blemishes mentioned in the above Mishnahs, these are derived from the text 'ill blemish'. But with reference to Dak and Teballul, one might object that since the law laid them down explicitly in connection with a human being and not in connection with the blemishes of an animal, then one can conclude that they do not apply to animals.

(11) The blemishes of an animal from the blemishes of a human being, and therefore, the Tanna records them all in connection with the blemishes of an animal. We also infer the blemishes of a human being from the blemishes of an animal, in a similar manner.

(12) An analogy based on a similarity of expression. V. Glos.

(13) And therefore the law is more stringent as regards its blemishes.

(14) The priest has many religious duties to observe and we therefore are particular concerning his blemishes.

(15) A Garab being as dry as a potsherd, sunk in the flesh and making indentations.

(16) The Garab stated in connection with the blemishes of a human being, and the other Garab mentioned in connection with the blemishes of an animal.

(17) Including Dak, Teballul and Yallefeth.

(18) Either in connection with that of a human being or with that of an animal.

(19) Why, therefore, does Scripture mention 'Blind', 'Broken' and 'Lame' in both cases?

(20) For a human being i.e., a priest, is not required to possess cloven hoofs, nor, since his teeth are not so prominent and open as is the case with an animal, does a defect in them make him unfit for carrying out the priestly duties.

(21) Therefore the Torah had to enumerate blemishes in connection with animals and include closed hoofs, and defective teeth which comes under the category of חריוץ (Rashi). V supra 41a.

(22) An animal does not possess eyebrows, nor has it a nose between its eyes so that a flat nose might render it unfit.

(23) Either with reference to a human being or to an animal. V. Marginal Gloss. Cur. edd. 'to the other'.

(24) I.e., cloven hoofs and defective teeth.

(25) Animal blemishes from human blemishes and vice versa.

(26) Those which are appropriate to each. The question therefore still remains, what need is there for a repetition in both sections, of blemishes like 'Blind', 'Broken', etc.?

(27) Therefore although several blemishes are repeated in both sections, yet because of the blemishes which are new that are taught, in the case of either a human being or an animal, Scripture does not refrain from repeating them.

(28) In Deut. XV. Could not we have deduced one section of blemishes from the other or one section from the other two?

(29) And therefore these blemishes make him unfit.

(30) And therefore we are particular with reference to its blemishes.

(31) I.e., if Scripture had only taught the blemishes of a firstborn, we should not have concluded therefrom the blemishes of consecrated animals and those of a human being.

(32) I.e., born holy, unlike sacrifices which must be sanctified before they become holy.

(33) If Scripture had written only the sections relating to the blemishes of consecrated animals and not the other two sections of blemishes, we could not have inferred the latter from the former.

(34) Applying to a female as well as to a male, whereas a first-born animal must be a male. Also there are different kinds of sacrifices i.e., burnt-sacrifices, peace-sacrifices, trespass-sacrifices, etc.

(35) And therefore one section would not be necessary for Scripture to state.

(36) I.e. that of consecrated animals and that of a human being.

(37) Whether of human beings or animals.

(38) Those of a first-born animal and a human being.

(39) A priest being born as such and the same applies to a firstborn animal.

(40) Those of consecrated sacrifices and a first-born animal.

(41) Lev. XXI, 21.

(42) I.e., normal in appearance, as human beings are in general.

BECHOROS –31b-61a

(43) But a man who is not like the seed of Aaron is disqualified even without a blemish (Rashi). [Aliter: We require a man of symmetrical features (normal) with the seed of Aaron, v. supra p. 14, n. 1].

Bechoroth 43b

What is the practical difference between [a priest] with a blemish and one ‘who is not like the seed of Aaron’? — The difference is whether the Temple-service is profaned. If it is an actual blemish, the service is profaned, for it is written: ‘Because he hath a blemish, that he profane not’.¹ If, however, it is a case of not being ‘like the seed of Aaron’, then the Temple-service is not profaned. What is also the difference between the case of one ‘who is not like the seed of Aaron’ and of a priest who is unfit ‘for appearance sake’?² — The difference is as regards the transgression of a positive precept.³

KILON is one whose head has the shape of a basket [akla].⁴

LIFTAN is one whose head resembles a slice of turnip [lifta].⁵ A Tanna taught:⁶ Where the neck stands in the centre of the head.⁷

MAKKABAN is one whose head resembles a mallet [makkaban].

ONE WHOSE HEAD IS ANGULAR means, in the front of the head.⁸

SEKIFAS means, the hinder part of the head. A Tanna taught: [‘One whose head is angular’ means, in the front, whereas Sekifas means to the hinder part],⁹ as people say, a piece is taken off.¹⁰ A Tanna taught: One whose neck is Shakut or Shamut. Shakut is one whose neck is sunk,¹¹ and Shamut is one whose neck is long and thin.

AS TO HUMP-BACKED MEN, R. JUDAH, etc. If he has [a hump] in which there is a bone, all the authorities concerned agree that he is unfit [for priestly service]. The dispute arises with [a hump] in which there

is no bone. One Master holds: This is a case where ‘he is not like the seed of Aaron’ and the other Master [R. Judah] holds: It is merely an elevation of the flesh [swelling].

A BALD-HEADED PERSON IS UNFIT. Said Raba: This is meant only where he has not a line of hair from ear to ear in the hinder part, but he has it in the front; but where he has this both in the hinder and in the front parts, he is fit [for Temple service]. And this is certainly the case where he has a line of hair in the hinder part and not in the front part.¹² Some there are who refer Raba's explanation to the second clause: **IF HE HAS, THEN HE IS FIT.**

Said Raba: This is meant only where he has the line of hair in the hinder part but not in the front part, but where he has this both in the hinder and front parts, he is unfit.¹³ And this is certainly the case where he has the line of hair in the front part and not in the hinder part. And [this is also certainly the case] where he has no line of hair at all, [that he is unfit].

Said R. Johanan: Bald-heads, dwarfs and the blear-eyed¹⁴ are unfit [for the priesthood] because ‘they are not like the seed of Aaron’. But have we not already learnt both the cases of baldheads and dwarfs [in the Mishnah]?¹⁵ —

R. Johanan needs to teach us the case of the blear-eyed [not mentioned in the Mishnah]. And even with regard to the rest, you might have thought that their unfitness was ‘for appearance sake’.¹⁶ But does not the Tanna already state explicitly wherever it is a case ‘for appearance sake’, for it says: If his eyelids are hairless, he is unfit ‘for appearance sake’? — You might however have assumed that he states one case,¹⁷ but the same applies to the rest,¹⁸ But does not the Tanna wherever there is an example of unfitness for appearance sake, repeat this [as in the following]: One whose teeth were

BECHOROS –31b-61a

removed is unfit [for the priesthood] ‘for appearance sake?’¹⁹ —

Rather [the explanation is that the purpose of R. Johanan is] to exclude what has been taught: Bald-heads, dwarfs, and the blear-eyed are fit [for the priesthood] and they have been stated to be disqualified only ‘for appearance sake’.²⁰ Who is this Tanna?²¹ — It is R. Judah. For it has been taught, R. Judah says: Scripture says: ‘The priests’,²² [intimating] the inclusion of bald-heads [as fit for priestly service].

MISHNAH. ONE WHO HAS NO EYEBROWS OR HAS ONLY ONE EYEBROW [IS UNFIT], THIS BEING THE GIBBEN OF THE BIBLE.²³ R. DOSA SAYS:²⁴ ONE WHOSE EYEBROWS LIE FLAT [OVERSHADOWING THE EYES]. R. HANINA B. ANTIGONUS SAYS: ONE WHO HAS A DOUBLE BACK OR A DOUBLE SPINE.²⁵

GEMARA. But does Gibben [by itself] imply that he has no eyebrows? Against this I quote the following: Gibben implies that he has many eyebrows.²⁶ Whence do we know [that a priest is unfit for the priesthood] if he has no eyebrows or only one eyebrow? The text states: Or a gibben!²⁷ — Said Raba: This²⁸ is what is deduced by interpretation from: or a gibben.²⁹

R. DOSA SAYS, etc. Does this mean that he can live?³⁰ Has it not been stated: In the case of a birth given to a creature which possesses a double back or a double spine, Rab said: If it was a woman [who miscarried], it is not regarded as an offspring;³¹ if an animal [miscarried], the creature born is forbidden to be eaten?³² — This objection has already been raised by R. Shimi b. Hiyya.³³ And the former answered him: ‘Are you the Shimi [famed for your wisdom]? [The Mishnah here means] where the spine was curved [thus appearing a double spine]’.

MISHNAH. A HARUM IS UNFIT [FOR THE PRIESTHOOD]. WHAT IS HARUM? ONE WHO CAN PAINT BOTH OF HIS EYES WITH ONE MOVEMENT.³⁴ ONE WHOSE TWO EYES ARE ABOVE OR WHOSE TWO EYES ARE BELOW;³⁵ A PERSON WHOSE ONE EYE SEES ABOVE AND THE OTHER BELOW; ONE WHO TAKES IN THE ROOM AND THE CEILING IN ONE GLANCE;³⁶ ONE WHO COVERS [HIS EYES] FROM THE SUN;³⁷ A ZAGDAN³⁸ AND A ZIRAN — [ALL THESE ARE UNFIT FOR THE PRIESTHOOD]. ONE WHOSE EYELIDS HAVE FALLEN OFF IS UNFIT [FOR THE PRIESTHOOD] FOR APPEARANCE SAKE.³⁹

GEMARA. Our Rabbis taught: Harum is one whose nose is sunk [above, between the eyes]. Whence do we know that one whose nose is turned up [snub-nosed] or obstructed, or whose nose overhangs [his lips is unfit for the priesthood]? There is a scriptural text: or a harum.⁴⁰

R. Jose says: Harum only refers to one who paints both his eyes with one movement. [The Rabbis] said to him: You have exaggerated,

- (1) Lev. XXI. 23.
- (2) Some blemishes, more particularly the lightest, disqualify merely ‘for appearance sake’ as, for example, one whose eyelids are hairless or one whose teeth were removed; v. infra.
- (3) A priest ‘who is not like the seed of Aaron’, if he performed his duties in the Temple, would be guilty of breaking a positive precept, according to the following reasoning: ‘One who is like the seed of Aaron’ may officiate in the Temple, but not one who is not like the seed of Aaron. Now this negative conclusion is merely an inference and not an explicit negative precept, and therefore it only possesses the force of a positive precept.
- (4) A vessel made of twigs, pointed and slanting on the top.
- (5) Especially the upper slice which is broad, narrowing downwards.
- (6) According to R. Gershom, the Tanna is elucidating Liftan in the Mishnah. Another interpretation (Sh. Mek.) is that his statement is independent of the Mishnah, and means: And there is yet another blemish not mentioned in the Mishnah,

BECHOROS –31b-61a

viz., etc.

(7) The head projecting equally backwards and forwards.

(8) The forehead receding abruptly.

(9) Inserted with Sh. Mek.

(10) Appearing as if a portion were missing.

(11) Abnormally short, where the head is hidden between two shoulders (Rashi).

(12) As where he has this line of hair only in the hinder part, the head is more presentable than when he has the line all the way round the head and the baldness is in the centre. There is also another version as follows: This is meant only where he has the line of hair both in the front and hinder parts, but where he has none, then he is fit (to officiate in the Temple). And this is certainly the case when he has this line of hair in the hinder part of the head but not in the front, (Sh. Mek.)

(13) To officiate in the Temple.

(14) Whose eyes drip with water (Rashi). R. Gershom says: Dropping spittle.

(15) Bald-heads is mentioned above in our Mishnah and the other is mentioned below, in a Mishnah later in this chapter.

(16) That the priest is disqualified to officiate, but that there is no transgression of a positive precept if a priest in this condition performed the service (v. supra). R. Johanan hence informs us that these cases come under the category of those 'who are not like the seed of Aaron'.

(17) That of a hairless eyelid, as being unfit 'for appearance sake'.

(18) Those quoted in the second part of the Mishnah commencing: AS TO HUMPBACKED MEN. For as regards the first part of the Mishnah, which mentions KILON, etc., these are made unfit because they come under the class of those 'who are not like the seed of Aaron', as stated supra. Consequently, R. Johanan needs to inform us that the reason for the others too is because 'they are not like the seed of Aaron'.

(19) Infra 44a. And we do not say that the reason which applies in one case, applies also to the other. Similarly, how could we have assumed that the reason 'for appearance sake' applies to the blemishes enumerated in the second clause of our Mishnah? We must consequently maintain that only where the reason 'for appearance sake' is stated explicitly do we accept that reason, but where it does not say so, we do not hold that the unfitness is 'for appearance sake'. What need, therefore, is there for R. Johanan's explanation?

(20) R. Johanan thus teaches us that the law is in accordance with the ruling of the Mishnah which makes the priest unfit because he 'is not like the seed of Aaron'.

(21) Who holds that a bald-headed person is fit for the priesthood?

(22) Lev. I, 8. The word **הַכְּהֹנִיִּם**, is not necessary, since the text has already said 'the sons of Aaron'.

(23) Lev. XXI, 20. 'One eyebrow' means that both eyebrows are joined together above the nose and appear as one.

(24) The following is the Gibben of the Bible.

(25) This is the biblical Gibben. The Tannaim in the Mishnah here agree that all the blemishes mentioned disqualify a priest. The difference between them, however, as to what precisely is the biblical Gibben.

(26) The two eyebrows appearing as one eyebrow.

(27) Lev. XXI, 20. We therefore see that the word Gibben by itself does not mean one who has no eyebrows or only one eyebrow.

(28) The case of one eyebrow.

(29) By the first Tanna in the Mishnah but not from Gibben itself. R. Dosa however differs and does not interpret the particle 'or'.

(30) One with a double back or double spine.

(31) The laws concerning a birth are not observed.

(32) Like Nebelah, for it is an abortion, and therefore there can be no ritual slaughtering.

(33) Elsewhere in Nid. 24a.

(34) Possessing no nose, so that nothing prevents him proceeding to paint the other eye in one movement.

(35) Explained in the Gemara.

(36) Or 'the room and the upper chamber'.

(37) **סָכִי** from the word **סָכַךְ** meaning 'to cover', one who is unable to look at the sun.

(38) This blemish and the others which follow are explained below in the Gemara.

(39) This reason only applies to the case of hairless eyelids.

(40) Lev. XXI, 18. (E.V. 'or that hath anything maimed'), from which we include all the blemishes just enumerated.

Bechoroth 44a

for although he cannot paint both his eyes with one movement,¹ he is still a Harum.

ONE WHOSE TWO EYES ARE ABOVE OR WHOSE TWO EYES ARE BELOW. What [does the Mishnah mean by the expression] **BOTH EYES ABOVE AND BOTH EYES BELOW?** Shall I say **BOTH EYES ABOVE** mean that they [continuously] see above, the expression **BOTH EYES BELOW**, that they see below; and **ONE EYE ABOVE AND ONE EYE**

BECHOROS –31b-61a

BELOW [means] that one eye sees below and the other above?² Then the latter case would be identical with the case ONE WHO TAKES IN THE ROOM AND THE CEILING IN ONE GLANCE [mentioned later in the Mishnah]? —

Rather this is the explanation: The expression BOTH EYES ABOVE means that they stand above,³ [the expression] BOTH EYES BELOW means that they stand below, [the expression] ONE EYE ABOVE AND ONE EYE BELOW means that one eye stands above and one eye below. And even where the eyes are in their normal places, there is a case of unfitness where ONE TAKES IN THE ROOM AND THE CEILING IN ONE GLANCE. Whence do we prove this? —

Our Rabbis taught, Scripture says: ‘In his eye’,⁴ every [defect] in connection with the eye. Hence [the Sages] say: One who has both eyes below or both eyes above or one eye above and one eye below or one who takes in the room and the ceiling in one glance or one who speaks with his friend, and another says, ‘He is looking at me’ — [all these defects render a priest unfit for the priesthood].

Our Rabbis taught. The text: ‘Blind’⁵ means blind in both eyes or In one eye. Whence do we derive the case of white spots [on the cornea] and eyes dripping with water, [both defects being] of a permanent character? There is a scriptural text: ‘[A blind] man.’⁶ Said Raba: What need is there for the Divine Law to write: ‘blind man’, ‘Dak’, ‘Teballul in his eye’?⁷ —

It is necessary [to state all these cases]. For if the Divine Law had only said ‘Blind’, we might have thought that the reason was because the eyes were not there,⁸ but in the cases of white spots on the cornea and of dripping eyes, [both defects being] of a permanent character where the eyes are there, this is not so.

Therefore Scripture says ‘[Blind] man’. And if the Divine Law had said ‘Man’ we might have thought that the reason was because the eyes cannot see at all [although they are there], but where however there was only defective vision,⁹ it is not so.

Therefore the Divine Law says ‘Dak.’ And if the Divine Law had said [only] Dak, we might have thought that the reason was because there was defective vision, but where there was confusion [of the colors in the eye]¹⁰ it is not so, therefore the Divine Law says ‘Teballul’. And if the Divine Law had only said Teballul, we might have thought that the reason was because of the confusion [of the colors in the eye], but where It was a case of a different location [of the eyes],¹¹ it is not so.

Therefore the Divine Law says: ‘In his eye’. Said Raba: Consequently, every case of blindness¹² we derive from the text ‘Man’. Every case of defective vision, we derive from the text ‘Dak’. Every case of confusion [of colors in the eye] we derive from the text ‘Teballul’, and every case of a different location [in the two eyes] we derive from the text ‘In his eye’.

ONE WHO COVERS [HIS EYES] FROM THE SUN. R. Joseph taught: One who hates¹³ the sun [a blinkard]. ZAGDAN. R. Huna showed by gestures, one eye like ours¹⁴ and the other, like theirs.¹⁵ Rab Judah was annoyed. An objection was raised: Shakbonah is one whose eyebrows overshadow¹⁶ [his eyes]. Zagdan is one who has one black and one white [eyebrow]. A Tanna taught: Any pair [of eyes] which is not properly matched¹⁷ is called Zagdan.

ZIRAN. It has been taught: One whose eyes are bleared¹⁸ and granulated; weeping, dripping and running.¹⁹ A Tanna taught: Zewir, Lufyon, and Tamir are blemishes. Zewir is one whose eyes are unsteady [Mezawar]. Lufyon is one having thick and

BECHOROS –31b-61a

connected eyebrows, and Tamir is one whose eyebrows are gone. And is the latter defect reckoned among disqualifying blemishes? Have we not learnt: **ONE WHOSE EYELIDS ARE HAIRLESS IS UNFIT [FOR THE PRIESTHOOD] ‘FOR APPEARANCE SAKE?’**²⁰ — This offers no difficulty. In the one case,²¹ the root remains, in the other,²² it does not remain.

MISHNAH. ONE WHOSE EYES ARE AS LARGE AS A CALF'S OR AS SMALL AS THOSE OF A GOOSE; OR WHOSE BODY IS [UNDULY] LARGE FOR HIS LIMBS;²³ [UNDULY] SMALL FOR HIS LIMBS; OR WHOSE NOSE IS [UNDULY] LARGE FOR HIS LIMBS; OR WHOSE NOSE IS [UNDULY] SMALL FOR HIS LIMBS; **ZOMEM AND ZOMEA’.** WHAT IS ZOMEA’? ONE WHOSE AURICLES ARE VERY SMALL. WHAT IS ZOMEM? ONE WHOSE AURICLES RESEMBLE A SPONGE. IF THE UPPER LIP OVERLAPS THE LOWER OR THE LOWER LIP OVERLAPS THE UPPER, THIS IS A BLEMISH. ONE WHOSE TEETH HAVE FALLEN OUT IS UNFIT [FOR THE PRIESTHOOD] FOR APPEARANCE SAKE.

GEMARA. Said Rab: Moses our teacher was ten cubits in height,²⁴ for it is said: And he spread abroad the tent over the tabernacle.²⁵ Now who spread it? Moses our teacher; and Scripture says: Ten cubits shall be the length of the board.²⁶ Said R. Shimi b. Hiyya to Rab: If so, you have made out that Moses was a blemished person,²⁷ for we have learnt: **ONE WHOSE BODY IS UNDULY LARGE FOR HIS LIMBS OR UNDULY SMALL FOR HIS LIMBS.** — He replied to him: ‘Are you the Shimi [famed for your wisdom]. I refer to the cubit of the tabernacle.’²⁸

ONE WHOSE NOSE WAS UNDULY LARGE, etc. A Tanna taught: As [the width of] a small finger.²⁹ **ZOMEM AND ZOMEA’.** A Tanna taught: [In addition to the blemishes mentioned] Zimmeah is also a blemish. The Rabbis did not know what

Zimmeah was. They heard an Arab trader³⁰ call out: Who wants a Zimmeah? And it was found to be a shaggy goat.³¹

Said R. Hisda: A goat which has no horns and a ewe which has horns are fit for the altar. So indeed it has been taught: There are some defects [in a firstling] which appear like blemishes but are not actually blemishes and in consequence of which we slaughter the animal in the Temple³² but not without the Temple. And they are the following: A goat which has no horns and an ewe which has horns, a Zimmeah, a Zummum and a zomea’.³³

R. Hisda reported in the name of Abimi: If its horns together with the bony inside [of the horns] have been removed, the animal is unfit for the altar, but may not be redeemed by reason of it.³⁴ If its hoofs together with the bony inside [of the hoofs] have been removed, the animal is unfit, and may be redeemed by reason of it.

An objection was raised: If the horns and hoofs together with their bony insides were removed, the animal is unfit, and may be redeemed by reason of it!³⁵ — This presents no difficulty. In the one case³⁶ [the horns] were uprooted,³⁷ and in the other³⁸ [the horns] were levelled.³⁹ But if the horns were only leveled, is it even unfit [for the altar]? The following was cited in contradiction: If a [red] heifer has horns and hoofs which are black, let him lop off [the black top of the horns and hoofs]. — Explain this as follows: [The lopping off] is from the top part of their bony inside.⁴⁰

- (1) There is no need for the nose to be so deeply sunk in order to make him unfit for the priesthood.
- (2) But in each of these instances the eyes are in their normal and usual places.
- (3) In the top of the forehead which is an actual change of position.
- (4) Lev. XXI, 20. Scripture could have said Dak (a cataract), Teballul a blending of the black and white of the eye alone and I would have known that the eye is meant, for these blemishes only

BECHOROS –31b-61a

concern the eye. The text therefore 'In his eye' is superfluous, unless for the purpose of deriving other cases therefrom.

(5) Lev. XXI, 18. The word 'Blind' implies the actual removal of an eye.

(6) And we infer this from the additional word 'Man'.

(7) V. p. 294, n. 5. Could we not have inferred one or two of these blemishes from the other?

(8) As the word 'Blind' implies that the eyes have been removed.

(9) But that there is a certain amount of vision left.

(10) Where the white of an eye invades the black and vice versa, the vision of the eye, however, not being decreased thereby.

(11) As, for example, where both eyes are in the forehead or below the normal places, etc.

(12) Not being able to see at all, like the cases of white spots on the cornea and dripping eyes.

(13) Changing the word סני into סני which means hating.

(14) A normal one.

(15) Those sitting opposite me among whom was Rab Judah whose eyes were abnormal. Tosaf. adds that Rab Judah's eyes were abnormal in this respect, that one eye was unduly large.

(16) Lit., 'lie'. Heb. 'Shokbim'.

(17) Whether in color or size.

(18) Discharging briny liquid (ציר). Rashi says: Round or pivot shaped.

(19) 'Running' is more than 'dripping' and the latter is more than 'weeping'. Aruch has for טורדוט restless, constantly twinkling. Another opinion is, shutting with great trouble.

(20) We therefore see that it is not an actual blemish.

(21) The Mishnah which says that he is unfit merely for appearance sake.

(22) The Tanna who states that it is a real blemish. R. Gershom interprets this passage as follows: The authority in the Baraitha refers to a case where the root of the eyebrow and eyelid remains and even so he is unfit for the priesthood, whereas the Mishnah refers to where nothing remains of the root, and therefore the unfitness is only 'for appearance sake'.

(23) I.e., his legs, hands and shoulders.

(24) It is assumed, a cubit being the measurement of the fore-arm, that the standard of measurement was Moses' fore-arm.

(25) Ex. XL, 19.

(26) Ex. XXVI, 16.

(27) For then his body would be out of all proportion to his arms ten to one, whereas the proportion of the average person's body to his arm is only three to one.

(28) [I.e., the ordinary cubit measure used in the Tabernacle. The ten cubits of Moses were with

reference not to his own fore-arm, but somewhat to that of an ordinary person (the cubit used in the Tabernacle being slightly longer than an ordinary cubit, v. supra 40a). The reading is that of Sh. Mek. and R. Gershom. Cur. edd.; he refers to the cubit (for the measurement) of the board. The meaning is however the same].

(29) And if it is smaller or larger than this measurement, then he is rendered unfit as a priest, supposing he is of average height.

(30) Heb. טייצא which usually means a caravan merchant.

(31) With long lumps of hair and long depending ears.

(32) Because they are not regarded as disqualifying blemishes.

(33) These three terms have been explained above in the Gemara.

(34) If it is a consecrated animal and not a first-born. It is not redeemed because it is considered a blemish only with regard to disqualifying for the altar.

(35) This Baraitha therefore contradicts Rab Hisda's ruling.

(36) The Baraitha just quoted.

(37) And a depression is visible on the top.

(38) The case referred to by Rab Hisda.

(39) But the stump remained.

(40) There is at the point of the horn, on the top, a piece of two or three finger-breadths to which the bony inside does not extend; if then the black did not reach the bony inside, he may lop it off, and this does not make the animal blemished.

Bechoroth 44b

MISHNAH. IF ONE HAS LARGE¹ BREASTS LIKE THOSE OF A WOMAN, ONE WHOSE BELLY IS SWOLLEN, ONE WHOSE NAVEL PROJECTS, [OWING TO ILLNESS], ONE WHO IS SUBJECT TO EPILEPTIC SPELLS EVEN AT INFREQUENT INTERVALS,² ONE WHO IS SUBJECT TO ASTHMATIC SPELLS,³ A ME'USHBAN AND A BA'AL GEBER [ALL THESE ARE UNFIT FOR THE PRIESTHOOD].

GEMARA. R. Abba b. R. Hiyya b. Abba reported in the name of R. Johanan: It is permitted to urinate in public,⁴ whereas it is not permitted to drink water in public.⁵ So indeed it has been taught: It is permitted to urinate in public, whereas it is not permitted to drink water in public. And it once happened that someone wanted to urinate

BECHOROS –31b-61a

and forewent it, and it was found that his belly was swollen.

Samuel needed to urinate on a Sabbath preceding a Festival.⁶ He spread his cloak [as a screen between his audience and himself]. He came before his father [and reported this to him]. He [the latter] then said to him: ‘I will give you four hundred Zuz to retract this ruling,⁷ for you were able to spread a cloak,⁸ but one who is not able to do so, shall he delay and expose himself to the danger?’

Mar son of R. Ashi was walking on the junction of a landing bridge when he needed [to ease himself]. They said to him. ‘Your mother-in-law comes’. He replied to them: ‘Even in her ear’.⁹ But may I not assume¹⁰ that the swelling of his belly arose from swallowing a leech?¹¹ — [We are dealing here in a case] when he discharged urine [laxly].¹²

Our Rabbis taught: Two channels are in the membrum of a human being, one of which discharges urine and the other semen, and the distance between them is no more than the peel of garlic. If then a person needs to ease himself, and one channel interferes with the other, he is found to be impotent.

Said Resh Lakish: What is the interpretation of the Scriptural text: There shall not be male and female barren among you or among your cattle?¹³ [It is as follows]: When will there not be a male barren among you? If you put yourself on a level with an animal.¹⁴ Said R. Joshua b. Levi: The words ‘There shall not be male barren’ mean that your house shall not be deprived of scholars. The words ‘Or female barren’ mean that your prayers shall not be fruitless before the Lord.¹⁵ And when will this be the case? If you place yourself on a level with an animal.¹⁶

Said R. Papa: One must not urinate in an earthen tub¹⁷ nor in a hard spot.¹⁸ For Rab

said: The drains of Babylon carry water to En Etam.

Said Abaye: A woman must not stand actually before a child and urinate.¹⁹ [If she urinates] sideways, however,²⁰ there is no objection.

We have learnt [in a Baraita]: R. Simeon b. Gamaliel says, A suppressed discharge produces dropsy. To force back the urine in the urinary duct produces jaundices. R. Kattina reported in the name of Resh Lakish: If blood is allowed to increase,²¹ skin disease will develop. If semen is allowed to increase,²² leprosy develops. If excrement is allowed to increase, dropsy increases. If one allows the urine to increase [through neglect], jaundice develops.

ONE WHO IS SUBJECT TO ASTHMATIC SPELLS. What is this?²³ — Nala.²⁴ A Tanna taught: The spirit of ben nefalim²⁵ comes upon him.

A ME'USHBAN AND A BA'AL GEBER. A Tanna taught: ME'USHBAN is in the stones and BA'AL GEBER is in the membrum. It has been taught: Me'ushban is the Kayyan, and Arbatha is the Ba'al Kik. Kayyan means stones [which are abnormally large] and Arbatha means the membrum [which is abnormally large]. And of what size? Rab Judah indicated this as up to the knee. It has been taught: R. Eliezer b. Jacob says: The membrum which reaches up to the knee makes the priest unfit, but if it is above the knee, he is fit. Some there are who say: If the membrum reaches up to the knee the priest is fit, whereas if it comes below the knee he is unfit [for the priesthood].

MISHNAH. IF HE HAS NO STONES AT ALL OR ONLY ONE STONE, THIS IS THE BIBLICAL MEROAH ASHEK.²⁶ R. ISHMAEL SAYS: IF HE HAS HIS TESTICLES CRUSHED.²⁷ R. AKIBA SAYS: IF HE HAS WIND IN HIS TESTICLES. R. HANINA B. ANTIGONUS SAYS: [MEROAH ASHEK

BECHOROS –31b-61a

MEANS]: IF HE HAS A BLACK COMPLEXION.²⁸

GEMARA. R. Ishmael [who differs from the opinion of the first Tanna in the Mishnah] found this opinion difficult to accept, [for if so], ‘it ought to read: Hasar ashek.²⁹ Therefore he teaches: IF HE HAS HIS TESTICLES CRUSHED. R. Akiba also [who in turn differs from R. Ishmael] found this opinion difficult to accept, [for if so], it ought to read: Memarah ashek.³⁰ He therefore teaches: IF ONE HAS WIND IN HIS TESTICLES. R. Hanina also [who differs from the opinion of R. Akiba] found this opinion difficult to accept, [for if so], it ought to read: Ruah ashek.³¹ He therefore teaches: IF HE HAS A BLACK COMPLEXION. For he maintains: We may take away one letter from one word of the text and add to another and thus interpret [the Law].³² But then is this not [according to R. Hanina] the case of one who is like an Ethiopian?³³ — R. Hanina b. Antigonus does not teach the case of one abnormally dark-complexioned.³⁴

MISHNAH. IF ONE KNOCKS HIS ANKLES [AGAINST EACH OTHER, IN WALKING]³⁵ OR RUBS HIS LEGS [AGAINST EACH OTHER]³⁶

- (1) Lit., ‘lying’ on his body, hanging downwards.
- (2) Lit., ‘Even once in many days’, although at fixed periods.
- (3) Lit., ‘a short breath causes departure’. Aliter: ‘a spirit of Kazrah (Al. Kazruth or Kazrith) comes on him’; a demon believed to be responsible for this ailment.
- (4) Lit., ‘in the presence of many’, because a delay may endanger health.
- (5) Because it is customary for a scholar to exercise privacy in his eating and drinking.
- (6) It being the usual practice for a period of thirty days before a Festival to discourse on the rules and regulations appertaining to the forthcoming Festival; v. Meg. 4a.
- (7) To urinate in their presence and thus proclaim that it was not necessary to exercise privacy when requiring to urinate.

(8) Owing to your honored position. R. Gershom explains this as follows: You possess a cloak but what about those who do not own one?

(9) ‘I would have urinated if I had no other spot, rather than wait, and certainly in her presence’.

(10) In the incident reported above.

(11) And not because of the delay in making water.

(12) Which proves that his belly swelled owing to the delay.

(13) Deut. VII, 14.

(14) As regards urinating in any place, even in public, like the animal which does not possess a sense of decency.

(15) When praying for children, you will be answered.

(16) Prayer in general must be offered up in a humble spirit. One must therefore put himself on a level with an animal regarding himself as an insignificant creature (Tosaf.).

(17) Because the urine is thrown into the nearest river and the rivers of Babylon proceed to mingle with En Etam, a fountain in which the high priest used to bathe himself on the Day of Atonement, v. Shab. 245b and Yoma 31a.

(18) Because since that spot does not absorb the urine, it flows on the ground until it reaches a declivity, whence it runs into the river.

(19) Even if she does not expose herself, it is an act of brazenness (Tosaf.).

(20) Without any intention of doing so before the child.

(21) If bleeding is neglected.

(22) Neglecting sexual intercourse when married.

(23) What is the spirit which is believed to cause this ailment?

(24) A spirit of stupidity brought about by a demon.

(25) The name of a demon which causes nervous prostration.

(26) Lev. XXI, 20; E.V. ‘he that hath his stones broken’.

(27) This is the biblical Meroah.

(28) The blemishes mentioned in the Mishnah disqualify a priest from the priesthood according to all the Tannaim, and the difference of opinion is only with reference to the precise interpretation of the words Meroah Ashek.

(29) If the first Tanna were correct, that the Bible means that the testicles were absent, then it should have said Hasar, etc., i.e., deficient in testicles.

(30) If R. Ishmael's interpretation were correct. ממורי participle passive is required, v. Jast. cur. edd. ממורה, is difficult to explain grammatically.

(31) If R. Akiba's opinion were correct, that Meroah means he who has wind in his testicles, then the word for wind רוח, ought to be used.

BECHOROS –31b-61a

(32) And here too we take away the ה from מרות and the ש from אשך adding the ה to the latter word and ש to the former, thus making מרות אשך viz., black-complexioned.

(33) A blemish explicitly mentioned below in the Mishnah infra 45b as disqualifying a priest.

(34) He omits 'Ethiopian' from the Mishnah below and thus there is no repetition.

(35) Because his legs are bent outwards.

(36) His feet being bent outward.

Bechoroth 45a

A BA'AL HA-PIHIN AND AN 'IKKEL — [ALL THESE DEFECTS RENDER A PRIEST UNFIT]. WHAT IS AN 'IKKEL? ONE WHOSE LEGS DO NOT TOUCH EACH OTHER WHEN HE PUTS HIS FEET TOGETHER, [BANDY LEGGED]. IF HE HAS A LUMP PROJECTING FROM HIS THUMB,¹ OR IF HIS HEEL PROJECTS BEHIND, OR IF HIS FEET ARE WIDE LIKE THOSE OF A GOOSE² OR IF HIS FINGERS LIE ONE ABOVE THE OTHER OR IF THEY ARE GROWN TOGETHER UP TO THE ROOT [THE MIDDLE JOINT], HE IS FIT [FOR THE PRIESTHOOD]; IF BELOW THE ROOT,³ IF HE CUTS IT,⁴ HE IS ALSO FIT. IF HE HAS AN ADDITIONAL FINGER AND HE CUT IT OFF, IF THERE WAS A BONE IN IT, HE IS UNFIT,⁵ BUT IF NOT, HE IS FIT. IF HE HAS ADDITIONAL FINGERS AND ADDITIONAL TOES, ON EACH HAND AND FOOT SIX FINGERS AND SIX TOES, [MAKING ALTOGETHER] TWENTY-FOUR [FINGERS AND TOES], R. JUDAH DECLARES SUCH A PRIEST FIT FOR THE PRIESTHOOD,⁶ WHEREAS THE SAGES DECLARE HIM UNFIT. IF ONE HAS EQUAL STRENGTH IN BOTH HANDS, RABBI DECLARES HIM UNFIT,⁷ WHEREAS THE SAGES DECLARE HIM FIT.⁸

GEMARA. Our Rabbis taught: [Scripture says]: Broken-footed.⁹ I have here mentioned only the case of broken-footed [as making a priest unfit for the priesthood]. Whence do we deduce the inclusion of one who knocks his ankles against each other or one who is bandy-legged or one who is club-footed? The text states, 'Or broken-footed'. A Tanna taught: Ba'al ha-pikin and

Shufnor. R. Hiyya b. Abba reported in the name of R. Johanan: Ba'al ha-pikin is one who has many calves¹⁰ and Shufnor is one without calves.¹¹

IF HE HAS A LUMP PROJECTING FROM THE THUMB, OR IF HIS HEEL PROJECTS BEHIND. Said R. Eleazar: This [latter defect] means the leg coming out in the middle of the foot.¹²

OR IF HIS FEET WERE AS WIDE AS THOSE OF A GOOSE. Said R. Papa: You should not say that the feet must be thin¹³ as well as not separated; even if they are only thin, although separated [they make a priest unfit for the priesthood].

OR IF HIS FINGERS LIE ONE ABOVE THE OTHER OR ARE GROWN TOGETHER. Our Rabbis taught: [Scripture says]: Broken-handed.¹⁴ I have here mentioned only the case of broken-handed [as making a priest unfit]. Whence do we deduce that if his fingers lie one above the other or are grown together above¹⁵ the root and he cut them that he is unfit? But did you not say [in the Mishnah that in the latter instance] he is fit? — Rather read 'he did not cut them'. Whence then do we derive these cases? — The text states: 'Or broken-handed'.¹⁶

IF HE HAS AN ADDITIONAL FINGER AND HE CUT IT OFF, IF THERE WAS A BONE IN IT HE IS UNFIT. BUT IF NOT, HE IS FIT. Rabbah b. bar Hana reported in the name of R. Johanan: Provided the additional finger is counted with the others.¹⁷ Our Rabbis taught: An additional [finger] if it has a bone in it, even without a nail,¹⁸ makes a person unclean by contact and by carrying it.¹⁹ It also causes tent uncleanness,²⁰ and is counted in the number of one hundred and twenty-five [limbs].²¹ Rabbah b. Bar Hana reported in the name of R. Johanan: Provided the additional finger is counted with the others.

BECHOROS –31b-61a

Said R. Hisda: The following ruling was taught by our great Master [Rab], may the Lord be his support! An additional finger if there is a bone in it, even without a nail, makes a person unclean by contact and by carrying it but it does not cause tent uncleanness.²²

Said Rabbah b. Bar Hana: Provided the additional finger is not counted with the others.

Said R. Hanina:²³ They have put their teaching on the level with prophecy.²⁴ For in either case [the ruling just quoted is difficult to understand]. If the additional finger is considered a limb [legally], then it should even cause tent uncleanness; and if it is not a limb [legally], then it should not even make a person unclean by contact and by carrying it! —

Said R. Huna b. Manoah in the name of R. Aha b. Ika: The Rabbis applied here the rule of a bone which is the size of a barleycorn.²⁵ R. Papa says: We declare him unclean in the case where the additional finger was not counted with the others on account of the case where the additional finger is counted with the others.²⁶ But if this be so, then in the case where the additional finger is not counted with the others, it should also cause tent uncleanness? —

The Rabbis made a distinction in order that Terumah and consecrated objects might not be burnt [unnecessarily] on account of it.²⁷ We have learnt elsewhere: The greater portion²⁸ of a corpse [as measured by size of limbs] and the larger number of joints and limbs, even though there is not among them one quarter of a kab²⁹ of bones, convey tent uncleanness.³⁰

Our Rabbis taught: What is the greater part of a corpse? Two legs and a thigh, since this is the greater part of the height of a tall person.³¹ What is the larger number of joints and limbs? One hundred and twenty-

five [limbs]. Said Rabina³² to Raba: Is it the object of the Tanna to teach us calculation?³³ He replied to him: He informs us of the following as it was taught: If a person is defective [in the number of joints], having only two hundred,³⁴ or if one³⁵ has additional limbs, having two hundred and eighty-one, all these joints are counted in the number of one hundred and twenty-five.³⁶ What is the reason? Follow the majority of people [who have only two hundred and forty-eight joints and limbs].

R. Judah related in the name of Samuel: The disciples of R. Ishmael once dissected the body of a prostitute who had been condemned to be burnt by the king. They examined and found two hundred and fifty-two joints and limbs. [They came and inquired of R. Ishmael: ‘How many joints has the human body?’ He replied to them: ‘Two hundred and forty-eight.’]³⁷ Thereupon they said to him: ‘But we have examined and found two hundred and fifty-two?’ He replied to them: ‘Perhaps you made the postmortem examination on a woman, in whose case Scripture adds two hinges [in her sexual organ] and two doors³⁸ of the womb’.

It was taught: R. Eleazar said: As a house has hinges,³⁹ so a woman's body has hinges [in her sexual organ], as it is written in the Scriptures: She⁴⁰ bowed herself and brought forth, for her pains [Zireha] came suddenly upon her.⁴¹

R. Joshua says: As a house has doors, so a woman's womb has doors,³⁸ as it is said in the Scriptures: Because it shut not up the doors of my mother's womb.⁴² R. Akiba says: As a house has a key, so a woman has a key, [the womb], as it is written in the Scriptures: And opened her womb.⁴³

According to the opinion of R. Akiba, is there not a difficulty in connection with what R. Ishmael's disciples discovered?⁴⁴ — It may be that since it is small, it was

BECHOROS –31b-61a

dissolved in the course of dissecting. Said Rab:⁴⁵ And all these⁴⁶ do not cause tent uncleanness, for it is said in the Scriptures: This is the law when a man dieth in a tent,⁴⁷ [implying], a thing which is common to all human beings [causes tent uncleanness].⁴⁸ Said Abaye to him: And has not a man also [some of these additional limbs]?⁴⁹ Does not Scripture say: Pangs, [Zirim]⁵⁰ have taken hold upon me as the pangs of a woman that travail⁵¹ These are hinges of flesh.⁵² But does not Scripture say: O my lord, by reason of the vision my pains, [Zirai], have come upon me?⁵³ — Here again the verse refers to ‘hinges’ of flesh. It also stands to reason. For if you will not say so,⁵⁴ to whom then will you apply the accepted statement that there exist two hundred and forty-eight limbs [in the human body], for it can apply neither to a man nor to a woman.⁵⁵

- (1) It is almost like an additional finger.
- (2) As thin as those of a goose and their length and width are alike.
- (3) Viz., towards the nail, the fingers being all attached to each other.
- (4) In order to divide the fingers.
- (5) For the priesthood, for it is like losing a limb.
- (6) Since the fingers are equal in number.
- (7) As they hold that a portion of the vigor of the right hand has gone to the left.
- (8) Holding that additional strength was given to the left hand.
- (9) Lev. XXI, 19.
- (10) Appearing as if possessing many calves on his legs, very thick-fleshed.
- (11) A file-shaped leg.
- (12) Half of the foot is in the front and the other half in the rear.
- (13) So Rashi understands טריפה here. The Arukh says that טריפה means: The length and width of the feet are alike. Rashi in his commentary on the Mishnah appears to combine both interpretations. Tosaf. Yom Tob suggests that Rashi on the Mishnah means that they are either thin or that their length, etc.
- (14) Lev. XXI, 19.
- (15) The ‘above’ here has the same meaning as ‘below’ in the Mishnah.
- (16) From the additional word ‘or’ we make this deduction.
- (17) I.e., is in line with the rest of the fingers, it is then that the Mishnah regards it as a limb.

(18) Although it does not possess a nail, the additional finger of a corpse is still considered a limb, since it is in line with the rest of the fingers.

(19) Where, for example, it has a small quantity of flesh attached to it, even if be less than the size of an olive. For if there were a piece of flesh the size of an olive on the bone, then even if the additional finger were not in line with the rest of the fingers or even if there were not a bone in the additional finger, it would have caused tent uncleanness, for the rule is that the flesh of a corpse the size of an olive causes tent uncleanness. Again, if there were not any flesh at all on the bone, then even if the additional finger were in line with the rest, it would not have been considered a limb, since bones as such do not cause tent uncleanness, unless where there is a majority of the joints or the greater part of the corpse. But now since there is a small portion of flesh, even though not the size of an olive, the additional finger of a corpse causes uncleanness because it is in line with the rest and is legally recognized as a limb.

(20) Tent uncleanness is uncleanness arising from being under the same tent and shelter with, or forming a tent and shelter over, a corpse; v. Num. XIX, 14.

(21) If there is no flesh the size of an olive, the additional finger is counted as a limb among the one hundred and twenty-five limbs and joints, as this constitutes the greater number of limbs of the two hundred and forty-eight limbs and joints of which the human body is composed, the law being that the majority of the joints and limbs of a corpse causes tent uncleanness.

(22) Where the additional finger is not in line with the rest, as explained below, there being here two disqualifications; first that there are no nails, and secondly its not being in line with the rest of the fingers. But if it has a nail in it, the additional finger makes tent uncleanness although it is not in line.

(23) So Sh. Mek. cur. edd. R. Johanan.

(24) Just as the Prophets are not required to give reasons for their utterances, so the teachers in the passage just quoted also give no reason for their ruling.

(25) Which makes a person unclean either by carrying it or coming in contact with it, but does not cause tent uncleanness.

(26) Legally where the additional finger is not in line with the rest, there is no uncleanness, only for fear that this might bring about laxity in a case where the additional finger is in line, where it legally causes uncleanness, the Rabbis declared uncleanness also in the former case.

(27) Had every form of uncleanness been declared, including that of Ohel, one might have been led to believe that an additional finger not

BECHOROS –31b-61a

in line is a genuine limb, and therefore Terumah, etc. might come to be wrongly burnt as a consequence.

(28) Lit., 'structure'.

(29) A small measure of capacity.

(30) Oh. II, 1.

(31) Without reckoning the head, for as regards the frame of a corpse, the head is not taken into consideration. This measurement applies to a tall person only but not to a small person.

(32) Var. lec.: R. Adda b. Ahaba.

(33) For since there are two hundred and forty-eight joints in the human body, it is obvious that the majority is one hundred and twenty-five, and what need is there for the Tanna of the Baraita to teach us this?

(34) A man born with two fingers missing on each hand and two toes on each leg i.e., eight members. Now since every finger has six bones, this makes altogether a total of forty-eight joints of which this man is short. Thus he has only two hundred joints of the two hundred and forty-eight which the human body contains.

(35) If a woman is born with two additional fingers on her hands and two additional toes on her legs and each one has six bones, we have a total of twenty-four additional limbs. In addition, there are five extra limbs in the case of a woman, viz. two hinges, two doors and the womb (v. infra). We have therefore altogether twenty-nine additional limbs. Add this to two hundred and forty-eight, and we have a grand total of two hundred and seventy-seven. Rashi says that he cannot account for the other four so as to make up the number to two hundred and eighty-one. R. Gershom however explains that for every six bones in a finger there is a corresponding extra bone in the arm. Consequently, as there are four additional fingers and toes, we have a further four limbs, which bring the number of joints to two hundred and eighty-one.

(36) The Tanna therefore informs us that although one hundred and twenty-five is not the actual majority of limbs in the case of a woman who has additional fingers or the bare majority in the case of one who has less than the usual number of limbs, we accept the number in all cases as the greater number of limbs causes tent uncleanness.

(37) Inserted from Sh. Mek.

(38) I.e., the muscles.

(39) Doors moving in sockets.

(40) The word צרייה (her pains) coming from the word ציר literally rendered means 'hinges'.

(41) I Sam. IV, 19.

(42) Job. III, 10.

(43) Gen. XXX, 22.

(44) Who only found two hundred and fifty-two limbs in a woman's body, while according to R. Akiba who mentions

that the womb was an extra limb, there is another limb, making two hundred and fifty-three in all.

(45) Var. lec. Raba.

(46) The five additional limbs of a woman.

(47) Num. XIX, 14.

(48) But a thing which is not common to both men and women does not cause tent uncleanness, the word אדם meaning human being in general and not exclusively a man.

(49) Which we say belong only to a woman—the 'hinges'.

(50) Isa. XXI, 3.

(51) V. p. 307, supra n. 5.

(52) Which have no bones and are therefore not regarded as genuine limbs.

(53) Dan. X, 16.

(54) That Zirim written in connection with a man is not an additional limb and thus there would be another limb in the case of a man.

(55) On the number of human limbs given here v. Mak., Sonc. ed., p. 169 n. 5.

Bechoroth 45b

IF HE HAS ADDITIONAL FINGERS AND ADDITIONAL TOES ON HIS HANDS AND FEET, etc. Said R. Isaac: And both derive their views from [the interpretation of] the same verse: And there was yet a battle in Gath where there was a man of great stature that had on every hand six fingers and on every foot six toes, four and twenty in number.² One Master holds that Scripture means to disparage him, while the other Master [R. Judah] holds that Scripture means to praise him.

Said Rabbah: Why does Scripture say: 'Six', 'six' and 'twenty-four in number'?³ It was necessary [to state all these numbers]. For if the Divine Law had only said 'six' [fingers] and 'six' [toes], I might have thought that the one word 'six' referred to one hand and the other 'six' referred to one leg.⁴ Therefore the Divine Law says: Twenty-four. And if the Divine Law had said only 'twenty-four', I might have thought that it meant five fingers on one hand and seven fingers on the other, [the same applying to the feet].

BECHOROS –31b-61a

Therefore the Divine Law says: ‘Six’, ‘six’ ‘in number’ teaching us that the case here is one where the additional fingers are counted with the others.

It has been taught: R. Judah says: A man once came before R. Tarfon with additional fingers and toes, six on each, making altogether twenty-four. He said to him: May the like of you increase in Israel!⁵ Said R. Jose to him: Do you bring a proof from this incident? This is really what R. Tarfon said to him. May through people like you bastards and nethinim⁶ diminish in Israel?⁷

IF ONE HAS EQUAL STRENGTH IN BOTH HANDS. Our Rabbis taught: If one is left-handed or left-legged, Rabbi declares him unfit [for the priesthood]⁸ whereas the Sages declare him fit. One Master⁹ holds that it is due to an unusual weakness which has befallen the right hand, and the other Master¹⁰ holds that it is due to unusual strength which has accrued to the left hand.¹¹

MISHNAH. [IF ONE IS LIKE AN] ETHIOPIAN, A GIHUR, A LABKAN, A KIPPEAH,¹² A DWARF, A DEAF-MUTE, AN IMBECILE, INTOXICATED, OR AFFLICTED WITH PLAGUE MARKS WHICH ARE CLEAN¹³ — [THESE DEFECTS] DISQUALIFY IN HUMAN BEINGS¹⁴ BUT NOT IN ANIMALS. R. SIMEON B. GAMALIEL SAYS: ONE SHOULD NOT FOR CHOICE SACRIFICE A MAD ANIMAL. R. ELEAZAR¹⁵ SAYS: ALSO THOSE AFFLICTED WITH WARTS ARE UNFIT IN HUMAN BEINGS BUT ARE FIT IN ANIMALS.

GEMARA. [ONE WHO IS LIKE] AN ETHIOPIAN, is one abnormally black-complexioned. GIHUR is one who is [abnormally] white-spotted in the face. LABKON is one who is [abnormally] red-spotted [in the face]. Now is this really so? Was there not a man who cried out: ‘Who wants to buy levkoiums’?¹⁶ and it was found to be white flowers, [snowflakes]?¹⁷

Rather [the following are the correct definitions]: [ONE LIKE] AN ETHIOPIAN is one who is [abnormally] black-complexioned. GIHUR is one who is [abnormally red-spotted in the face], as people call gihia flame-red.¹⁸ LABKAN is one who is [abnormally] white-spotted [in the face], as we know from one who cried out: ‘Who wants levkoiums’? and it was found to be white flowers.¹⁷

KIPPEAH. R. Zebid taught: This means [extremely] tall. Now is it really so? Has not R. Abbuha taught: Whence do we know that the Holy One, blessed be He, takes pride in men of high stature? Because it is written in the Scriptures: Yet I destroyed the Amorite before them whose height was like the height of the cedars?¹⁹ — Said R. Papa: Kippeah is a tall, thin²⁰ and unshapely person.

Said Resh Lakish: An abnormally tall man should not marry an abnormally tall woman, lest their offspring be [like] a mast.²¹ A male dwarf should not marry a female dwarf, lest their offspring be a dwarf of the smallest size.²² A man abnormally white-complexioned should not marry an equally white-complexioned woman, lest their offspring be excessively white-complexioned.²³ A very dark-complexioned man should not marry an equally very dark-complexioned woman, lest their offspring may be pitch black.²⁴

A DEAF-MUTE PERSON, AN IMBECILE, AN INTOXICATED PERSON. But does not an intoxicated priest profane the Temple-service?²⁵ Should not this defect then be mentioned in connection with the disqualifying blemishes [of a priest]?²⁶ — [The Mishnah] refers to other things from which one can become intoxicated, and this will not be in accordance with the opinion of Rabbi Judah.²⁷ For it was taught: A priest who ate preserved figs from Keilah²⁸ and drank milk and²⁹ fermented honey, if he entered the Temple, incurs liability [to excision].³⁰

BECHOROS –31b-61a

MISHNAH. THE FOLLOWING ARE FIT IN THE CASE OF HUMAN BEINGS,³¹ BUT UNFIT IN THE CASE OF ANIMALS: A FATHER WITH ITS SON,³² A TREFAH, AN ANIMAL EXTRACTED BY MEANS OF THE CAESAREAN SECTION.³³ A PRIEST WHO CONTRACTS AN ILLEGAL MARRIAGE³⁴ IS UNFIT [FOR THE PRIESTHOOD] UNTIL HE VOWS NOT TO DERIVE ANY BENEFIT FROM THE WOMAN.³⁵ ALSO ONE WHO MAKES HIMSELF UNCLEAN THROUGH CONTACT WITH THE DEAD IS UNFIT, UNTIL HE UNDERTAKES THAT HE WILL NO LONGER MAKE HIMSELF UNCLEAN THROUGH THE DEAD.

GEMARA. THE FOLLOWING ARE FIT IN A HUMAN BEING, etc. What does the Mishnah mean by the expression A FATHER WITH ITS SON? Shall I say that it refers to Aaron³⁶ and his son, to which the corresponding case in an animal would be a he-goat and its young? But does this law apply in such circumstances? Has it not been taught: The law prohibiting the killing of an animal and its young on the same day applies only to females and their young, but not to males and their young?³⁷ —

Rather the Mishnah refers to a she-goat and its young. Would not then a parallel case in human beings be a priestess and her son? But is a priestess suitable for Temple-service? — One may still say that the Mishnah refers to Aaron and his son and that the corresponding case here is a he-goat and its young. For it was explained in the West³⁸ in the name of R. Jose b. Abin [as follows]: This proves that Hanania taught this Mishnah. For we have learnt [in a Baraita]: The law prohibiting the killing of an animal and its young on the same day refers only to females and their young but not to males and their young. But Hanania says: It applies to males and their young as well as to females.

A PRIEST WHO CONTRACTS AN ILLEGAL MARRIAGE, etc. A Tanna taught: He vows,³⁹ performs the Temple-services [even before divorce] and then leaves the Temple-service⁴⁰ to divorce her. But why do we not fear lest he may go to a Sage and obtain release from his vow?⁴¹ — He holds the opinion: A vow must be specified in detail [before it can be invalidated].⁴² This is no difficulty according to him who says that a vow is required to be specified [before it can be invalidated]. But according to him who says that there is no need to specify in detail a vow before it can be invalidated, what answer would you give? — We make him interdict himself by vow in public.⁴³ This is no difficulty according to him who holds that an interdiction by vow imposed on a person in public can not be invalidated. But according to him who holds that an interdiction by a vow imposed on a person in public can be invalidated — what answer would you give? — We impose an interdiction by vow

- (1) R. Judah and the Sages.
- (2) II Sam. XXI, 20.
- (3) Could I not have inferred one number from the other?
- (4) But not to two legs and two hands.
- (5) Proving that additional fingers are marks of strength.
- (6) The offspring of Nathin, a descendant of the Gibeonites. David decreed their exclusion from the Israelitish community with regard to inter-marriage.
- (7) May Nethinim and bastards like you possessing additional fingers and toes be multiplied, so as eventually to cause a decrease in their number, for they would then be distinguishable and marked off from the rest of the community (R. Gershom.)
- (8) A left-handed priest is unfit for the priesthood because Scripture says: And the Priest shall dip his right finger, (Lev. XIV, 16) from which we infer that wherever Scripture says finger with reference to a priest, it means that of the right hand. And a left-legged priest is unfit because Scripture says: To stand and to serve, (Deut. XVII, 12) intimating that the serving must be in the normal manner of standing, viz., on the right leg, v. Zeb. 24a.
- (9) Rabbi.
- (10) The Sages.

BECHOROS –31b-61a

- (11) Left-handedness is therefore no defect.
(12) These terms are explained in the Gemara.
(13) E.g., a sore or a rising on the skin. There is no need for the Mishnah to mention that a priest with an unclean skin disease is disqualified, for in that case he is forbidden to enter the Temple-court on pain of excision.
(14) Viz. priests.
(15) Bah. adds, b. Jacob.
(16) So Jast. Rashi has here לוקייני The Aruch has לוקיגי.
(17) White lambs (Rashi.).
(18) V. e. gihia.
(19) Am. II, 9.
(20) all שמיטה lit. 'loose'; one whose height is out of all proportion to his breadth, and on account of this, he sags and his joints seem to be 'loose.'
(21) Tall and slim.
(22) Lit., 'a fingerlet'.
(23) Which is almost a skin plague. Another explanation of the word ביהק is: One glistening (with unsteady eyes), albino (Jast.).
(24) טפיה, a black earthenware pot.
(25) Because Scripture says: Do not drink wine nor strong drink (Lev. X, 9), and it continues: And that ye may put a difference between holy and unholy, etc., thus service in that condition profanes, v. Zeb. 17b.
(26) Instead of mentioning it in connection with defects which are 'not like the seed of Aaron' and which do not render service in the Temple actually invalid.
(27) Who maintains that other things from which a man can become intoxicated have the same rule as drinking wine, which is explicitly stated (in Ker. 13b) as profaning the service.
(28) The name of a town in the lowland district of Judea. The figs which come from there are intoxicating.
(29) So Sh. Mek. cur. 'or'.
(30) V. Ker. 13b and Sanh. 70b. The Mishnah therefore teaches us that only in the case of wine does he incur the guilt of excision, but with regard to other things which can make a man intoxicated, there is only a negative prohibition, derived from the text 'And strong drink thou shalt not drink'.
(31) Viz., priests.
(32) Whereas a priest and his son may officiate in the Temple on the same day, in the case of an animal it is forbidden to sacrifice an animal and its young on the same day.
(33) Whereas a priest who is Trefah, etc. is fit to carry out his duties.
(34) Viz., a high priest who married a widow or a plain priest who married a divorcee or a woman released by Halizah.
(35) I.e., until he divorces her.

- (36) I.e., a male and his offspring must not officiate on the same day.
(37) Hul. 78b.
(38) The Palestine colleges.
(39) Not to derive any benefit from his wife till he divorces her.
(40) Lit., 'descends', sc. from the altar.
(41) We should not therefore permit him to perform his duties in the Temple after making the vow in case he subsequently consults a wise man in order to nullify the vow.
(42) This being the case, the Sage, being informed of the reasons which prompted the vow, will not invalidate it.
(43) Before ten persons, and the wise man cannot invalidate a vow made in such circumstances without knowing the nature of the vow.

Bechoroth 46a

on him and make it dependent on the wishes of the public.¹ Said Amemar: The law is as follows: Even according to him who holds that an interdict by vow imposed on a person in public can be invalidated, a vow made dependent on the wishes of the public cannot be invalidated. But this is only the case with a vow made for a secular purpose, whereas if made for a religious purpose, it can be invalidated,² a case in point being that of a teacher whom R. Aha prohibited by vow from teaching any longer because he maltreated the children, but whom Rabina reinstated, as there was not to be found one who taught so efficiently.

AND ONE WHO MAKES HIMSELF UNCLEAN THROUGH THE DEAD, etc. What is the difference between the case here, where merely an undertaking suffices and there [where a priest contracts an illegal marriage] that we impose a votary prohibition on him? — There [in the latter case] his passion overpowers him.³

CHAPTER VIII

MISHNAH. THERE IS ONE WHO IS [COUNTED AS] A FIRSTBORN [WITH RESPECT TO] INHERITANCE⁴ BUT NOT WITH RESPECT TO REDEMPTION FROM A PRIEST;⁵ A FIRST-BORN WITH RESPECT TO

BECHOROS –31b-61a

REDEMPTION FROM A PRIEST BUT NOT A FIRST-BORN [WITH RESPECT] TO INHERITANCE; A FIRSTBORN [WITH RESPECT BOTH] TO INHERITANCE AND TO REDEMPTION FROM A PRIEST; AND [AS] A FIRST-BORN [IN RESPECT NEITHER] TO INHERITANCE NOR REDEMPTION FROM A PRIEST.

WHICH IS A FIRST-BORN [IN RESPECT] OF INHERITANCE BUT NOT OF REDEMPTION FROM A PRIEST? ONE WHICH FOLLOWS AN UNTIMELY BIRTH WHOSE HEAD CAME FORTH ALIVE⁶ OR ONE BORN IN THE NINTH MONTH WHOSE HEAD CAME FORTH DEAD,⁷ OR WHEN A WOMAN DISCHARGES SOMETHING LIKE AN ANIMAL, BEAST OR BIRD.⁸

THESE ARE THE WORDS OF R. MEIR. BUT THE SAGES SAY: [IT IS NOT CONSIDERED AN OPENING OF THE WOMB] UNTIL [THE DISCHARGE] HAS THE FORM OF A HUMAN BEING.⁹

IF [A WOMAN] DISCHARGES A SANDLE LIKE¹⁰ FOETUS OR A PLACENTA¹¹ OR A FOETUS¹² HAVING AN ARTICULATED SHAPE, OR IF AN EMBRYO CAME OUT BY PIECES,¹³ [THE INFANT] WHICH FOLLOWS AFTER THEM IS A FIRST-BORN [WITH RESPECT] TO INHERITANCE BUT NOT A FIRST-BORN TO REDEMPTION FROM A PRIEST.

IF ONE WHO NEVER HAD CHILDREN PREVIOUSLY MARRIED A WOMAN WHO HAD ALREADY GIVEN BIRTH,¹⁴ EVEN IF SHE HAD GIVEN BIRTH WHEN SHE WAS A BONDWOMAN, BUT IS FREE [NOW], OR [HAD BORNE A CHILD] WHEN SHE WAS A HEATHEN BUT HAS SINCE BECOME A PROSELYTE IF AFTER COMING TO THE ISRAELITE SHE BEARS TO HIM, [THE INFANT] IS ALSO CONSIDERED A FIRST-BORN [WITH RESPECT] TO INHERITANCE BUT NOT A FIRST-BORN TO REDEMPTION FROM A PRIEST.¹⁵

R. JOSE THE GALILEAN SAYS HOWEVER: [THE INFANT] IS A FIRST-BORN [WITH RESPECT] TO INHERITANCE AND ALSO ONE WHO MUST BE REDEEMED FROM A PRIEST, BECAUSE IT IS SAID IN THE SCRIPTURES: OPENETH THE WOMB AMONG THE CHILDREN OF ISRAEL,¹⁶ [INTIMATING] UNTIL THE OPENING OF THE WOMB IS '[OF THE CHILDREN] OF ISRAEL'.¹⁷

IF ONE HAD CHILDREN ALREADY AND MARRIED A WOMAN WHO HAD NEVER GIVEN BIRTH PREVIOUSLY OR IF SHE BECAME A PROSELYTE¹⁸ WHEN PREGNANT OR IF SHE WAS FREED WHEN PREGNANT AND SHE GAVE BIRTH; [IF THERE WAS SOME CONFUSION BETWEEN] HER AND A PRIESTESS,¹⁹ [BETWEEN] HER AND A LEVITE'S DAUGHTER,²⁰ [BETWEEN] HER AND A WOMAN WHO HAD ALREADY GIVEN BIRTH;²¹ AND LIKEWISE [IF A WOMAN] WHO DID NOT WAIT THREE MONTHS AFTER HER HUSBAND'S DEATH, MARRIED AND GAVE BIRTH AND IT IS NOT KNOWN IF THE INFANT WAS BORN IN THE NINTH MONTH SINCE THE DEATH OF THE FIRST [HUSBAND] OR IN THE SEVENTH MONTH SINCE SHE MARRIED THE SECOND, IT IS A FIRST-BORN TO REDEMPTION FROM A PRIEST²² BUT NOT A FIRST-BORN [WITH RESPECT] TO INHERITANCE.²³

(1) We urge him to vow not to derive any benefit from his wife without the consent of the public and the public of course we assume wish him to observe his vow, (Rashi Git. 36a) so as to be free of the illegal union. Tosaf. explains that he must vow with obligation to at least three members of the public whose names must be specified, although they are not present. But if he vowed without explicitly mentioning the names of at least three of the public, then the vow is of no importance.

(2) As we assume that public opinion would be agreeable to this.

(3) Therefore we do not merely rely on an undertaking that he will divorce her but there must be a votary prohibition forbidding any benefit to be derived from her. But where this

BECHOROS –31b-61a

consideration is absent, we rely on an undertaking given by him.

(4) Receiving a double share.

(5) Who receives five Sela's for the redemption.

(6) In a case of twins, one a non-viable child and the other a viable one, where the former put forth its head alive and withdrew it and its companion anticipated it in coming out, the latter child is considered a first-born with the privileges of inheritance, the former not having prejudiced it in this respect. For although the emergence of the head of an embryo is considered a genuine birth, yet since Scripture calls the first-born who inherits: The beginning of his strength (Deut. XXI, 17) which is interpreted to mean, a child over whose death his father's heart is grieved, and since the untimely birth cannot live, the condition of inheritance i.e., being a first-born over which a father grieves. does not exist. The latter offspring, however, is exempted from the redemption from a priest, for what matters here is the opening of the womb, and this was done by the first offspring.

(7) And was then withdrawn, the companion coming out subsequently. The first offspring therefore exempts the latter from redemption, but since it is dead, the latter offspring is the first-born as regards inheritance.

(8) The discharge is regarded as the opening of the womb to release the second offspring from redemption, but it is of no importance as regards inheritance.

(9) And if not, the offspring which follows is a first-born also as regards redemption, for only the issue of the actual form of a human being is considered an opening of the womb exempting succeeding offspring from the law of redemption.

(10) Not having any shape of limbs whatever.

(11) There is no placenta except there be an embryo, only it has become mashed.

(12) Together with its sac.

(13) Limb by limb, but since the whole came forth, it is regarded as an opening of the womb. But if the head of the infant alone came forth by pieces, this is not considered an opening of the womb if its companion came forth afterwards before the majority of the limbs and pieces managed to emerge, and the latter offspring is regarded also as a first-born to be redeemed from a priest.

(14) The infant in this case is a first-born in respect of inheritance but not of redemption, since the right of inheritance is determined by the father, Scripture saying: 'The beginning of his strength', whereas for redemption it is the opening of the womb which is necessary.

(15) Since he did not have children previously, the present infant is a first-born as regards inheritance, but is not a first-born to be released

by redemption. as the Hebrew woman, the gentile woman and the maid-servant have already had children.

(16) Ex. XIII, 2.

(17) It is only then that its birth is considered an opening of the womb to exempt future offspring from the law of redemption. The children therefore born when the woman was a gentile or a slave are not accounted as opening the womb.

(18) Together with her husband and she gave birth, her offspring is regarded as a first-born to be redeemed by the priest, since the opening of the womb was of Israel, after the parents came under the influence of the law of Israel, but not as a first-born in respect of inheritance, since the conception of the infant was not in holiness and it is not therefore eligible for inheritance.

(19) If an Israelite woman giving birth for the first time and a priestess giving birth for the first time had their offspring mixed and it was not known which was the child of the Israelite. The offspring of a priest is exempt from the law of redemption.

(20) A daughter of a Levite or a Levite's wife is also exempted from redeeming a son.

(21) If the child of a woman who had already given birth previously was mixed up with a first-born infant, and the latter could not be identified, we are here informed that the husband of the woman who gave birth for the first time is yet obliged to give five Sela's redemption money to the priest, for at all events he has a first-born male son somewhere, whereas in the case of inheritance as he does not know who is the first-born, there can therefore be no first-born privileges of inheritance.

(22) When he grows up, he redeems himself.

(23) Because it is not known whose first-born he is and from what inheritance he should take a double portion.

Bechoroth 46b

GEMARA. Said Samuel: [The putting forth of] the head of an untimely birth does not release [the offspring which follows from redemption from a priest].¹ What is the reason? [Scripture says]: All in whose nostrils was the breath of life,² [intimating] that wherever there is the breath of life in the nostrils, the head is of importance. [exempting the successor from redemption]³ but otherwise, the head is not considered of importance.

BECHOROS –31b-61a

We have learnt: ONE WHO FOLLOWS AN UNTIMELY BIRTH WHOSE HEAD CAME FORTH ALIVE OR ONE BORN IN THE NINTH MONTH WHOSE HEAD CAME FORTH DEAD. At all events the Mishnah says: 'WHOSE HEAD'?⁴ — 'WHOSE HEAD means its greater part.⁵ Why then not say its greater part? — By rights [the Tanna of our Mishnah] should have stated 'its greater part'. But as he had to state in the second clause OR ONE BORN IN THE NINTH MONTH WHOSE HEAD CAME FORTH DEAD,⁶ and he wishes to argue that the reason is because its head was dead but that if its head was alive, the one who follows is not even a first-born [with the privileges] of inheritance,⁷ he therefore also states in the first clause 'WHOSE HEAD'. Now what then does the Mishnah inform us? That since he put forth his head it is considered a birth.⁸

But have we not learnt this already: If the embryo put forth its head, although he withdrew it again, it is considered a birth?⁹ And should you reply that [the Tanna] teaches us this ruling¹⁰ [separately] both for the case of an animal¹¹ and for that of a human being,¹² because we do not infer the case of a human being from that of an animal, as the latter has no forepart of female genitals,¹³ and again we do not infer the case of an animal from that of a human being, as the latter's full face is important — have we not learnt this too¹⁴ in a Mishnah: If an infant came forth in the natural way,¹⁵ [it is not considered a birth] till the greater part of its head comes forth? And what is the greater part of its head? When its forehead comes forth.¹⁶ Shall we then say that this confutes Samuel? — It is indeed a refutation.¹⁷

Said R. Simeon b. Lakish: The [emergence of] forehead is regarded as birth¹⁸ in all cases except in that of inheritance.¹⁹ What is the reason? — But he shall acknowledge the first-born,²⁰ says the Divine Law. But R. Johanan says: Even as regards

inheritance.²¹ What does 'in all cases' imply? — It implies what our Rabbis have taught [as follows]: In the case of a proselyte woman, if the forehead of her infant came forth from the womb when she was a heathen and she subsequently became a proselyte,²² we do not subject her to periods of impurity and purity²³ and she does not bring the offering for confinement.

An objection was raised. [Scripture says]: But he shall acknowledge, [this intimates] the recognition of the face.²⁴ And what is a recognizable face? The full face with the nose!²⁵ — Read: 'Unto the nose'. Come and hear: Evidence may not be given [in identification of a corpse]²⁶ save by [proof afforded by] the face with the nose,²⁷ Read: Unto the nose.

Come and hear: No evidence may be given [by identification of] the forehead without the face or the face without the forehead; it must be by both together with the nose. And Abaye said, or as some say, R. Kahana: Where is the scriptural authority for this? [Scripture says]: The show of their countenance' doth witness against them.²⁸ It is different with regard to testimony on behalf of a woman,²⁹ as the Rabbis made the law stringent in her case.³⁰ But have the Rabbis indeed made it stringent? Have we not learnt: If they were generally presumed established to permit a woman to re-marry on the evidence of a witness testifying to what he heard from an eye-witness, or from a woman, from a slave or a bondwoman?³¹ — The Rabbis were only lenient in the end³² but were not lenient in the beginning.³³ And if you prefer [another solution] I may say:

(1) If an embryo in its eighth month put forth its head alive and withdrew it and its twin companion then anticipated it in coming forth, the latter is a firstborn to be redeemed from the priest, because a non-viable birth does not exempt its successor from redemption until the head and the greater part of the body came forth.

(2) Gen. VII, 22.

(3) Rashi in his interpretation appears to divide the text as follows: Wherever there is a breath of

BECHOROS –31b-61a

life **נשמה חיים** i.e. a viable birth, then go after its **אפיו** i.e., its head (**אפיו** having also the meaning of face, Jast.), regarding the head of importance. but if it is a non-viable birth its head is of no importance for exempting its successor from redemption.

(4) Implying that an untimely birth releases his successor from redemption with the putting forth of the head, thus contradicting the opinion of Samuel.

(5) But where only the embryo's head emerged, it does not exempt the one who follows from redemption from a priest.

(6) And here he could not have stated 'its greater part' for the reason that follows.

(7) Now if the Tanna of the Mishnah had said 'its greater part came forth dead' in the second clause, I should have inferred that if the greater part came forth alive then the latter offspring would not even be a first-born in respect of inheritance, but I could not have deduced that where the head came forth alive the latter offspring loses the privilege of inheritance, which is a well-established rule. It is therefore for this reason that both in the first and second clauses mention is only made of the head, although in the second clause itself the 'head' means the head together with the greater part of the body.

(8) If the Mishnah means specifically the head and so teaches us that the head of an untimely birth releases the offspring which follows from redemption, in the second clause it mentions the head on account of the first clause. But if you maintain that the mention of the head in the first clause is not strictly meant, since the head does not release from redemption in the case of non-viable births, then from the second clause we are enabled to make the following inference: The reason why it is not a first-born of inheritance is because its head came forth dead, but if the head came forth alive the successor is not a first-born as regards inheritance, for since an embryo in the ninth month is not an untimely birth, the emergence of the head, even if it is again withdrawn, is considered a genuine birth.

(9) And therefore the ritual slaughtering of the mother does not make the offspring permissible to be eaten, Hul. 68a.

(10) That the coming forth of the head constitutes a birth.

(11) As in the Mishnah in Hul.

(12) As in the Mishnah above.

(13) Lit., 'ante-chamber'. Its vagina does not lie between the feet and therefore the coming forth of the head is accounted a birth, for it is open, whereas in the case of a woman, since the legs cover it, the putting forth of the head is not accounted a birth.

(14) That the putting forth of the head of a human being is regarded as a birth.

(15) I.e., the head coming first and not the legs.

(16) And although the head was withdrawn, and the infant is not born till the next day, we count the period of pure and impure days from the first day when the forehead came forth (Nid. 28a). Therefore there is no need even in the second clause of the Mishnah to teach us that the putting forth of the head in a human being constitutes a birth, as this is already stated in the Mishnah in Niddah. Why then does the first clause in our Mishnah say 'its head'? Therefore it must not be on account of the second clause, and the reference to the head in the first clause is meant to be taken exactly. Therefore we can deduce from this clause that the emergence of the head of a non-viable birth is considered a birth, exempting the offspring which follows from redemption, contrary to the opinion of Samuel (R. Gershom).

(17) As assuredly the reference to the head in the first clause is meant to be taken in its exact sense.

(18) Lit., 'the forehead exempts'.

(19) I.e., the one who follows is the first-born with the privileges of inheritance, unless the face of the first infant came forth (Rashi).

(20) Deut. XXI, 17. And where only the forehead comes forth, the face is not 'recognized', the literal meaning of **יכיר**.

(21) The coming forth of the forehead is regarded as a birth even for this purpose.

(22) Before the face and the other part of the body came forth.

(23) The period when discharges of blood make her impure and the period when such discharges do not make her impure. The reason is because the putting forth of the forehead is regarded as a birth and therefore she was confined when she was a heathen, in which state she is not subject to the laws of confinement. Tosaf. observes that R. Simeon b. Lakish needed to inform us that he agrees with the Baraita. For you might have thought that although the putting forth of the head is regarded as a birth, the coming forth of the rest of the body, when the mother is already a proselyte, should also be regarded as a birth and therefore she should be subject to the laws of confinement.

(24) Whoever's face is first recognized is the firstborn as regards inheritance.

(25) There is consequently here a difficulty regarding R. Johanan's view, for we see that the putting forth of the forehead alone is not regarded as a birth.

(26) Of a dead husband, so that the woman can re-marry.

(27) Yeb. 120a.

BECHOROS –31b-61a

(28) Isa. III,9. Scripture therefore teaches us that the showing of the full face is alone counted as an identification. There is again a difficulty here as regards R. Johanan's opinion.

(29) To declare her a widow and enable her to marry again.

(30) And therefore the full face must be recognized, but elsewhere, as in the case of a birth, only the forehead might be sufficient.

(31) Yeb. 86b, 122a.

(32) Once the body of the husband is claimed to have been clearly identified, the Sages were lenient as regards who gave the evidence to that effect.

(33) The actual identification of the dead husband must be clear beyond the peradventure of a doubt.

Bechoroth 47a

[The phrase] 'But he shall acknowledge' is one thing¹ and the phrase 'The show of their countenance' is another.² It has been stated: If he had children while he was a heathen and he became a proselyte, R. Johanan says: He cannot have a first-born [with the privileges of] inheritance, whereas R. Simeon b. Lakish says: He can have a first-born with respect to inheritance. R. Johanan holds that he cannot have a first-born with respect to inheritance, for he already had 'the beginning of his strength', whereas R. Simeon b. Lakish says that he can have a first-born [now] with the privilege of inheritance, because a stranger who became a proselyte is like a newly-born child. And they both follow their own line of reasoning elsewhere. For it has been stated: If he had children while he was a heathen and he became a proselyte, R. Johanan says: He has already fulfilled the command of propagation,³ whereas R. Simeon b. Lakish says: He has not fulfilled the command.

R. Johanan says: He has fulfilled [the command]: Since it is written, He [God] hath created it not in vain, He formed it to be inhabited,⁴ whereas R. Simeon b. Lakish says: He has not fulfilled the command of propagation, for a stranger who became a proselyte is like a newly-born child. And it is necessary [to state both these instances

where R. Johanan and R. Simeon differ]. For if [the difference of opinion between them] had been stated only in the first case,⁵ we might have said that only there does R. Simeon b. Lakish hold that he can have a first-born as regards inheritance because heathens are not legal heirs,⁶ but here we might have thought that he agrees with R. Johanan that [we apply] 'He hath created it not in vain, he formed it to inhabit it', for he has helped to people the earth [by the children he had previously]. And if [the difference of opinion between them] had been stated only in the second case,⁷ we might have said that only in that case does R. Johanan hold this opinion, but with reference to the first case [of inheritance] we might have thought that he agreed with R. Simeon b. Lakish. It was therefore necessary [to mention that they differ in both instances].

We have learnt: IF ONE WHO NEVER HAD CHILDREN BEFORE, MARRIED A WOMAN WHO HAD ALREADY GIVEN BIRTH PREVIOUSLY OR ONE WHO HAD GIVEN BIRTH WHEN SHE WAS A BONDWOMAN BUT IS NOW FREED, OR ONE WHO GAVE BIRTH WHEN SHE WAS A HEATHEN AND HAS SINCE BECOME A PROSELYTE, AND IF WHEN SHE CAME TO THE ISRAELITE SHE BORE A FIRST-BORN THE INFANT IS CONSIDERED A FIRST-BORN [WITH RESPECT] TO INHERITANCE BUT NOT A FIRST-BORN TO BE REDEEMED FROM A PRIEST. Now from whom did she give birth?⁸ Shall I say from an Israelite who had no children? Why then should [the Mishnah] mention a proselyte and a bondwoman,⁹ since this would be the case even with a daughter of Israel?¹⁰ Then¹¹ you must say that she gave birth from a stranger who had children and became a proselyte; and yet it says: THE INFANT IS A FIRST-BORN [WITH RESPECT] TO INHERITANCE, [which confutes R. Johanan's opinion]! —

BECHOROS –31b-61a

No. I may still say that [the Mishnah] means that she gave birth from an Israelite who had no children,¹² and it has to inform us that the infant is not a first-born to be released by redemption, to exclude the ruling of R. Jose the Galilean who said: **THE INFANT IS BOTH A FIRST-BORN WITH RESPECT TO INHERITANCE AND ALSO ONE WHO MUST BE REDEEMED FROM A PRIEST, BECAUSE IT IS SAID IN THE SCRIPTURES: OPENETH THE WOMB AMONG THE CHILDREN OF ISRAEL**¹³ [IMPLYING] UNTIL THE OPENING OF THE WOMB IS OF [THE CHILDREN OF] ISRAEL. [The Mishnah] therefore informs us that it is not so.

Come and hear: If he had children when he was a heathen and he became a proselyte, the infant has the status of a first-born [with respect] to inheritance?¹⁴ — Said Rabina, or, as some say, R. Aha b. Raba: This¹⁵ is certainly the opinion of R. Jose the Galilean, who holds: [Scripture says] ‘**WHOSOEVER OPENETH THE WOMB, UNTIL THE OPENING OF THE WOMB IS OF THE CHILDREN OF ISRAEL**, and we infer the case of the husband from that of the woman.¹⁶

R. Adda b. Ahabah said: If a Levite's daughter gave birth, her son is not subject to the law of redemption [from a priest] with five Sela's. Now from whom did she conceive? Shall I say that she conceived from a priest or a Levite? Why then mention a Levite's daughter, since this is the case even with an Israelite's daughter?¹⁷ Again you should say that she conceived from an Israelite. But is it not written: After their families, by house of their fathers?¹⁸ —

Said R. Papa: The case here then is where she conceived from a gentile.¹⁹ And you should not say that this holds good only for him who maintains that the child²⁰ is not rejected [as the child of a gentile];²¹ but even according to him who holds that the child is

rejected, the son of a Levite's daughter is exempted, for it is called an unfit Levite.²²

Mar son of R. Joseph reported in the name of Raba: I may say still [that the Levite's daughter] conceived from an Israelite, and the case is different there [with reference to redemption from a priest], as Scripture says: ‘**Whatsoever openeth the womb**’: the Law makes it depend on the opening of the womb.²³

We have learnt: **IF ONE HAD CHILDREN ALREADY AND MARRIED A WOMAN WHO HAD NEVER GIVEN BIRTH PREVIOUSLY, OR IF SHE BECAME A PROSELYTE WHEN PREGNANT OR WAS FREED WHEN PREGNANT AND SHE GAVE BIRTH, OR [IF CONFUSION AROSE BETWEEN] HER AND A PRIESTESS, BETWEEN HER AND A LEVITE'S DAUGHTER, BETWEEN HER AND A WOMAN WHO HAD ALREADY GIVEN BIRTH; AND LIKEWISE IF A WOMAN WHO DID NOT WAIT THREE MONTHS AFTER HER HUSBAND'S DEATH MARRIED AND GAVE BIRTH AND IT IS NOT KNOWN IF THE INFANT WAS BORN IN THE NINTH MONTH AFTER THE DEATH OF THE FIRST HUSBAND OR IN THE SEVENTH MONTH SINCE SHE MARRIED THE SECOND, THE CHILD IS A FIRST-BORN TO BE REDEEMED BY A PRIEST BUT NOT A FIRST-BORN [WITH RESPECT] TO INHERITANCE.**

We infer from this that the priestess and the Levite's daughter are not subject to the law of redemption.²⁴ Now from whom did she conceive? Shall I say that she conceived from a priest or a Levite? Why mention [in the Mishnah] the cases of a priestess and a Levite's daughter, since the case is the same with a daughter of an Israelite?²⁵ Again you should say that she conceived from a gentile. But is a priestess [in such circumstances] exempt [from redeeming her son]? Has not R. Papa said: Raba examined us [in laws] as

BECHOROS –31b-61a

follows: 'If a priestess conceived from a gentile, what is the ruling'?²⁶ And I answered him: 'Is this not analogous to the ruling of R. Adda b. Ahaba Who said: If a Levite's daughter gave birth, her son is not subject to the law of redemption with five sela's'?²⁷ And he said to me: But is the analogy correct?

This is no difficulty as regards the case of a Levite's daughter, for she retains her sacred status.²⁸ For it has been taught: If a Levite's daughter was made a captive or if she had intercourse of a licentious character, we nevertheless give her of the tithe²⁹ and she may eat.³⁰ But in the case of a priestess, as soon as she has intercourse with a gentile, she becomes a 'stranger'?³¹ This might be right according to Mar son of R. Joseph who said³² that the Levite's daughter conceived from an Israelite; we can then explain that the Mishnah also refers to a case where the priestess conceived from an Israelite. But according to R. Papa,³³ how will you explain the Mishnah? — I may still say that she conceived from a priest, she herself however being a daughter of an Israelite³⁴ and the reason why [the Mishnah] describes her as a priestess is because her son is a priest.³⁵

(1) Since it does not mention 'Countenance' (פנימ) therefore even the coming forth of the forehead is an identification of birth for purposes of inheritance.

(2) Since Scripture adds here 'countenance' פנימ this shows that the full face is required in the case of identification.

(3) Cf. Gen. I, 28. And they need not remarry.

(4) Isa. XLV, 18. And this he has carried out through the children he has already had.

(5) That of inheritance.

(6) For heathens are not legal inheritors of their fathers' estates after becoming proselytes (Rashi). Tosaf. explains that a heathen can also inherit his father's estate according to biblical law (v. Kid. 17b) and that the Gemara here means that a heathen does not come under the law of the first-born.

(7) Where a gentile has children and he becomes a proselyte.

(8) For the Mishnah says that if she gave birth when she came to the Israelite, the infant was a first-born as regards inheritance.

(9) Implying that the reason why the offspring was a first-born for inheritance was because the children born when she was a gentile were of no account legally.

(10) Where the children born previously are considered genuine children. The infant born now would still be a first-born of inheritance because in the case of inheritance the matter depends on the father, and not on the mother, and as far as he is concerned this infant is his first-born, 'the beginning of his strength'.

(11) The expression AND WHEN SHE CAME TO THE ISRAELITE SHE BORE A FIRST-BORN does not then refer to an Israelite who had no children, but is a separate statement meaning that if a heathen woman had had children and then together with her husband became a proselyte and gave birth to an infant after having come under the influence of Jewish law, it is regarded as a first-born for inheritance.

(12) And there is, as you say, no need for the Mishnah to mention particularly the case of a proselyte as regards inheritance. But it wishes to teach us that the infant is not a first-born to be released from redemption, thus informing us that the previous children are considered as having opened the womb.

(13) Ex. XIII, 2.

(14) This is therefore a confutation of R. Johanan's opinion.

(15) The Baraitha which states that the child is a first-born for inheritance.

(16) That just as in the case of a woman, the previous children do not count legally and therefore the infant is regarded as a first-born and as opening the womb, so in the case of the husband as regards inheritance, the previous children do not count legally and thus this infant is the first-born for inheritance.

(17) Supra 3b, where it says that priests and Levites are exempt from redeeming their first-born.

(18) Num. I, 2. Thus we go after the family of the father but not after that of the mother, and as the father is an Israelite, why is she exempt from redeeming her son?

(19) Who possesses no legal relationship, and it is therefore more appropriate in this case to go after the mother than after the father who is a gentile. We therefore exempt her son from the law of redemption.

(20) Of a marriage between a gentile and a Hebrew woman.

(21) As it is considered legitimate, for we go after the mother, and therefore the son of a Levite's daughter is obviously exempted from the law of redemption. There is a difference of opinion on the subject recorded in Yeb. 45a.

BECHOROS –31b-61a

(22) For although we go after the father and the child is not considered legitimate, the son is yet exempt from the law of redemption, for in this matter we go after the mother (R. Gershom) and the child is considered a disqualified Levite.

(23) I.e., on the mother, in the matter of redemption. Tosaf. observes that we accept as binding the opinion of Mar b. Rab Joseph and that therefore the son of a Levite's daughter or of a priestess who is the wife of an Israelite is exempt from the law of redemption.

(24) For the Mishnah informs us of a new point that although there had been a mixing of the two children and one is subject to redemption and the other exempt, it is the parent whose child is subject to redemption who must give the priest the redemption money and not the priestess or Levite's daughter. The questioner is for the present under the impression that the 'priestess' of the Mishnah means the daughter of a priest.

(25) For since the father is a priest or a Levite, her son is exempt from redemption, even if she be an Israelite's daughter.

(26) Is her son exempt from redemption or not?

(27) And just as a Levite's daughter is exempt from redeeming her son, similarly a priestess is also exempt.

(28) Although she had intercourse with a gentile. And therefore when we 'cast' her son after her, he is like an unfit Levite who is exempt from redemption.

(29) Referring to the first tithe, which is eaten by the Levites.

(30) Yeb. 91a.

(31) Scripture says: And the priest's daughter be married to a stranger, (Lev. XXII, 12) from which we infer (Yeb. 68a) that as soon as she has intercourse with one unfit to marry her, she becomes disqualified from consecrated objects. But a Levite's daughter in similar circumstances is only debarred from marrying a priest and eating Terumah (v. Glos.), but she retains her status of belonging to the Levite community. And since the priestess here is regarded as a 'stranger', her son is subject to the law of redemption, like an Israelite. Consequently one cannot explain that the Mishnah refers to a case where she conceived from a gentile.

(32) Above, in his explanation of the ruling of R. Adda b. Ahabah.

(33) Who explained the ruling of R. Adda to refer to a Levite's daughter who conceived from a gentile.

(34) And not the daughter of a priest.

(35) But a priest's daughter, unless she conceived from a priest, is not exempted from redeeming her first-born, because we do not go after the mother except in the case of a Levite's daughter who conceived from a gentile.

Bechoroth 47b

It was stated: If a priest dies and leaves a son who is a halal R. Hisda said: The son is obliged to redeem himself;² but Rabbah son of R. Huna said: The son is not obliged to redeem himself. 'Wherever the father dies after thirty days [from the son's birth],³ all agree that the son is not obliged to redeem himself, for his father has acquired possession of his redemption [money].⁴ The point at issue however is where the father dies within the thirty days.

R. Hisda says: The son is obliged to redeem himself, since the father did not acquire possession of his redemption.⁵ But Rabbah son of R. Huna said: The son is not obliged to redeem himself, for he can say to the priest: 'I come on the strength of a man with whom you cannot go to law'.⁶ We have learnt: **OR IF SHE BECAME A PROSELYTE WHEN PREGNANT,⁷ [THE INFANT] IS A FIRST-BORN TO BE REDEEMED FROM A PRIEST.** But why so? Why cannot [the son] say [to the priest who claims]: 'I come on the strength of a man [a gentile] with whom you cannot go to law'?⁸ The case of a heathen is different, because he has no legal relationship.⁹

It has been stated: R. Simeon Yasinia reported in the name of R. Simeon b. Lakish: If a priest dies within thirty days [of the birth of his child] and leaves a son who is a Halal, the son is obliged to redeem himself, for the father did not acquire possession of his redemption. If he dies, however, after thirty days [from the son's birth] the son is not obliged to redeem himself, for the father acquired possession of his redemption and the son inherited the redemption money.

AND LIKEWISE A WOMAN WHO DID NOT WAIT THREE MONTHS AFTER HER HUSBAND'S DEATH, etc. [The Mishnah says that] he is not a first-born inheritance, implying however that he takes

BECHOROS –31b-61a

his share as a plain son [i.e., a non first-born]. But why should this be so? Let him go to [the sons] of this one¹⁰ and they can reject [his claim]¹¹ and let him go to the sons of the other and they too can reject his claim?¹² —

Said R. Jeremiah: It would not have been necessary [for the Mishnah] to mention this¹³ except for the case of the one who follows him,¹⁴ the meaning being as follows: He is a first-born to be redeemed from a priest¹⁵ and the one who follows him is not a first-born for inheritance.¹⁶ But let [both the doubtful son and the one who follows him] write out the power of attorney to one another?¹⁷ And should you say that the Mishnah [which says that he is not a first-born of inheritance] refers to a case where no power of attorney was given, is not [the Mishnah] explained later [in this chapter] as referring to a case where a power of attorney was written out, [thus proving that the power of attorney here does not help at all]? —

[The Mishnah] supports the opinion of R. Jannai. For R. Jannai says: If the children [belonging to two women and two husbands] were identified in the beginning but in the end became mixed, they can write out a power of attorney to each other,¹⁸ but if they were not identified in the beginning and in the end became mixed, they cannot write out a power of attorney to each other.¹⁹

MISHNAH. WHICH IS A FIRST-BORN BOTH [IN RESPECT] OF INHERITANCE²⁰ AND OF REDEMPTION FROM A PRIEST? IF [A WOMAN] DISCHARGES A SAC FULL OF WATER OR FULL OF BLOOD OR AN ABORTION CONSISTING OF A BAG FULL OF MANY-COLOURED SUBSTANCE; IF [A WOMAN] DISCHARGES SOMETHING LIKE FISH OR LOCUSTS²¹ OR REPTILES, OR CREEPING THINGS, OR IF SHE DISCHARGES ON THE FORTIETH DAY [OF CONCEPTION],²² [THE INFANT] WHICH FOLLOWS AFTER [THESE DISCHARGES] IS A FIRST-BORN BOTH [IN RESPECT] OF

INHERITANCE AND OF REDEMPTION FROM A PRIEST. NEITHER A FOETUS EXTRACTED BY MEANS OF THE CAESAREAN SECTION²³ NOR THE INFANT WHICH FOLLOWS²⁴ IS EITHER A FIRST-BORN FOR INHERITANCE OR A FIRST-BORN TO BE REDEEMED FROM A PRIEST. R. SIMEON HOWEVER SAYS: THE FIRST²⁵ IS A FIRST-BORN OF INHERITANCE AND THE SECOND IS A FIRST-BORN AS REGARDS THE REDEMPTION WITH FIVE SELA'S.

GEMARA. The first is not a first-born of inheritance because the condition required by Scripture is: And they have borne him.²⁶ It is also not a first-born [as regards redemption] with five Sela's because the condition required [by Scripture] is: Openeth the womb.²⁷ The second offspring is not a first-born of inheritance because the condition required [by Scripture] is: 'The first-fruits of his strength'. He is also not a first-born as regards redemption with five Sela's because [the Tanna in the Mishnah] holds: A firstborn in one respect only [i.e., as regards the womb alone] is not considered a [legal] first-born.

R. SIMEON HOWEVER SAYS: THE FIRST IS A FIRST-BORN FOR INHERITANCE AND THE SECOND IS A FIRST-BORN AS REGARDS REDEMPTION WITH FIVE SELA'S. R. Simeon here follows his line of reasoning elsewhere,²⁸ when he said: [Scripture says], But if she bear,²⁹ intimating the inclusion of a fetus extracted by means of the caesarean section. And the second is a first-born as regards redemption with five Sela's because he holds: A firstborn in one respect only is considered a [legal] first-born.³⁰

(1) Lit., 'profane'. One unfit for the priesthood on account of his father's illegitimate connection.

(2) Because he is on a par with an Israelite and is therefore subject to the law of the first-born.

(3) The period from which redemption of a first-born takes place, Scripture saying: And those

BECHOROS –31b-61a

that are to be redeemed from a month (Num. XVIII, 16).

(4) For even if the father had set aside the five Sela's, being a priest he could have taken them for himself. Since therefore his father acquired the redemption money he leaves it to his son, together with his other estate.

(5) For since he died before the redemption was due, his father did not acquire the redemption money at all so that the son might inherit it.

(6) 'Because if my father were alive, you could not claim the five Sela's. For if he died within the thirty days of my birth, there is no obligation to redeem, and if after the thirty days, then my father acquired possession of the redemption money, seeing that he was a priest himself and I have inherited it. Consequently coming in his place. I claim exemption'.

(7) And she had never born children previously.

(8) Since a gentile is not subject to the law of the first-born.

(9) As far as the first-born is concerned the heathen father has no legal relationship, because a proselyte is considered as a newly-born child, and therefore it is not a case of claiming on his behalf.

(10) E.g., of the first husband.

(11) Maintaining that he is a son of the second husband.

(12) The children of the second husband can assert that he was the son of the first. Why therefore does the Mishnah imply that he at least receives his share as an ordinary son, even if not as a first-born?

(13) That he is not a first-born for inheritance.

(14) The son concerning whom there is a doubt whether he was born in the ninth month of the first husband or in the seventh month of the second husband does not even receive the portion of an ordinary son, for each of the sons on both sides can reject his claim. The Mishnah here however refers to the son who follows the doubtful one.

(15) The doubtful son in any case has opened the womb and is therefore a first-born in this respect, to be redeemed later by himself.

(16) Because his other brothers can say to him that the doubtful son was the son of their father and that therefore the one who follows is not the first-born.

(17) Concerning the share of each so that the doubtful son can claim the first-born's share in either case, as follows: 'If I am a first-born then give it to me for my own sake, and if my brother is a first-born, then give it to me for my brother's sake', because one of the two must be a first-born.

(18) When they all come to inherit, each can reject the claim of the other, maintaining that he

is not his brother. They therefore write out a power of attorney to each other, and approach the inheritors of the two fathers and say to each of them: 'If I am your brother, give me my share, and if this one is your brother, give me his share'.

(19) And the Mishnah here also refers to a case where the children who became mixed were never originally identified as to who was the first-born, so that no-one acquired any claim on the estate as a first-born. This therefore confirms the opinion of R. Jannai, v. B.B. 127a.

(20) Receiving a double share of the estate.

(21) Because fish and locusts are not regarded as offspring because Scripture in Genesis does not use in connection with them the expression 'he formed' ייצר, as it does in connection with man.

(22) Because until the morrow of the fortieth day of conception the fetus is considered as mere water, an embryo taking more than forty days to form.

(23) Lit., 'one who is brought out from the side' (of his mother).

(24) By way of the womb.

(25) The fetus extracted by means of the caesarean section.

(26) Implying that in the case of inheritance the offspring must be born in the normal way, by way of the womb (Deut. XXI, 15).

(27) Ex. XIII, 2.

(28) In Nid. 40a where it says that one born by means of the caesarean section is regarded as a genuine birth, for which the mother must observe the pure and impure periods of confinement. Therefore when it says: And they have borne, etc., a caesarean birth is also regarded as a genuine birth, this being inferred from the former case.

(29) Lev. XII, 5.

(30) As for example here, the second offspring is only the first-born of the womb and is yet considered a legal first-born, whereas the first offspring, although it is the first of the males and the offspring, is nevertheless not considered a genuine first-born, as a primary condition is absent, i.e., that of being the first to open the womb, Scripture making a legal first-born depend on the opening of the womb.

Bechoroth 48a

MISHNAH. IF A MAN'S WIFE HAD NEVER BEFORE GIVEN BIRTH AND SHE GAVE BIRTH TO TWO MALES, HE GIVES FIVE SELA'S TO THE PRIEST.¹ IF ONE OF THEM DIES WITHIN THIRTY DAYS [OF BIRTH] THE FATHER IS EXEMPT.² IF THE FATHER DIES AND THE SONS SURVIVE, R. MEIR

BECHOROS –31b-61a

SAYS: IF THEY GAVE THE FIVE SELA'S BEFORE THE PROPERTY WAS DIVIDED UP, IT IS IRRECOVERABLE³ BUT IF NOT, THEY ARE EXEMPT. BUT R. JUDAH SAYS: THERE IS A CLAIM ON THE PROPERTY. IF SHE GAVE BIRTH TO A MALE AND A FEMALE, THE PRIEST RECEIVES NOTHING.⁴

GEMARA. When did the father die? Shall I say that he died after thirty days [from the offspring's birth]?⁵ Would R. Meir say in this case that when they have divided up [the property] they are exempt from the five Sela's? [How can this be] seeing that the property is mortgaged to the priest [for the five Sela's]?⁶ Then you must say that he died within the thirty days. What then is the reason why where they have divided up [the property the sons are exempt]? [Presumably] because if he [the priest] goes to one, his claim can be rejected,⁷ and if he goes to the other, his claim can again be rejected! Why then should not the same apply to the case where they did not divide up the property, for if [the priest] goes to one, his claim can be rejected and if he goes to the other, his claim can be rejected? —

Said R. Jeremiah: This proves that if there were two men of the name of Joseph b. Simeon in one city⁸ and they purchased a field in partnership, a creditor can claim it from them, for he can say to either: 'If my claim is against you, I am taking your Maneh, and if my claim is against your friend, I am taking the Maneh of your friend'.⁹ **Said Raba:** Let us see. A man's property is surety for him.¹⁰ Can there be a case where one is not able to claim against a man himself and can yet make a claim on his surety? Have we not learnt: If one loans money to his neighbor through a surety, he cannot collect from the surety.¹¹ And it was established by us that the expression 'He cannot collect' meant that he cannot collect first from the surety?¹² But no, said Raba. I may still say that he [the father] died after thirty days; and if there is much property, then indeed [the priest] takes his due.¹³ The

case before us, however, is one in which e.g., there are only five Sela's.

Now all the authorities concerned agree with the ruling of R. Assi. For R. Assi said: After the brothers [heirs] have divided up the estate, with regards to a half of it they are considered as heirs¹⁴ and with regards the other half, they are considered purchasers¹⁵ from one another. Moreover, all agree that a [pecuniary] obligation arising from a rule of the Torah¹⁶

(1) Since one of them must be a first-born.

(2) From redeeming the survivor with five Sela's, as he can maintain that it was the first-born which died and the priest is in the position of a claimant. A similar exemption applies to the surviving son, and the reason why the Mishnah refers to the father is because it wishes to mention in a later clause: IF THE FATHER DIES, etc.

(3) I.e., they cannot demand the return of the five Sela's as they are legally bound to pay the redemption money which is considered a debt on the property. Lit., 'they have given'.

(4) As perhaps the female came forth first. The priest being the claimant, it is for him to prove that the male came forth first.

(5) When the obligation of redemption commenced.

(6) Since it is a real debt.

(7) Saying: 'I am not the first-born but my brother'.

(8) Against one of whom a man produces a note of indebtedness and each of them declares that the other and not he is the debtor.

(9) And here also the priest seizes the five Sela's, his debt, from the joint property and says to them: 'If you are the first-born, I am taking from your portion, and if your brother is the first-born, I am taking from his portion, and you can settle the matter among yourselves'.

(10) It can be attached.

(11) B.B. 174a.

(12) Until he claims from the debtor and the latter has not the means to pay. We therefore say that the first claim is on the debtor. Here, since the father died within the thirty days of the offspring's birth, the priest's claim cannot be made on the actual debtor, and therefore it cannot be made on his surety, i.e., his property.

(13) Because the property was pledged for the five Sela's during the father's life-time, and although the loan is only verbal, the priest can

BECHOROS –31b-61a

claim from the heirs if there is sufficient inheritance to meet the debt.

(14) For there is a doubt whether we accept the principle of Bererah i.e., whether a subsequent disposal has or has not a retrospective legal effect (v. Glos.) and consequently whether after having divided the estate the brothers stand to each other in the relation of co-heirs, or of vendees, each one having so to speak bought the share that fell to him from the other. Therefore in the case here, as we are in doubt, when the estate is subsequently divided up, we maintain that a half which the sons receive is as if they had received it at the beginning, their status being that of inheritors.

(15) In case we do not accept the principle of bererah.

(16) E.g., the duty of redeeming the first-born, valuation and civil damages. Tosaf. adds that this refers only to cases where without a specific command of the Torah, I might not have imposed any liability.

Bechoroth 48b

is not on a par with an obligation in a note.¹ Again, all agree with the ruling of R. Papa. For R. Papa said: One can claim repayment of a verbal loan from the heirs but not from the purchasers. And the point at issue here is whether the [biblical] five Sela's rules out a half of five Sela's [as a redemption].

R. Meir holds: Scripture says five Sela's, thus ruling out a half of five Sela's [as redemption]² whereas R. Judah holds: Five Sela's and even a half of five Sela's.³ If this be the case,⁴ why does [the Mishnah say], R. JUDAH HOWEVER SAYS: THERE IS A CLAIM ON THE PROPERTY? Should it not read as follows: 'There is a claim on the person'?⁵ And moreover it has been taught: R. Judah says: After the brothers [the heirs] have divided up the property,⁶ if there are ten zuz⁷ for one and ten Zuz for the other, they must be redeemed from the priest, but if not,⁸ they are exempt. Now what does R. Judah mean by the expression 'ten Zuz for one and ten Zuz for the other'? Shall I say that he refers to both the portion [that comes to them] as inheritance and to that part in regard to which the heirs are considered vendees?⁹ If this be the case, why

does R. Judah mention ten Zuz, for the same also applies to less than ten zuz?¹⁰ Then he certainly means that there are ten Zuz [coming] as inheritance to one and ten Zuz [coming] as inheritance to the other.¹¹ Consequently we see that he holds that the [biblical] five Sela's excludes [redemption with] half the five Sela's! Rather [explain thus]: All the authorities concerned agree that the five Sela's [of redemption] excludes [a redemption] with half of five Sela's, and here they differ on the points raised by R. Assi and R. Papa.¹² Some report this [whole argument] in connection with the latter clause [in our Mishnah as follows]. R. JUDAH SAYS: THERE IS A CLAIM ON THE PROPERTY. Now when did the father die? Shall I say that he died after thirty days? This would imply that R. Meir holds that when the property is divided up they are exempt from redemption. But is not the property pledged for redemption? Then we must say that he died within thirty days. But why then does R. Judah make the survivor liable to redemption, for if the priest goes to one his claim can be rejected, and if he goes to the other, his claim can again be rejected? — Said R. Jeremiah: This proves that if there were two men of the name of Joseph b. Simeon in one city and one purchased a field from the other, a creditor can claim from him¹³ for he can say to him: 'If my claim is against you, I am taking your Maneh, and if the claim is against your friend, the property is pledged to me for the debt before your claim'. Said Raba: Now a man's property is surety for him, etc., as in the first version.¹⁴

MISHNAH. IF TWO WOMEN¹⁵ HAD NEVER BEFORE GIVEN BIRTH AND THEY GAVE BIRTH TO TWO MALES, HE [THE FATHER] GIVES TEN SELA'S TO THE PRIEST.

IF ONE OF THE CHILDREN DIES WITHIN THIRTY DAYS [OF ITS BIRTH], IF HE GAVE THE REDEMPTION MONEY TO ONE PRIEST ALONE, HE RETURNS FIVE SELA'S TO HIM,¹⁶ BUT IF HE GAVE IT TO TWO PRIESTS, HE CANNOT RECLAIM THE

BECHOROS –31b-61a

MONEY FROM THEM.¹⁷ IF THEY GAVE BIRTH TO A MALE AND A FEMALE OR TO TWO MALES AND A FEMALE,¹⁸ HE GIVES FIVE SELA'S TO THE PRIEST.¹⁹

IF THEY GAVE BIRTH TO TWO FEMALES AND A MALE OR TO TWO MALES AND TWO FEMALES, THE PRIEST RECEIVES NOTHING.²⁰

IF ONE WOMAN HAD GIVEN BIRTH BEFORE AND THE OTHER HAD NEVER GIVEN BIRTH, AND THEY GAVE BIRTH TO TWO MALES, HE GIVES FIVE SELA'S TO THE PRIEST.²¹

IF ONE OF THE CHILDREN DIED WITHIN THIRTY DAYS [OF ITS BIRTH], THE FATHER IS EXEMPT.²²

IF THE FATHER DIES AND THE CHILDREN SURVIVE, R. MEIR SAYS: IF THEY GAVE THE REDEMPTION MONEY BEFORE THE DIVIDING UP [OF THE PROPERTY], IT IS IRRECOVERABLE, BUT IF NOT, THEY ARE EXEMPT, BUT R. JUDAH SAYS: THERE IS A CLAIM ON THE PROPERTY.

IF THEY GAVE BIRTH TO A MALE AND A FEMALE, THE PRIEST RECEIVES NOTHING.

IF TWO WOMEN WHO HAD NEVER BEFORE GIVEN BIRTH MARRIED TWO MEN AND GAVE BIRTH TO TWO MALES, THE ONE FATHER GIVES FIVE SELA'S TO THE PRIEST AND THE OTHER GIVES FIVE SELA'S TO THE PRIEST. IF ONE OF THE CHILDREN DIED WITHIN THIRTY DAYS [OF ITS BIRTH], IF THEY GAVE THE REDEMPTION MONEY TO ONE PRIEST ALONE, HE RETURNS FIVE SELA'S TO THEM,²³ BUT IF THEY GAVE THE MONEY TO TWO PRIESTS, THEY ARE NOT ABLE TO CLAIM IT FROM THEM.²⁴

IF THEY GAVE BIRTH TO A MALE AND A FEMALE, THE FATHERS ARE EXEMPT FROM THE DUTY OF REDEMPTION,²⁵

WHEREAS THE SON MUST REDEEM HIMSELF [AS IN ANY CASE HE IS A FIRST-BORN].

IF THEY GAVE BIRTH TO TWO FEMALES AND A MALE OR TO TWO FEMALES AND TWO MALES, THE PRIEST RECEIVES NOTHING.²⁶

IF ONE WOMAN HAD GIVEN BIRTH BEFORE AND THE OTHER HAD NEVER BEFORE GIVEN BIRTH, THE WOMEN BELONGING TO TWO HUSBANDS, AND THEY GAVE BIRTH TO TWO MALES, THE ONE WHOSE WIFE HAD NEVER BEFORE GIVEN BIRTH GIVES FIVE SELA'S TO THE PRIEST. IF THEY GAVE BIRTH TO A MALE AND A FEMALE, THE PRIEST RECEIVES NOTHING.²⁷

GEMARA. What is the reason that in the case of two priests the redemption money cannot be recovered? Presumably because if he [the father] goes to one priest his claim can be rejected, and if he goes to the other his claim can again be rejected. Why then should we not apply the same principle to the case of one priest, so that if one father goes to the priest the latter can reject his demand [to return the money]²⁸ and if the other goes to the priest, the latter can also reject his demand? —

Said Samuel:

- (1) But is regarded as a verbal loan.
- (2) Consequently the inheritors are exempt. For half of their share is considered as belonging to them as vendees and there is thus no inheritance left except two-and-a-half Sela's, and the priest is not able to claim this, since a verbal loan cannot be claimed from property in the hands of the buyers.
- (3) And the priest can therefore take the half which is considered as the inheritance.
- (4) If you say that we are dealing here with the case where he died after the thirty days.
- (5) The father. For since we are referring to a case where the father died after the thirty days when there was a duty upon him to redeem, it would have been more appropriate for R. Judah

BECHOROS –31b-61a

to declare there is a liability standing against the father which the survivors must discharge.

(6) And both the brothers are cases of doubtful first-born.

(7) I.e., two-and-a-half- Sela's; a sela' == four Zuz.

(8) If there are not ten Zuz for each survivor.

(9) And when R. Judah declares that they are obliged to be redeemed from the priest, he means from the portion of the inheritance, since you say that all hold the view of R. Assi and R. Papa. Consequently we infer from this that R. Judah maintains that one can redeem a first-born with even less than the statutory five Sela's of the Bible.

(10) Even for example, if each brother had only eight Zuz, making four Sela's in all, of which the priest would receive two, as the other half is considered as property bought from each other, the law would be the same. Consequently what need is there for R. Judah to mention specially the figure of ten Zuz, for, since the whole of the redemption money cannot be paid, a third or a fourth of the sum is also valid.

(11) Apart from the half of the property in regard to which they are considered vendees, making five Sela's as the portion that comes to them as inheritance.

(12) R. Meir holds with both R. Assi and R. Papa, and as there is not more than five Sela's altogether, the priest takes nothing. for the five Sela's of the Bible is strictly meant and one cannot therefore effect redemption with less than this sum. As for R. Judah, if he agrees with R. Assi that in regard to half of the property they are considered vendees, and not with the opinion of R. Papa, that a verbal loan cannot be claimed from property in the hands of buyers. the priest takes the whole. And if he does not agree with the opinion of R. Assi, but holds that in regard to the entire property they are regarded as heirs, then, whether he agrees with R. Papa or not, the priest takes the whole of the five Sela's. According to this explanation we therefore interpret the Baraitha as follows: If there are ten Zuz altogether for each brother, they must give all their property for redemption, but if there is not property of the value of five Sela's, the survivors are exempt from the duty of redemption, for the statutory five Sela's exclude a redemption of less than this amount (Rashi).

(13) As here where R. Judah holds that heirs who have divided up the property are considered as buyers.

(14) To the end of the argumentation.

(15) Married to one husband.

(16) Because since one child died within thirty days of its birth, then clearly the child was an untimely birth and therefore the priest is not

entitled to receive redemption money (Rashi). According to Tosaf. 49a s.v. נה the reason why the money is returned is not because the child was a non-viable birth, for even if it was a viable birth, since it died within thirty days, there is exemption, the Torah making redemption of the first-born dependent on its being a month old.

(17) Because each priest can rebut the father's claim by declaring 'I am retaining the redemption money on account of the living child'.

(18) In a hiding place, and the children became mixed and the identity of each child could not be ascertained.

(19) As in any case one child must be a first-born. For if one woman gave birth to two males, the first male is the first-born, and if one woman gave birth to a male and a female, then the other gave birth to a male alone which is therefore the first-born, the male which was born with the female being exempt from the law of the firstborn in case the female came forth first.

(20) As we can say in each case that the female came forth first.

(21) As only one child can be a first-born, since one woman had already given birth previously.

(22) From redemption with five Sela's, because he can maintain that it was the offspring of the woman who had never before given birth which had died.

(23) And the two fathers divide the money between them.

(24) For each priest can claim: 'I am retaining the money on account of the living child, as the child on whose behalf I received the money did not die', and the burden of proof is on the claimant, the father.

(25) Because each father can say to the priest that the female offspring belongs to him.

(26) In the case of two females and a male, each one can say that one woman gave birth to the female and the other to a male and a female, the female coming forth first. And with reference also to the case of two females and two males, each can say that the woman gave birth to a female first in each case.

(27) In case the female was born to the woman who had never given birth previously.

(28) Saying: 'It is not your male son which died but your neighbor's, and therefore I am entitled to the five Sela's'.

Bechoroth 49a

We are dealing here with a case where [the fathers] wrote out a power of attorney.¹ But did not the Nehardeans say: We do not write out a private authorization² to take

BECHOROS –31b-61a

possession of movables?³ — This is the case only where the debtor denies indebtedness [to the creditor]⁴ but where there is no such denial, we do write.⁵

A MALE AND A FEMALE THE FATHERS ARE EXEMPT, etc. R. Huna learnt: If they gave birth to two males and a female [in a hiding place and the children became mixed], the priest receives nothing.⁶ And our Tanna?⁷ — Since this is the case only where there are two husbands but not where there is only one husband and two women,⁸ he does not teach this.⁹

MISHNAH. IF THE SON DIES WITHIN THIRTY DAYS [OF HIS BIRTH] ALTHOUGH HE [THE FATHER] GAVE THE PRIEST [THE FIVE SELA'S], HE MUST RETURN THEM.¹⁰ IF, HOWEVER, HE DIES AFTER THIRTY DAYS, ALTHOUGH HE HAS NOT YET GIVEN THE FIVE SELA'S, HE MUST GIVE THEM. IF HE DIES ON THE THIRTIETH DAY, IT IS AS IF HE DIED ON THE PREVIOUS DAY.¹¹ BUT R. AKIBA SAYS: IF HE GAVE [THE FIVE SELA'S] HE CANNOT RECLAIM THEM, BUT IF HE HAD NOT YET GIVEN, HE NEED NOT GIVE.

GEMARA. What is the reason of the Rabbis?¹² — We draw an analogy between the expression 'month'¹³ and 'month'¹⁴ mentioned in the Book of Numbers;¹⁵ just as there [in the latter case] it says 'And upward' so here also in the case of redemption it means 'and upward'.¹⁶ And [what does] R. Akiba [say to this]? — He is in doubt.¹⁷ For since it was necessary to write 'and upward' in connection with the law of valuation¹⁸ and did not leave us to infer this [from the expression 'and upward'] in the Book of Numbers, we have therefore two verses¹⁹ teaching the same thing, and wherever we have two verses teaching the same thing, they cannot serve as an illustration for other cases.²⁰ Yet perhaps [on the other hand] we may say that the rule that the two verses which teach the same thing cannot serve as an illustration

for other cases only applies to such cases as are totally different,²¹ but where the same subject is dealt with,²² the verses do serve as an illustration and consequently he [R. Akiba] is in doubt.²³

Said R. Ashi:²⁴ All the authorities concerned agree that as regards the laws of mourning the thirtieth day is counted as being like the previous day,²⁵ for Samuel said: The law is in accordance with the authority who is lenient in matters of mourning.

MISHNAH. IF THE FATHER DIES WITHIN THIRTY DAYS,²⁶ [THE INFANT] IS UNDER THE PRESUMPTION OF NOT HAVING BEEN REDEEMED²⁷ UNTIL PROOF IS BROUGHT THAT IT HAS BEEN REDEEMED. IF THE FATHER, HOWEVER, DIES AFTER THIRTY DAYS, IT IS UNDER THE PRESUMPTION OF HAVING BEEN REDEEMED UNTIL HE [THE SON] IS TOLD THAT HE WAS NOT REDEEMED.²⁸ IF BOTH THE FATHER AND THE SON REQUIRED REDEMPTION AS FIRST-BORN, THE FATHER TAKES PRECEDENCE OF HIS SON. BUT R. JUDAH SAYS: HIS SON COMES FIRST FOR THE COMMAND TO REDEEM HIM WAS UPON HIS FATHER,²⁹ AND THE COMMAND OF HIS SON IS UPON HIM.

GEMARA. It has been stated: If one redeems his son within thirty days [of his birth], Rab said: His son is [regarded as] redeemed, whereas Samuel says: His son is not redeemed. Said Rabbah: All [the authorities concerned] agree that if he said that his son's redemption should take effect 'from now' his son is not redeemed.³⁰ Again [if he said to the priest within the thirty days] that the redemption should take effect after the thirty days and the money is still then in existence, the son is certainly regarded as redeemed, [for it is as if he had given it now].³¹ Where they differ is where [he said] after the thirty days and the money had been used [by that time].³² [In such a case] Rab said: His son is redeemed, for this is on a par with the law of betrothal of a

BECHOROS –31b-61a

woman.³³ There [in the case of betrothal] although the money was used, is not the betrothal yet valid?

- (1) To each other and therefore one of them can come and claim as follows: 'If mine died, return my redemption money, and if the child of my neighbor died, return me his five Sela's, for I have his authorization'.
- (2) To a creditor to collect or take possession of one's debt.
- (3) Since the movables are not in sight, the declaration has the appearance of a falsehood, in case the debtor does not possess the articles at all, and therefore the witnesses seem to be signing falsely.
- (4) The creditor cannot have an authorization written out in such circumstances, for it has the appearance of a falsehood.
- (5) V. Sheb. 33b.
- (6) The case of two women who had never given birth before married to two men is another instance of where the priest receives nothing. And although one child is a first-born in any case, for if one woman gave birth to two males, then one of them is a first-born and if one woman gave birth to a male and a female and the other gave birth to a male alone this one would be a first-born, nevertheless the son is not bound to redeem himself, for he can say to the priest: 'Perhaps I am not a first-born but the other'.
- (7) In the Mishnah, why does he not mention this case?
- (8) Because in such a case there is one first-born and he must therefore give five Sela's to the priest.
- (9) As the Tanna in the Mishnah only reports instances of the priest receiving nothing where this applies equally to cases of two women married to one husband and two women married to two husbands.
- (10) Because the offspring is an untimely birth (Rashi). Tosaf. says: The reason is because the Torah makes redemption dependent on the offspring being a month old. The Mishnah here refers to certain cases of first-born.
- (11) And had been born within the thirty days previously, and therefore though he has already given the redemption money, the priest must return it.
- (12) Who hold in the Mishnah that if the son dies on the thirtieth day, it is considered as if he had died on the previous day.
- (13) And those that are to be redeemed from a month old (Num. XVIII, 16).
- (14) Number all the first-born of the males of the children of Israel from a month old and upward (Num. III, 40).

(15) Lit., 'The Wilderness'.

(16) That redemption is strictly due only after the thirty days of the child's birth.

(17) Whether we make this analogy.

(18) And if it be from sixty years old and upward (Lev. XXVII, 7). And in Tractate Ar. we draw an analogy between the expression 'year' used here and the 'year' mentioned in the same chapter in connection with the valuation of one twenty-five years old, to the effect that just as in the former case a valuation exactly on the sixtieth birthday is regarded as a valuation under that period, where it makes the person liable to a larger sum, similarly a valuation exactly on the twenty-fifth birthday is regarded as a valuation under that period, although it means paying a smaller sum of money for the person thus valued. The same principle also applies to the valuation of a child on the thirtieth day, the thirtieth day being counted like the previous day, although this means taking a lenient decision, and we do not draw the analogy between the expressions month used with reference to valuation and month used in the Book of Numbers so that there should be no valuation until after it is thirty days old (Rashi).

(19) That in the Book of Numbers in connection with the census of the first-born of Israel and that in connection with the law of valuation.

(20) Hence we are not able to infer from these verses that redemption of a first-born is due only after thirty days from its birth.

(21) As, for example, if the expression 'month' had been mentioned in connection with a subject entirely different from that of the law of valuation or that of a first-born.

(22) As, for example, here in regard to redemption, where month is mentioned also in connection with the subject of a first-born. We can therefore draw the analogy between the expressions month mentioned in connection with the law of the first-born laid down for generations and month mentioned in connection with the census of the Israelites' first-born in the wilderness, since both deal with an identical subject.

(23) And owing to this doubt he says that if the father gave the redemption money, he cannot recover it, but that if he had not given it, he need not give it.

(24) Var. lec.: Samuel(Asheri).

(25) So that if the offspring died on the thirtieth day, the mourning ceremonies need not be observed by the father, as one can say that it was an untimely birth. Var. lec. (v. R. Gershom) have the following version: 'The thirtieth day is considered like the day after' i.e., there is no prohibition of washing one's clothes or cutting the hair.

BECHOROS –31b-61a

(26) Of the birth of the first-born.

(27) Because it is not usual to redeem within the thirty days.

(28) Until the son is informed that the father had said before he died that he had not redeemed him. There is no need for proper witnesses here and a mere statement of not having redeemed suffices, since the presumption that the father had redeemed is not a very strong one, people as a rule not hastening to pay their debts immediately when due. It is not relevant here to say until the priest brings proof that the redemption money had not been paid, for even if he does the son can still maintain that his father gave the five Sela's to some other priest.

(29) The duty of redeeming this father was on his father who died, and the duty of his son is upon him.

(30) The money is considered only as a gift, for there is no obligation to redeem within thirty days.

(31) I.e., after the thirty days.

(32) Lit., 'The money had been consumed'.

(33) If a man gave a woman something and said to her: 'Be thou betrothed after thirty days' in which case the marriage is valid (Kid. 59a).

Bechoroth 49b

In this case too, it is the same. And Samuel?¹ — He can answer thus: There [in the case of betrothal] he can effect the betrothal from now² whereas here, [in the case of redemption], redemption cannot make it take effect 'from now. And although we have an established rule that wherever Rab and Samuel differ in ritual law the ruling adopted is that of Rab and in civil cases the ruling adopted is that of Samuel, here, however, the ruling adopted is that of Samuel. We have learnt:³ If the son dies within thirty days [of his birth] although he has given the priest redemption money, the latter must return it. The reason is because he dies, but if he did not die, the son is considered redeemed!⁴ — We are dealing here with the case where the money is still in existence.

Come and hear: THE INFANT IS UNDER THE PRESUMPTION OF NOT HAVING BEEN REDEEMED UNTIL A PROOF IS BROUGHT THAT IT HAS BEEN

REDEEMED!⁵ — There too it is a case where the money is in existence. A Tanna recited in the presence of Rab Judah: If one redeems his son within thirty days [of its birth] the son is considered redeemed. He said to him: But did not Samuel rule that the son is not redeemed, and you say that the son is considered redeemed? — Read: 'The son is not redeemed'. And although we have an established rule that the ruling adopted is that of Rab in ritual matters and is like Samuel, in civil matters, here, however, the decision is in accordance with the ruling of Samuel.

IF BOTH THE FATHER AND SON REQUIRE REDEMPTION AS FIRST-BORN, THE FATHER TAKES PRECEDENCE OF HIS SON, etc. Our Rabbis taught: If both the father and son require redemption as first-born, the father takes precedence of his son. R. Judah says: His son comes first, for the father's command is upon his father and the command of his son is upon him.

Said R. Jeremiah: All [the authorities concerned] agree that where there are only five Sela's the father takes precedence of the son, the reason being because the command regarding himself is of more importance. The difference arises, however, in the case where there are five Sela's of encumbered property⁶ and five Sela's of free property.

R. Judah holds: An obligation arising from a biblical law [e.g., the duty of redeeming the first-born] is on a par with a loan against a note. Therefore the five Sela's due for himself, he [the priest] goes and seizes from the encumbered property⁷ and with the five Sela's of the free property, he redeems his son [immediately].⁸ But the Rabbis say: An obligation arising from the biblical law is not on a par with a loan against a note,⁹ and therefore the command [of redemption] relating to himself takes precedence.

BECHOROS –31b-61a

MISHNAH. THE FIVE SELA'S OF A FIRST-BORN TAKE THE TYRIAN MANEH AS THEIR STANDARD.¹⁰ AS REGARDS THE THIRTY SHEKELS OF A SLAVE¹¹ AND LIKEWISE THE FIFTY SHEKELS OF ONE WHO VIOLATES A WOMAN,¹² THE INDEMNITY FOR SEDUCTION¹³ AND THE ONE HUNDRED SHEKELS OF ONE WHO SPREADS AN EVIL NAME¹⁴ — IN ALL THESE CASES THE HOLY SHEKEL¹⁵ IS MEANT AND TAKE THE TYRIAN MANEH AS THEIR STANDARD. ALL OF THESE ARE REDEEMED¹⁶ WITH MONEY OR MONEY'S WORTH WITH THE EXCEPTION OF SHEKEL PAYMENTS.¹⁷

GEMARA. What is a Tyrian Maneh? — Said R. Ashi: The Maneh of the Tyrian currency.¹⁸ R. Ammi said: [The Tyrian Maneh is] an Arabian denar.¹⁹ R. Hanina said: A Syriac Istira,²⁰ eight of which are bought for a gold dinar and five of which are the amount for the redemption of the first-born.

- (1) Who says that the child is not redeemed. Wherein lies the difference between this case and the case of a betrothal in similar circumstances?
- (2) Because he can, if he wishes, marry within the thirty days, there being no restriction in this respect.
- (3) Supra 49a.
- (4) Although the redemption took place within the thirty days, which is contra Samuel's decision above.
- (5) But if proof is forthcoming, the firstborn is redeemed, even within the thirty days, contrary to the opinion of Samuel.
- (6) Property pledged or in the hands of buyers.
- (7) The mortgaged property in the hands of buyers, as the mortgaging of the five Sela's for the priest came first in the life-time of his father.
- (8) Because if he gave the free property for his own redemption, then he could no longer redeem his son if the property in the hands of the buyers had been mortgaged before the birth of his son.
- (9) If he therefore gave the free property, i.e., the property in his own possession to the priest for his son's redemption, then he could no longer redeem himself, for the priest cannot seize mortgaged property from the buyers for his five Sela's, as is the case with a loan against a note, where there is created a hypothecary obligation.
- (10) V. infra n. 9.

- (11) Whom an ox gored to death and for which its owner has to pay thirty shekels. Ex. XXI, 32.
- (12) Deut. XXII, 29.
- (13) Ex. XXII, 16.
- (14) Concerning a wife that she did not possess the tokens of virginity. (Deut. XXII, 19).
- (15) Shekels of pure silver (used for Sanctuary purposes) like the Tyrian shekel and so twice the value of an ordinary current shekel mixed with an abby of copper.
- (16) I.e., whatever is to be redeemed viz., the firstborn and consecrated objects.
- (17) The shekels which came to the Temple treasury in Adar (v. Shek. I) could only be bought in the form of silver half shekels. The same also applies to the second tithes, which could only be redeemed with money, and not with money's worth.
- (18) And this Maneh had twenty-five Sela's, a sela' containing four Zuz.
- (19) So Rashi, adding that the seven of the ordinary dinars mentioned in the Talmud, each of which has six Ma'ah, are the equivalent of ten Arabian dinars, the latter dinars being light ones. Tosaf. explains that the golden Arabian dinar was the equivalent of the five Sela's of redemption and that R. Ammi is not referring to the Tyrian Maneh.
- (20) In our edition the text is סרסריא. Rashi has סרסריהא both forms deriving from the word סוריא (Syria). R. Gershom has another form סורסריא deriving from the word סרסור meaning a middle-man, a coin with which much business is transacted, just as a middle-man is the medium of much business.

Bechoroth 50a

R. Johanan Says: Take a Trajanic or Hadrianic dinar which is rubbed off¹ and bought for twenty-five Zuz, and deduct a sixth from it, and the remainder is the amount for the redemption of the first-born. But is not this the sum of twenty-one Zuz minus a danka?² —

Rather deduct a sixth together with a Zuz and the remainder is the amount for the redemption of the first-born. But even so the amount is twenty Zuz minus a danka?³ —

Rather deduct [first] a Zuz and then⁴ a sixth and the remainders⁵ is the amount for the redemption of the first-born which is twenty times the weight of a [Tyrian] dinar, and

BECHOROS –31b-61a

which makes twenty-eight and a half Zuz and a half danka.⁶

Said Raba: The biblical sela' contains three and a third [dinars], because Scripture says: A shekel is twenty gerahs,⁷ which the Targum⁸ renders 'twenty Ma'ah', and it has been taught: Six Ma'ah silver make one denar.⁹ An objection was raised: Does not the holy sela' contain forty-eight dupondia?¹⁰ What business has the [extra] dupondium here?¹¹ The dupondium is an agio [an addition] to the units!¹² —

[The Baraitha] refers to the period after the sela' had been increased in value.¹³ For it was taught in a Baraitha: [Scripture says:] 'A shekel is twenty Gerahs', for thus we learn that a shekel contains twenty Gerahs, whence [do we deduce] that if he wished to increase [the number of Ma'ah] he is at liberty to do so? The text states: '[Twenty Gerahs] shall be [the shekel]'.¹⁴ You might perhaps think that he can decrease [the number of Ma'ah]? [To guard against such an inference] the text states: 'The same is twenty gerahs.'¹⁵

R. Ashi sent seventeen Zuz to R. Aha b. Raba¹⁶ for the redemption of the first-born. He sent him word: 'Let the Master return to me the extra third of a sela' from the redemption-money sent'.¹⁷ He replied to him: 'Let the Master send me another three Zuz which were added to the biblical sela'.¹⁸

Said R. Hanina: Every silver [coinage] [Kesef] mentioned in the Pentateuch without any qualification means a sela', in the Prophets litrae,¹⁹ in the Hagiographa centenaria,²⁰ except the silver [coinage] mentioned in the transaction of Ephron, for although it is mentioned in the Bible without qualification, it means centenaria, because Scripture says: Four hundred shekels of silver current money with the merchant,²¹ and there is a place where the shekels are called centenaria.²²

Said R. Oshaiah: [The Rabbis] proposed to hide all the silver and gold in the world on account of the silver and gold of Jerusalem,²³ until they found a text from the Torah which made their use permissible, because Scripture says: For the robbers shall enter into it and profane it.²⁴ But is Jerusalem the greater portion of the world?²⁵ —

Rather Abaye said, [The Rabbis] proposed hiding the Hadrianic and Trajanic dinars which were rubbed off²⁶ on account of the sacred coinage of Jerusalem,²⁷ until they found a text from the Torah making their use permissible because it is said: 'For the robbers shall enter into it and profane it'.

(1) Jewish coins restamped by Trajan, etc., v. A.Z. Sonc. ed., p. 267 nn. 7-8.

(2) Subtract a sixth of twenty-four from twenty-four leaving twenty, and then deduct a sixth of the remaining Zuz (each Zuz contains six danka) making a total of twenty and five-sixths Zuz viz., twenty-one Zuz minus a danka, whereas the amount required for redemption is five Sela's, or twenty Zuz, one sela' four Zuz.

(3) For a sixth of twenty-five Zuz is four and a sixth, which after deduction leaves twenty and five-sixths Zuz. Deduct again one Zuz and you have twenty Zuz minus one danka, which is less than the prescribed amount.

(4) Of the remaining twenty-four Zuz.

(5) Twenty-five minus one minus one-sixth of twenty-four twenty (Zuz).

(6) According to the Arabian dinar, because seven Tyrian dinars make ten Arabian dinars, therefore fourteen Tyrian dinars make twenty Arabian dinars. The remaining six dinars (to complete the twenty dinars i.e., the twenty Zuz, a dinar being identified with a Zuz) make eight and a half dinars and a half of a danka i.e., a dupondium. For since every dinar contains twelve dupondia and the proportion between a Tyrian and an Arabian coin is as ten to seven, one Tyrian dinar will therefore be seventeen and a seventh dupondia, a surplus of five and one-seventh dupondia over the Arabian standard. Consequently, for the remaining six Tyrian dinars we have a surplus, according to the Arabian standard, of thirty-one dupondia minus a negligible amount. These thirty-one dupondia make two and a half dinars plus one dupondium. Therefore six Tyrian dinars make eight and a half Arabian dinars plus one dupondium and

BECHOROS –31b-61a

together with the fourteen Tyrian dinars which equal twenty Arabian dinars, we have thus in twenty Tyrian dinars the equivalent of twenty-eight and a half Arabian dinars plus a half of a danka viz., one dupondium.

(7) Ex. XXX, 13.

(8) Sc. Targum Onkelos.

(9) Therefore three dinars make eighteen Ma'ah and a third of a dinar makes two Ma'ah, as each dinar contains six Ma'ah, a shekel thus amounting in all to twenty Ma'ah.

(10) If a man sanctifies his field in the year of Jubilee, Scripture lays it down that he redeems it according to the standard of a homer of barley seed for fifty shekels of silver, and this is explained as meaning that he pays forty-nine Sela's and forty-nine dupondia for the forty-nine years of the Jubilee. The question therefore arises, does not the holy sela', etc., since a holy sela' contains only forty-eight dupondia, and therefore it comes about that he redeems the field for fifty shekels plus a dupondium.

(11) Since Scripture explicitly says fifty shekels and not more.

(12) The Baraitha after all says that the holy sela' contains forty-eight dupondia, which are four Tyrian dinars, for each dinar contains twelve dupondia. This Baraitha will therefore raise a difficulty as regards Rab's opinion.

(13) A sixth was added to the value of a biblical sela' and it was made a Tyrian sela' containing twenty-four Ma'ah, i.e., four dinars.

(14) Lev. XXVII, 25. Implying that one can go on adding more.

(15) Lit., 'twenty Gerahs it is' (Num. XVIII, 16). The word גרָה being used here in the restrictive sense.

(16) Who was a priest.

(17) Each sela' containing three and a third dinars, five Sela's therefore making seventeen dinars minus a third.

Consequently, in sending him seventeen dinars there was an addition of a third of a dinar.

(18) Because a sela' has four dinars, five Sela's therefore making twenty dinars. You therefore owe me another three dinars to make up the twenty dinars.

(19) Twenty-five Sela's.

(20) One hundred Sela's in each shekel.

(21) Gen. XXIII, 16. Intimating that wherever there were merchants, these shekels were accepted as such.

(22) Where as many as a hundred Sela's are given for a shekel. Hence the 'silver' (Kesef) mentioned there in the Ephron transaction, although it is not explicitly stated, must mean centenaria.

(23) To save those in the Temple treasury, which were holy and forbidden to be used by strangers,

becoming mixed with the gold and silver belonging to the Gentiles.

(24) Ezek. VII, 22. Implying that when the robbers came and took the Temple monies they profaned them and they became Hullin, devoid of any sanctity.

(25) That we should forbid the use of all silver and gold in the world for fear of using that of Jerusalem.

(26) These coins were from Jerusalem and the majority of them came from Jerusalem.

(27) With which sacred things were redeemed (R. Gershom); v. A.Z., Sonc. ed., p. 267 notes.

Bechoroth 50b

Rab Judah reported in the name of R. Assi: Every silver coinage mentioned in the Pentateuch without any qualification means in Tyrian currency;¹ in the teaching of the Rabbis, it means in the currency of the province [an eighth of the silver coinage of the Pentateuch]. And is this a general rule? Have we not the case of one making a claim,² for it is written: If a man shall deliver unto his neighbor silver [coinage] or stuff to keep,³ and we have learnt: For an oath to be imposed by the judges,⁴ the claim must amount to not less than two [silver] ma'ah?⁵ —

There⁶ the reason is because the Torah says: Silver [coinage] or stuff;⁷ just as stuff means two,⁸ so silver [coinage] also means two coins;⁹ and again, as silver [coinage] means something of value,¹⁰ so stuff means also something of value.¹¹ But is there not the case of tithing, for it is written: And bind up the silver [coinage] in thine hand,¹² and we have learnt: If one changes¹³ [at the banker's] a Sela's [worth] from the monies of second tithes?¹⁴ —

[The three-fold] repetition of the word 'silver' intimates an amplification.¹⁵ But is there not the case of hekdesch,¹⁶ of which it is written: And he shall give the silver [coinage] and it shall be assured to him,¹⁷ and Samuel ruled: If Hekdesch worth a Maneh has been redeemed against a Perutah, it is a valid redemption?¹⁸ —

BECHOROS –31b-61a

In the case of Hekdesh too we draw an analogy between the expression ‘holy’ used in this connection¹⁹ and ‘holy’ used in connection with the second tithes.²⁰ But is there not the case of a woman's betrothal, for it is written Then she shall go out free without silver [coinage],²¹ and we have learnt [in a Mishnah]: Beth Shammai say: [Betrothal must take place] with a dinar and the worth of a dinar, whereas Beth Hillel say with a Perutah and the worth of a Perutah? Must it then be said that R. Assi agrees with the opinion of Beth Shammai?²² —

Rather we must say that if it²³ has been stated, it was stated thus: Rab Judah reported in the name of R. Assi: Every silver [coinage] mentioned in the Pentateuch in connection with defined payments²⁴ means in the Tyrian currency, and that mentioned in the teaching of the Rabbis means in the currency of the province.²⁵ What does he teach us thereby? Have we not learnt this already: FIVE SELA'S OF A FIRST-BORN, etc.? He needed to teach us that the silver [coinage] mentioned by the Rabbis meant according to the provincial standard. For we have learnt: If one boxes his neighbor's ear,²⁶ he must compensate him with a sela'. Think not therefore that it means a sela' of four Zuz, but it means half a zuz,²⁷ for people call half a Zuz a sela'.

The ruffian Hanan boxed a man's ear.²⁸ He was brought before R. Huna. The latter said to him: Give him half a Zuz as compensation. He possessed

(1) And where the Scripture says shekel it means a Tyrian sela', which has four dinars, and where it does not say shekel but Kesef (silver coinage) it means a Tyrian dinar. In B.K. 36b the author of this passage is given as Rab.

(2) Against his neighbor as follows: ‘I gave you a certain sum of money’.

(3) Ex. XXII, 6.

(4) Arising from the defendant's admission of his partial indebtedness.

(5) I.e., a third of a dinar. We see therefore that Kesef mentioned in the Torah does not mean a

Tyrian dinar as Rab declares, for if the Torah meant two dinars, then it should read: Two Kesef.

(6) In Ex. XXII, 6.

(7) Suggesting a comparison between כסף (silver coinage) and כליים (stuff).

(8) כליים lit. means ‘vessels’, the plural implying at least two. V. further notes Shebu., Sonc. ed., pp. 240 and 247.

(9) Even if not possessing the value of dinars but of Ma'ah.

(10) For a Ma'ah has some value and worth.

(11) And not something which is entirely insignificant and negligible.

(12) Deut. XIV; 25.

(13) Lit., ‘breaks into small change’ (Jast.).

(14) He has Perutahs, small coins which he desires to change into silver Sela's on account of the trouble of carrying them to Jerusalem, v. M. Sh., II, 8. We see from this that originally he exchanged the second tithes for Perutahs, although Scripture here uses the expression ‘silver’.

(15) That he can sell the second tithes for any kind of money. The word ‘silver’ occurs three times as follows: Then thou shalt turn it into silver (Kesef). (Deut. XIV, 25). And bind up the silver (Kesef). (Ibid.). And thou shalt bestow that silver.

(Ibid. verse 26).

(16) That which is dedicated to a sacred purpose.

(17) The latter part of this quotation וקם לו is in Lev. XXVII, 19 and the word ‘silver’ is mentioned several times in the context, but does not immediately precede And he shall, etc., v. B.M., Sonc. ed., p. 321, n. 1.

(18) We see therefore that the Hekdesh was once redeemed against Perutahs, which are copper coins, not silver.

(19) And when a man shall sanctify this house to be holy. (Lev. XXVII, 14).

(20) And all the tithe of the land whether of the seed of the land or of the fruit of the land is the Lord's. It is holy unto the Lord (Lev. XXVII, 30).

(21) Ex. XXI, 11. And we interpret this verse in Kid. 4a as follows: There is no silver coinage for this master, i.e., the master who employed a Hebrew maid-servant receives no money on her leaving him. But where she leaves another master, i.e., her father, the latter acquires the betrothal money.

(22) For since it mentions ‘silver’ here, according to R. Assi, it means a Tyrian silver dinar, which is in harmony with the view of Beth Shammai, and usually the Halachah is not according to Beth Shammai.

(23) A ruling defining the biblical Kesef.

(24) Viz., five Sela's of redemption, the thirty shekels in connection with a slave, etc., whereas

BECHOROS –31b-61a

the cases cited above from which we questioned Rab's teaching are not of this character.

(25) Which is an eighth of the biblical silver coinage, v. infra.

(26) Aliter: Who shouts in his neighbor's ear.

(27) Which is an eighth of a Tyrian sela'.

(28) V. n. 8.

Bechoroth 51a

a battered Zuz which could not be passed.¹ [He wanted to give him half a Zuz from it. The other had no change.] So he gave him another box on the ear and handed to him the whole Zuz.

THE THIRTY SHEKELS OF A SLAVE, LIKEWISE THE FIFTY SHEKELS OF ONE WHO VIOLATES A WOMAN AND THE INDEMNITY OF FIFTY SHEKELS FOR SEDUCTION, etc. Why does he mention this again?² Has he not mentioned this in an earlier clause? The repetition³ is needed on account of the cases of one who violates a woman and one who spreads an evil name. I might have thought that since Shekalim is not written in connection with these cases⁴ I might say that mere Zuz are sufficient.⁵ The Tanna therefore informs us that we infer one from the other.⁶

WITH THE EXCEPTION OF SHEKEL PAYMENTS. A Tanna taught: With the exception of shekel payments, second tithes⁷ and the pilgrim's⁸ burnt-offering,⁹ 'Shekel payments', as we have learnt.¹⁰ You may exchange¹¹ shekels for darics¹² on account of the burden of the journey.¹³ 'Second tithes', as it is written:¹⁴ And bind up the money in thine hand.¹⁵ 'And the pilgrim's burnt-offering'. R. Joseph learnt: In order that one may not bring base metal to the Temple.¹⁶

MISHNAH. WE MUST NOT REDEEM [A FIRST-BORN OF MAN] WITH SLAVES,¹⁷ NOR WITH NOTES OF INDEBTEDNESS,¹⁸ NOR WITH IMMOVABLE PROPERTIES, NOR WITH OBJECTS OF HEKDESH.¹⁹ IF ONE GIVES A WRITTEN ACKNOWLEDGMENT TO A PRIEST THAT

HE OWES HIM FIVE SELA'S²⁰ HE IS BOUND TO GIVE THEM TO HIM, ALTHOUGH HIS SON IS NOT CONSIDERED AS REDEEMED THEREBY.²¹ THEREFORE,²² IF THE PRIEST WISHES TO GIVE HIM [THE NOTE OF INDEBTEDNESS] AS A GIFT HE IS PERMITTED TO DO SO,²³ IF ONE SET ASIDE THE REDEMPTION MONEY OF HIS SON AND IT BECAME LOST, HE IS RESPONSIBLE FOR IT, BECAUSE IT SAYS: SHALL BE THINE [BUT] THOU SHALT SURELY REDEEM.²⁴

GEMARA. Our Mishnah²⁵ is in accordance with the opinion of Rabbi. For it has been taught: Rabbi says: We may redeem a first-born of man with all things except notes of indebtedness. What is the reason of Rabbi? — He interprets the Bible texts on the lines of amplifications and limitations [as follows]: And those that are to be redeemed from a month²⁶ is an amplification; According to thy estimation of the money²⁶ is a limitation, and Shalt thou redeem²⁷ is a further amplification. [The text therefore here] amplifies and limits and then amplifies again. It therefore includes all. What does it include by amplifying? — All things. And what does the text exclude by limiting? — It excludes notes of indebtedness.²⁸

But the Rabbis [his disputants] interpret the Bible texts on the lines of generalizations and specifications, [thus]: 'And those that are to be redeemed' is a general statement: 'According to thy estimation of the money', is a specification, 'Shalt thou redeem' again is a general statement.²⁹ We have therefore here a general statement and a specification, and again a generalization, in which case we include in the general statement only such things as are similar to those specified. As therefore the specification explicitly mentions a movable object and that which is itself money, so everything [with which we may redeem] must be a movable object and that which is itself money. Immovable properties are therefore excluded [as being proper to redeem with] because they are not

BECHOROS –31b-61a

movables. Slaves are also excluded, as they are compared with immovable properties,³⁰ and notes of indebtedness are excluded because, although they are movables, they are not in themselves money.³¹ Said Rabina to Meremar: But does Rabbi interpret [Bible texts] on the lines of amplifications and limitations? Does not Rabbi interpret [Bible texts] on the lines of generalizations followed by specifications in connection with [the law of boring a slave's ear with] an awl? For it was taught: [Scripture says], An awl,³² I have here [mentioned] only an awl [wherewith to bore a slave's ear]. Whence do we include a prick, thorn, needle, borer or stylus?

The text states: Then thou shalt take, thus including every object which can be taken in the hand. This is the view of R. Jose son of R. Judah. Rabbi, however, says: 'An awl'; just as an awl is exclusively of metal, so anything [used for boring a slave's ear] must be of metal. And we stated elsewhere:³³ Wherein do they differ? Rabbi interprets [the biblical text] on the lines of generalizations and specifications,³⁴ whereas R. Jose son of R. Judah interprets on the lines of amplifications and limitations.³⁵ —

Yes, elsewhere Rabbi interprets [biblical texts] on the lines of generalizations and specifications. The case however is different here,³⁶ as a Tanna of the school of R. Ishmael taught: For a Tanna of the school of R. Ishmael taught, [Scripture says]: 'In the waters, in the waters';³⁷ the repetition is not to be interpreted as a general statement followed by a specification, but as an amplification and a limitation.³⁸ And the Rabbis? They say³⁹ it was explained in the West [Palestinian colleges]:⁴⁰ Wherever you find two general statements in proximity, place the specification between them and interpret them on the lines of generalizations and specifications.⁴¹

NOR WITH OBJECTS OF HEKDESH. Surely this is obvious,⁴² since they do not belong to him! Read:

(1) It was not accepted in the city and was worth little to him. Inserted in the Bah, v. B.K 37a.

(2) In the words **IN ALL THESE CASES THE HOLY SHEKEL IS MEANT AND TAKE THE TYRIAN MANEH**, etc. since the Tanna has already mentioned earlier that the coin must be of the Tyrian currency.

(3) Of the clause and **IN THESE CASES**, etc.

(4) There being no mention in the Torah that the payment must be in shekels. And although the Mishnah does not mention the holy shekel in connection with the other cases enumerated, the word shekel is used in the Scriptures with reference to them. In connection with the first-born Scripture says, Five shekels by the poll (Num. III, 47). With reference to a Slave it says: He shall give the master thirty shekels. (Ex. XXI, 32). And with reference to seduction it says: He shall pay silver (ישקול). (Ex. XXII, 16).

(5) That where the expression shekel is mentioned he must pay Tyrian shekels, but where the expression shekel is not mentioned, he can pay even in Tyrian dinars (Zuz).

(6) By stating: **IN ALL THESE CASES** etc, it teaches us that all cases in which payment is defined in the Pentateuch have the same rule i.e., payment in shekels on the Tyrian standard in accordance with the ruling of R. Assi above. Some editions have the following reading: '**ALL OF THESE ARE REDEEMED**, etc. But are all these redeemable (since redemption only applies to a first-born and not to cases like the thirty shekels of a slave, etc.?) — This is what (the Mishnah) means: And all of these cases which can be redeemed, viz., the first-born of man and consecrated objects'.

(Sh. Mek).

(7) These are not redeemed except with stamped money, even stamped Perutahs however being permitted.

(8) Lit., 'the appearance' in the Temple of the pilgrim.

(9) Which is bought for two Ma'ah which must be in stamped money.

(10) Shek. II, 1.

(11) Lit., 'combine'. Several half shekel payments are combined for purposes of exchange.

(12) A Persian gold and silver coin. (Jast.). Some editions have דרכון.

(13) Because their gold coins are stamped, but other coins which are unstamped cannot be sent to Jerusalem. And the same limitation applies to money's worth, in case it drops in value and Hekdesh will thus suffer a loss.

BECHOROS –31b-61a

(14) Deut. XIV, 25.

(15) **וצרת** And bind up, the Hebrew word itself suggesting that the money must have a **צורה** i.e., a stamp.

(16) Rashi has the version **סיגה וכסף סיגים** ‘base metal or non-purified silver’, and adds that the Baraitha is adduced by R. Joseph to support the previous Baraitha but not to explain it. Tosaf., however, says that R. Joseph's Baraitha explains the previous Baraitha as follows: The reason why it is forbidden to bring a pilgrim's burnt-offering from money's worth is because sometimes he may bring base metal or non-purified silver which will not possess the value of two silver Ma'ah, and as a result he will not be able to purchase a good burnt-offering.

(17) Although the Mishnah says above that one may redeem with money's worth, redemption cannot be effected with slaves, etc.

(18) If one has a bond of five Sela's against a debtor he cannot give this to the priest in payment of the redemption of his son.

(19) V. Glos. Explained later in the Gemara as meaning that Hekdesh has the same rule, i.e., that it cannot be redeemed with slaves, etc.

(20) On account of redemption of his first-born.

(21) For fear it should be said that it is permissible to redeem with notes of indebtedness.

(22) Since he has to give the priest a further five Sela's. Another explanation is: Since the Torah ruled (v. infra) that one cannot redeem with notes of indebtedness, therefore the priest cannot remit his debt, and there is no other remedy except making the bond a gift to the father.

(23) As there is no other way in which the father can recover the money.

(24) Num. XVIII, 15, implying that only when the priest has the redemption money the first-born is redeemed.

(25) Which says that the redemption of the first-born cannot be effected with slaves, etc.

(26) Num. XVIII, 16.

(27) So Sh. Mek. rightly deleting the words ‘shalt thou redeem’ of cur. edd.

(28) Because they are of no value.

(29) And although the general statement ‘Shalt thou redeem’ comes before the specification, we nevertheless expound the texts on the lines of a general statement followed by specification.

(30) Scripture saying (Lev. XXV, 46) in connection with slaves: And ye shall take them as an inheritance, the term **נחלה** (inheritance) being applied to immovable property.

(31) On these two methods of expositions v. Shebu., Sonc. ed., p. 12, n. 3.

(32) Deut. XV, 17.

(33) V. Kid. 21a.

(34) ‘Then thou shalt take’ is a general statement, ‘An awl’ is a specification, ‘And thrust it through his ear’ is again a general statement.

(35) The amplification includes everything which can bore the ear, and the limitation only excludes poison as a means of boring the ear.

(36) With reference to the redemption of the first-born.

(37) Lev. XI, 9.

(38) The texts ‘These may ye eat of all that are in the waters’ and ‘Whatsoever hath fins and scales in the waters’ are two general statements intimating that in all waters, in order that the fish may be eaten, we require them to possess fins and scales. This is followed by a specification ‘In the seas’ and ‘In the rivers’, implying that only in flowing waters do we require fins and scales, but in gathered waters we can eat fish without fins and scales. And whenever we have two statements in close proximity as is the case here, we do not interpret the biblical text on the lines of a general statement and specifications but of amplifications and limitations (v. Hul. 66b). Similarly, in the case of redemption, since the two general statements are in close proximity and the specification subsequently follows (v. p. 351, supra n. 7), Rabbi interprets the texts on the lines of amplification and limitation.

(39) Who expounded the biblical texts on the lines of generalizations and specifications.

(40) Var. lec. (v. R. Gershom): ‘Said Rabina as it was explained, etc.’.

(41) And the fact that the specification follows the two generalizations makes no difference.

(42) That we cannot redeem the first-born with consecrated objects.

Bechoroth 51b

And objects of Hekdesh cannot be redeemed with all these.¹

IF ONE WRITES OUT TO A PRIEST THAT HE OWES HIM FIVE SELA'S, HE IS BOUND TO GIVE THEM TO HIM, etc. Said ‘Ulla: According to the biblical law, his son is redeemed after payment; why then [does the Mishnah say that] his son is not redeemed? It is a precaution in case people might say that it is permissible to redeem with notes of indebtedness.² [And Rab Shesheth ruled likewise: His son is redeemed after payment].³

BECHOROS –31b-61a

A Tanna recited before R. Nahman: His son is redeemed after payment. R. Nahman said to him: This is the teaching of R. Jose son of R. Judah whose opinion has been reported anonymously. (Some Say: This is the teaching of R. Eleazar son of R. Simeon, whose opinion has been reported anonymously.) But the Sages say: His son is not redeemed.⁴ And the Law is that his son is not redeemed.

THEREFORE IF THE PRIEST WISHES TO GIVE HIM [THE NOTE OF INDEBTEDNESS] AS A GIFT, HE IS PERMITTED TO DO SO. [The Mishnah here] teaches what our Rabbis have taught [elsewhere]: If one gave [the five Sela's] to ten priests simultaneously,⁵ he has discharged his duty of redemption. If he gave [the five Sela's] one after the other,⁶ he has discharged his duty. If [the priest] took the redemption money and returned it to him, he has discharged his duty.⁷

And this was the custom of R. Tarfon.⁸ He used to take the five Sela's and then return them. When the Sages heard of this they said: 'This [teacher] has observed this law'. And did he only observe this law and no other? — 'This teacher observed even this law'. R. Hanina⁸ was in the habit of taking [the five Sela's] and returning them. Once he saw a man who [after giving him the five Sela's] kept on coming before him.⁹ He said to him: 'You have not given genuinely.¹⁰ You did¹¹ something wrong.¹² Consequently your son is not redeemed'.¹³

IF ONE SET ASIDE THE REDEMPTION [MONEY] FOR HIS SON AND IT BECAME LOST, HE IS RESPONSIBLE FOR IT. How do we know?¹⁴ — Said R. Simeon b. Lakish: We draw an analogy between [the term] 'valuation' used in connection with the redemption of the first-born¹⁵ and [the word] 'valuation' used in connection with the law of valuations.¹⁶

R. Dimi reported in the name of R. Johanan: Scripture says: And all the first-born of thy sons thou shalt redeem and none shall appear before me empty,¹⁷ and we draw an analogy between [the word] 'empty' and [the word] 'empty' used in connection with the burnt-offering of appearance before the Lord¹⁸ [thus]: just as one is responsible for the burnt-offering of appearance,¹⁹ so one is responsible for the redemption money of the first-born.

To this R. Papa demurred: Is there need for a biblical verse to support another biblical verse?²⁰ — No, said R. Papa. The reason [why he is responsible] is as stated: [Scripture says]: Shall be thine shalt thou surely redeem. And when the explanation of Resh Lakish was stated, it was stated in connection with an earlier clause [in the Mishnah]: If the son died after thirty days although he has not yet given the redemption money, he is bound to give it.²¹ How do we know?²² Said R. Simeon b. Lakish: We draw an analogy between [the word] 'valuation' used in connection with the redemption of the first-born and the word 'valuation' used in connection with the law of valuations.²³

R. Dimi reported in the name of R. Johanan: [Scripture says]: 'All the first-born of thy sons thou shalt redeem and none shall appear before me empty': say just as there²⁴ the heirs are responsible for the burnt-offering [it being an obligatory burnt-offering], so here the heirs are responsible [for the redemption money if the father and son die].

MISHNAH. THE FIRST-BORN TAKES A DOUBLE SHARE OF THE FATHER'S ESTATE BUT HE DOES NOT TAKE A DOUBLE SHARE OF THE MOTHERS ESTATE.²⁵ HE ALSO DOES NOT TAKE A DOUBLE SHARE OF THE IMPROVEMENT IN THE VALUE OF THE ESTATE.²⁶ NOR DOES HE TAKE A DOUBLE SHARE OF WHAT WILL FALL DUE [TO THE ESTATE]²⁷

BECHOROS –31b-61a

AS HE DOES OF WHAT IS HELD IN POSSESSION.

- (1) Viz., slaves, bonds, etc.
- (2) Even where he actually gives the priest nothing, or with a bond on which the father claims against his neighbor.
- (3) Inserted with Sh. Mek.
- (4) Tosaf, points out that although this is apparently what the Mishnah says, viz., that he gives him the five Sela's and yet the son is not redeemed, it is possible that R. Nahman holds that what the Mishnah means by the expression 'ALTHOUGH HIS SON IS NOT REDEEMED' is that the son is not redeemed unless payment is made, and that if the priest enters the note as a loan against him, we do not say that it is as if the priest received it and then later lent him the money, or if the priest remits the five Sela's, the son is still not redeemed unless the father pays. R. Nahman therefore informs us that the Sages maintain that the son is not redeemed in such circumstances even after payment of the note.
- (5) Putting the five Sela's before them all and then going his way (Rashi). R. Gershom adds that although this meant that each priest only receives half a sela', yet since altogether he gave the full redemption money, his son is redeemed.
- (6) To one priest. So Rashi. Maimonides appears to refer this to ten priests i.e., that he gave the money between ten priests, but not to them all simultaneously only to one after the other.
- (7) The Halachah will therefore be in accordance with the ruling of the Mishnah, since the Baraitha here supports the Mishnah (R. Gershom).
- (8) He was a priest.
- (9) In order that he should see him and refund his redemption money.
- (10) Lit., 'you have not determined and given'.
- (11) Inserted in the text with Rashi and Tosaf.
- (12) In giving the redemption money with the expectation of getting it refunded.
- (13) 'If I return the money to you'. Another explanation is: 'Even if I do not return the money, your son is not redeemed'.
- (14) That he is responsible for the redemption money. The question is asked in spite of the fact that the Mishnah cites a scriptural verse in support of this ruling, v. infra.
- (15) And those that are redeemed according to thy valuation, Num. XVIII, 16.
- (16) And he shall give thy valuation on that day, etc. (Lev. XXVII, 23). This verse is explained in Hul. 139a as teaching that until the money is in the hands of the Temple treasurer the valuation money is still regarded as Hullin (secular), for

which the person who vows is responsible if it is lost or stolen, as it says 'And he shall give', implying that the money must be actually given if the law of valuation is to be carried out.

(17) Ex. XXXIV, 20.

(18) And none shall appear before me empty (Ex. XXIII, 15).

(19) Because it is an obligatory offering and is no less binding than an offering which one vows of for which he is responsible if it is lost. For since Scripture forbids the pilgrim to appear empty in the Temple, if the offering is lost and he does not bring another, then he would be appearing 'empty' before the Lord. But from the word 'empty' used in connection with a first-born, I could not have inferred that he is responsible for it if lost, as the word 'before me' is not to be taken literally, since a first-born is not brought to the Temple but given to the priest, and I would therefore have said that the mere setting aside of the first-born suffices, there being no further responsibility.

(20) Is there not a biblical verse adduced in the Mishnah to confirm this ruling? What need therefore is there for an additional verse to support the one already quoted in the Mishnah?

(21) V. supra 49a.

(22) That he is bound to give the redemption money even after the death of his son.

(23) In the case of valuations, if one says: 'I vow my value', and he dies, the heir must pay the valuation money, and if one says 'I vow the value of So-and-so', if the latter dies he is bound to pay. And similarly here, if the first-born dies after thirty days, the father is bound to give the five Sela's.

(24) In the case of the pilgrim's burnt-offering of appearance before the Lord.

(25) The property of which the husband has the usufruct only, without responsibility for deterioration or loss.

(26) If it has improved in value since the father's death and before the division. The increase in value of the first-born's second share is assessed in money and divided between the heirs.

(27) But was not in the possession of the father at his death.

Bechoroth 52a

NOR CAN A WOMAN CLAIM WITH HER KETHUBAH [FROM THESE],¹ NOR CAN DAUGHTERS CLAIM THEIR SUPPORT,² NOR CAN A LEVIR CLAIM.³ NONE OF THESE TAKE FROM THE IMPROVEMENT IN THE VALUE OF THE ESTATE, NOR OF WHAT WILL FALL TO THE ESTATE AS

BECHOROS –31b-61a

THEY DO OF WHAT IS NOW HELD IN POSSESSION.

GEMARA. What is the reason? — Scripture say. The right of the first-born is his,⁴ [intimating] that the right of the first-born [is conferred] by a man⁵ but not by a woman.

HE DOES NOT TAKE DOUBLE SHARE OF THE INCREASE IN VALUE because Scripture says: Of all that he hath.⁶

NOR DOES HE TAKE A DOUBLE SHARE OF WHAT WILL FALL DUE [TO THE ESTATE] AS HE DOES OF WHAT IS HELD IN POSSESSION, because Scripture says: Of all that he hath.⁷

NOR CAN A WOMAN CLAIM WITH HER KETHUBAH. Is it really so? Has not Samuel said: A creditors can claim also the improvement in the value of the estate? — Said R. Abba: They have taught here one of the concessions made in connection with the kethubah.⁹

NOR THE OBLIGATIONS OF SUPPORTING THE DAUGHTERS. What is the reason? — Stipulations in a Kethubah are like the kethubah.¹⁰

NOR A LEVIR. What is the reason? Scripture calls him a firstborn.¹¹ Said Abaye: They have taught this¹² only with regard to the improvement in the value of the estate between the death of the brother and the performance of the levirate marriage, but he does take a double share of the improvement of the value of the estate which took place between the period of the performance of the levirate marriage and the division of the estate. What is the reason?

The Divine Law says: Shall succeed in the name of his brother that is dead;¹³ but here is a case of one who succeeded.¹⁴ Raba however says: He does not take the

improvement in the brother's share even between the period of the performance of the levirate marriage and the dividing up of the estate. What is the reason? He has the same law as a first-born;¹⁵ as a first-born does not take [a double share of the improvement in the value of the estate] before the division, so a levir also does not take [a double share of the improvement] before the division.

NONE OF THESE TAKE FROM THE IMPROVEMENT IN THE VALUE OF THE ESTATE.

(1) I.e., from the improvement in value of the estate or from what is to accrue to the estate.

(2) If a man undertakes to support for five years the daughter of his wife whom she had from another man, on his death the alimention can be taken only from the present value of the estate but not from what is to accrue to the estate after his death nor from any increment in the estate.

(3) A brother-in-law who takes his own and the share of his deceased brother whose wife he had taken in levirate marriage, cannot take the improvement in value from the dead brother's inheritance or from what accrued to the estate after the brother's death.

(4) Deut. XXI, 17.

(5) The estate of a man.

(6) Ibid. He hath at present.

(7) What he hath, at the time of death.

(8) If one lent another money on the security of an estate and the debtor sold his property and the purchasers improved it, the creditor can seize the whole estate including the improvement in the property. The woman also is here in the position of a creditor.

(9) Since the Rabbis made certain concessions (to the heirs) in connection with the Kethubah as that, for example, she cannot claim from land of average quality as is the case with a creditor but only claims from the worst land (B.K. 7b) and also that she must take an oath when claiming (v. Git. 34b), they also made a further concession by laying down that she cannot claim from the improvement in the estate which has taken place since her husband's death (R. Gershom).

(10) And just as a woman cannot claim with her Kethubah from the increase in value of the estate since her husband's death, so it is with any undertaking set forth in the Kethubah.

(11) And it shall be that the first-born that she beareth, and in Yeb. 24a it is explained that this passage refers to a levir, it being the duty of the

BECHOROS –31b-61a

eldest to perform the levirate marriage. Now since the law describes him as a first-born his case is on a par with that of a first-born who does not receive a double share of the increase in value of the estate, nor does the levir take two shares in what accrues to the estate after the brother's death.

(12) That the levir does not take from the increase in the value of the estate belonging to his dead brother.

(13) Deut. XXV, 6.

(14) As soon as he married the deceased brother's wife, the double share of the estate is his, for he is in the place of his brother and is no longer called the first-born. Consequently the improvement in the estate took place in his possession and thus he takes two shares in the improvement of the estate.

(15) Even after the performance of the levirate marriage he is still called the first-born.

Bechoroth 52b

This implies even an improvement in the value of the estate which comes of itself.¹ If, e.g., [on the father's death] what was available of the products of the ground was classed under hafirah² and now it is shuble [ears], or [on the father's death] they were shalpufes³ and afterwards became full-grown dates.⁴

NOT WHAT WILL FALL DUE [TO THE ESTATE] AS THEY DO OF WHAT IS HELD IN POSSESSION. This brings as under the rule the grandfather's estate.⁵

MISHNAH. THE FOLLOWING DO NOT RETURN [TO THEIR OWNERS] IN JUBILEE:⁶ THE SHARE OF THE FIRST-BORN, [THE INHERITANCE OF] ONE WHO INHERITS HIS WIFE'S [ESTATE] [AND OF] ONE WHO MARRIES HIS SISTER-IN-LAW⁷ AND A PRESENT. THESE ARE THE WORDS OF R. MEIR. BUT THE SAGES SAY: A PRESENT HAS THE LAW OF A SALE [OF LAND].⁸ R. ELEAZAR SAYS HOWEVER: ALL THESE RETURN IN JUBILEE. R. JOHANAN B. BEROKAH SAYS: IF ONE INHERITS HIS WIFE'S ESTATE, HE RETURNS IT TO THE MEMBERS OF THE FAMILY AND ALLOWS

THEM A DEDUCTION FROM THE PURCHASE MONEY.⁹

GEMARA. What is the reason of R. Meir? — Only in the case of a sale [of land] does the Divine Law enjoin that it must return in the year of Jubilee [to its original owners], but not with regard to a present or an inheritance; and the cases [enumerated in the Mishnah as not returning in Jubilee] are either cases of inheritance or such as come under the category of a present;¹⁰ [with reference to] a first-born [it says]: By giving him a double portion,¹¹ the Divine Law thus describing his portion as a present.

AND HE WHO INHERITS HIS WIFE'S ESTATE. A man's inheritance of his wife's estate is a biblical law [and therefore it is a genuine inheritance].¹²

HE WHO MARRIES HIS SISTER-IN-LAW. [The reason being because] the Divine Law describes him [the levir] as a first-born.¹³

BUT THE SAGES SAY: A PRESENT HAS THE LAW OF A SALE OF LAND. What is the reason of the Rabbis? [Scripture says]: Ye shall return,¹⁴ intimating the inclusion of the case of a present; but all the other cases¹⁵ are those of inheritance; with regard to a first-born Scripture Says: 'By giving him a double portion', thus comparing the share he receives as a first-born with the plain [ordinary] portion; as the plain portion of the first-born is considered as an inheritance, so the extra share received by a firstborn is also considered as an inheritance.¹⁶

R. ELEAZAR SAYS HOWEVER: ALL OF THESE RETURN IN JUBILEE. He agrees with the Rabbis who say that 'Ye shall return' intimates the inclusion of the case of a present and holds that all these cases [enumerated in the Mishnah]¹⁷ come under the category of a present; with regard to a first-born Scripture says: 'By giving him a

BECHOROS –31b-61a

double portion'; thus the Divine Law describes his share as a present. With regard also to the case of one who inherits his wife's estate, he holds that a man's inheritance of his wife's estate is a rabbinical law.¹⁸ Again, with regard to the case of one who marries his sister-in-law, the Divine Law calls [the levir] a first-born. R. Assi reported in the name of R. Johanan: After the heirs have divided up the estate, they are considered as purchasers from one another and return [their portions] one to another in the year of Jubilee.¹⁹

To this R. Oshaiah demurred: **THE FOLLOWING DO NOT RETURN IN JUBILEE: THE SHARE OF A FIRST-BORN.** R. Eleazar replied to him: The expression **DO NOT RETURN** here means that the return in Jubilee does not make [the privileges of the first-born] of no account.²⁰

To this R. Shesheth demurred: Does this imply that the one [R. Eleazar] who said: **ALL OF THESE RETURN IN JUBILEE** means that the return in Jubilee makes [the privilege of the first-born] of no account?²¹ Thereupon Rami b. Hama applied to R. Shesheth the verse: Wisdom is good with an inheritance,²² for has he not heard the following: When Rabin came, he reported in the name of R. Johanan (another version is [that when Rabin came he reported that] R. Eleazar said in the name of R. Eleazar b. Shammua'),²³ **RETURNING IN JUBILEE** here means that it makes [the privileges of the first-born] of no account.²⁴

R. JOHANAN B. BEROKAH SAYS: IF ONE INHERITS HIS WIFE'S ESTATE HE RETURNS IT TO THE MEMBERS OF THE FAMILY, etc. What is his view? If he holds that a man's inheritance of his wife's estate is a biblical law, then why should he return it to the family in Jubilee? And if he holds that a man's inheritance of his wife's estate is only a rabbinical law, what claim is there to the money?²⁵ One may still maintain that a man's inheritance of his

wife's estate is a biblical law, and we are dealing here with a case where e.g., his wife bequeathed him a cemetery²⁶ and for fear of casting a reflection on the family,²⁷ the Rabbis ruled that he should take [from them] the money for the cemetery and return it to them in Jubilee.²⁸ And so it has been taught: If one sells his grave and the road to his grave, or his halting place²⁹ and the place for lamentation, the members of his family come and bury him per force, so as not to cast any reflection on the family.³⁰

And what the Mishnah means by **'HE ALLOWS THEM A DEDUCTION'**³¹ is with reference to the cost of his wife's grave, [as this is an obligation which devolves on him].

- (1) And without any expense of labor or money on the part of the plain heir.
- (2) Vegetable e.g., the green of grains (Jast.).
- (3) Undeveloped dates.
- (4) The Mishnah therefore informs us with this last clause that even in such instances where the ordinary (non first-born) heir has spent no money on or worked in any way for the improvement in the estate, the first-born takes merely an equal share with the rest of the brothers and does not enjoy the privileges of a first-born.
- (5) If their grandfather was alive when their father died and the former's estate was coming to them eventually, for even if he had another son, their father would ultimately receive his share, I might have thought that this is counted as having the estate in one's possession. The last clause in the Mishnah by repeating: **NOR WHAT IS TO FALL DUE** etc, thus informs us that this is not so. For, from the previous clause in the Mishnah which says that a first-born does not take a double share, etc., I might have thought that the expression **'WHAT IS TO FALL DUE TO THE ESTATE'** referred only to a case where there fell to them the estate of their father's brother, the latter having children at the time of their father's death, so that it did not appear coming to them on their father's death, but both he and his sons died before the division (Rashi); or the latter having no children when their father died but yet as he might still have heirs there was no certainty that the property was coming to them (Sh. Mek.).
- (6) As is the case where one sells land to another, the year of Jubilee effecting a restoration to the original owner, v. Lev. XXV, 10.

BECHOROS –31b-61a

(7) And took his brother's share, for it is regarded as a genuine inheritance and therefore it does not return in Jubilee.

(8) And it goes out in Jubilee.

(9) The Gemara later explains this passage.

(10) Lit., those cases of inheritance are considered as inheritance, and those cases of a present are considered as a present.

(11) Deut. XXI, 17. Scripture using the word giving.

(12) V. B.B. 11b.

(13) V. supra p. 358, n. 1.

(14) Lev. XXV, 10, the passage being superfluous, Scripture having already said in the same verse, and ye shall return every man unto his possession.

(15) In which the Rabbis admit that they do not return in Jubilee (Rashi).

(16) As Scripture writes: Then it shall be when he maketh his sons to inherit, (Deut. XXI, 16). Thus the share received by one as an heir is called inheritance.

(17) One who inherits his wife's estate and he who marries his sister-in-law.

(18) And is not genuine inheritance. It therefore returns in Jubilee.

(19) And again divide up the estate after the year of Jubilee.

(20) I.e., the first-born, after the Jubilee, receives his double share.

(21) Why should the first-born lose his privileged portion? Therefore R. Eleazar's reply above is not acceptable, and the difficulty therefore remains with regard to R. Assi's opinion.

(22) Eccl. VII, II. Good is wisdom. The acumen of an Amora (Rabin) together with the erudition of many Baraithas, the inheritance of successive scholars, possessed by R. Shesheth. For had R. Shesheth known Rabin's wise observation, he would never have objected in the way he did (Rashi and Tosaf.). R. Gershom explains as follows: Good is wisdom, R. Shesheth has shown wisdom in his objection. Nevertheless why did he object? Has he not heard, etc.? Wisdom alone is not sufficient without inheritance and knowledge of the rulings of the scholars.

(23) I.e., R. Eleazar in our Mishnah.

(24) Therefore the passage in the Mishnah that Jubilee does not cause a return, also has the same meaning as R. Eleazar explains above, i.e., that it does not cause the first-born to lose his privileges on account of Jubilee.

(25) By him, since it is not a genuine inheritance.

(26) Which belonged to her family as a burial place.

(27) It is derogatory for a family that strangers should be interred in their graveyard, while their own members should have to seek burial in a strange graveyard. There is no difficulty as

regards the period before Jubilee, as the family can pay the husband for the burials which take place without anybody being aware that the cemetery was no longer in their possession, Tosaf. Yom Tob.

(28) Force the buyer to take back the purchase price and cancel the sale.

(29) A halting place, of which there were seven in number, for consolation for the funeral escort on returning from a burial.

(30) V. Keth. 84a.

(31) Since the inheritance is a biblical law and hence a genuine one, why should he make any deduction for them at all?

Bechoroth 53a

CHAPTER IX

MISHNAH. THE LAW CONCERNING THE TITHE OF CATTLE¹ IS IN FORCE IN PALESTINE² AND OUTSIDE PALESTINE, IN THE DAYS WHEN THE TEMPLE EXISTS AND WHEN IT DOES NOT EXIST, [IT APPLIES] TO HULLIN ONLY BUT NOT TO CONSECRATED ANIMALS. IT APPLIES BOTH TO LARGE CATTLE AND SHEEP. (THOUGH NONE CAN BE TITHED FOR THE OTHER); TO LAMBS AND TO GOATS (AND ONE CAN BE TITHED FOR THE OTHER); TO THE NEW³ BREED AND THE OLD,⁴ (THOUGH NONE CAN BE TITHED FOR THE OTHER). NOW IT MIGHT BE RIGHTLY ARGUED: SEEING THAT NEW AND OLD ANIMALS WHICH ARE NOT TREATED AS DIVERSE KINDS IN REGARD TO ONE ANOTHER ARE YET NOT TITHED ONE FOR THE OTHER, LAMBS AND GOATS WHICH ARE TREATED AS DIVERSE KINDS IN REGARD TO ONE ANOTHER, ALL THE MORE SHOULD NOT BE TITHED ONE FOR THE OTHER. THE TEXT THEREFORE STATES: AND OF THE FLOCK,⁵ INTIMATING THAT ALL KINDS OF FLOCK ARE CONSIDERED ONE [FOR PURPOSES OF TITHING].

GEMARA. May we say that our Mishnah⁶ is not in accordance with R. Akiba? For it was taught: R. Akiba says: You might think that a man may take up an animal set aside as

BECHOROS –31b-61a

tithe from outside Palestine and offer it? [To guard against this inference] the text states: And thither ye shall bring your burnt-offerings and your sacrifices and your tithes.⁷ Scripture speaks of two kinds of tithes,⁸ one the tithing of animals, and the other the tithe of grain. [And I draw an analogy thus]: from the place from which you can bring up the tithe of grain⁹ you can bring up an animal set aside as tithe, but from a place from which you cannot bring up the tithe of grain, you cannot bring up an animal set aside as tithe [to be sacrificed]! —

[No]. You can even say [that the Mishnah is] in accordance with R. Akiba. The one statement¹⁰ refers to offering [the animal up].¹¹ the other to the consecration [thereof].¹² This¹³ is also indicated by the fact that he [R. Akiba] derives his teaching from the text: ‘And thither ye shall bring’, [thus referring distinctly to offering up]. This proves it. But since [the animal] is not offered up, for what purpose is it consecrated?¹⁴ — To be eaten by the owners when it becomes blemished.¹⁵

IN THE DAYS WHEN THE TEMPLE EXISTS AND WHEN IT DOES NOT EXIST. If this be the case, [then the law of tithe as regards animals] should apply even nowadays?¹⁶ — It is as R. Huna says [elsewhere], for R. Huna said: [It is prohibited] as a prevention against an animal whose mother died¹⁷ [during or soon after childbirth being brought into the shed].¹⁸ If this be the case, the same prohibition should have applied originally [when the Temple was standing]?¹⁹ [What you must] therefore [reply is that] it is possible for an announcement to be made [by the Beth din].²⁰ [This being so], here too²¹ it is possible to have all announcement made [by the Beth din]? —

Rather said Raba: The reason is that one might be led to commit an offence.²² And whence will you prove that we take into account the possibility of one committing an

offence? — For it was taught: We are not permitted to consecrate an animal, nor to make valuation, nor to set aside as devoted²³ nowadays.²⁴ But if one did consecrate an animal, or make a valuation or set aside as devoted, the animal is to be destroyed;²⁵ fruits, garments and vessels shall be allowed to rot and as for money and metal vessels, let him cast them into the Salt Sea. And what is meant by destroying? He locks the door on [the animal] and it dies of itself [from hunger].²⁶ If this be the case,²⁷ then a first-born [of an animal] should also not become holy nowadays?²⁸ Is then the sanctity of a first-born dependent on us? Is it not holy from the time it leaves the womb? — This is what is meant [by the question]: Let him make over to a heathen the ears of the [mothers of the prospective offspring] so that they shall not be sanctified from the beginning?²⁹

(1) V. Lev. XXVII, 32. The fat and blood of an animal set aside as tithe are offered up and their flesh is eaten by its ritually clean owners in Jerusalem. Also, if blemished, it may be eaten in a state of uncleanness in all places.

(2) Lit., ‘the Land’.

(3) Those born after Elul, the first of this month being considered a New Year for the tithing of animals.

(4) Those born before Elul.

(5) Ibid.

(6) Which says that the law concerning tithe of cattle is in force outside Palestine.

(7) Deut. XII, 6.

(8) The plural tithes implies more than one tithe.

(9) The tithing of grain is only practiced in Palestine as it is a duty connected with the (Palestinian) soil.

(10) In the Baraitha.

(11) R. Akiba does not permit the tithe animal brought from outside Palestine to be offered up.

(12) The Mishnah refers only to the animal's consecration, stating that the law of tithe regarding an animal applies in that respect even outside Palestine.

(13) That R. Akiba only excludes the animal set aside as tithe from being sacrificed.

(14) Unless it be that it might be offered up as a sacrifice.

(15) Waiting for a blemish to befall the animal, for an animal set aside as tithe may be eaten by the owner whether it is blemished or

BECHOROS –31b-61a

unblemished, Scripture not enjoining that it must be given to a priest.

(16) When there is no Temple in existence.

(17) Lit., ‘an orphan’.

(18) An orphaned animal not being subject to the law of tithe, v. infra 58b.

(19) That even when there was a Temple there should be no tithing of animals, in case an orphaned animal enters the shed for tithing.

(20) That one should not bring an orphaned animal to the shed.

(21) With reference to the tithing of animals in these days.

(22) Lit., ‘a stumbling-block’. For since we have no altar nowadays, we have to keep the animal until it becomes blemished. There is thus a possibility that an offence might be committed, that the animal might be worked and shorn or slaughtered before it is blemished.

(23) Dedicated as holy for the priests or sacred use.

(24) Because we cannot hide them until the Temple is rebuilt and therefore we apprehend that an offence might be committed with them.

(25) Lit., ‘uprooted’.

(26) V. A.Z. 13a.

(27) That an animal set aside as tithe nowadays is not holy for fear of the law being transgressed.

(28) For fear that it might be shorn, etc.

(29) The law being that if a heathen has a share in the first-born it is not subject to redemption, v. supra 2a. If you therefore fear an offence against the law, why not adopt this remedy?

Bechoroth 53b

— It is possible to adopt the remedy of Rab Judah. For Rab Judah said: One may maim a first-born before it is born.¹ But² here also it is possible to cause a blemish from the beginning?³ — Who knows which animal will come out [the tenth]?⁴ And should you say that he brings it out as tenth,⁵ [Scripture says]: He shall not search whether it be good or bad.⁶ And should you say that it is possible to cause a blemish in the whole herd [of animals],⁷ — the Temple may be speedily rebuilt and we shall require an animal for a sacrifice and there will be none.

But does this not also apply to a first-born,⁸ that the Temple may speedily be rebuilt and we shall require an animal for sacrifice and there will be none? — It is possible [in the

latter case] to use plain [non first-born] animals. There too [in the case of the tithing of animals] it is possible to sacrifice animals bought?⁹ — Since he causes a blemish in the entire herd [of animals],¹⁰ and blemishes which disqualify consecrated animals are frequent, for even a cataract disqualifies, animals for sacrifice are not easy to obtain.¹¹

IT APPLIES TO HULLIN ONLY BUT NOT TO CONSECRATED ANIMALS. But is it not obvious that the law of tithing animals does not apply to consecrated animals, seeing that they are not his?¹² — This statement refers to sacrifices of a minor grade¹³ and is in accordance with the opinion of R. Jose the Galilean who said: Sacrifices of a minor grade are considered the property of the owners. For it has been taught: And commit a trespass against the Lord,¹⁴ this includes sacrifices of a minor grade,¹⁵ which are considered the owner's property. These are the words of R. Jose the Galilean. You might therefore think that they should be tithed. [The Mishnah] consequently informs us [that it is not so].¹⁶ And why not say that this is so?¹⁷ — The Divine Law says: [The tenth] shall be holy,¹⁸ implying but not what is already holy.¹⁹ Now the reason of this²⁰ is because the Divine Law says: ‘Shall be holy’, but otherwise the holiness of an animal set aside for tithe would have applied to consecrated animals.²¹ But if a major grade of holiness is not superimposed on a minor grade is there any question of a minor grade being superimposed on a minor grade?

(What is referred to?²² — As we have learnt: Neither objects dedicated for sacrifices nor offerings for Temple repair may be changed from one holiness to the other.²³ But it is permitted to dedicate [for Temple repair] the value [one receives for obliging somebody] in connection with dedicated sacrifices,²⁴ or we may declare [the benefit received for obliging somebody] as devoted [for the altar]!²⁵ —

BECHOROS –31b-61a

You might have said that there²⁶ [the reason is that] every animal is not designated for a burnt-offering,²⁷ but here, since every animal must be tithed, therefore although he dedicated it for a peace-offering, he does not exempt it from the prohibition applying to an animal tithed. And what would be the practical difference?²⁸ That he is liable of transgressing on their account [the negative precepts of]: ‘It shall not be sold’, and ‘It shall not be redeemed’.²⁹ [The text therefore: ‘Shall be holy’] intimates that this is not so.

IT ALSO APPLIES BOTH TO LARGE CATTLE AND SHEEP BUT THEY CANNOT BE TITHED ONE FOR THE OTHER; TO LAMBS AND GOATS, etc. And why should not [we derive a rule that] the new animals [born after Elul] and the old born [before Elul] be tithed one for the other a minori [thus]: If lambs and goats which are treated as diverse kinds in regard to one another are tithed one for the other, does it not stand to reason that new and old animals which are not treated as diverse kinds in regard to one another should be tithed one for the other?

Scripture however, states: Thou shalt truly tithe.³⁰ Scripture speaks of two kinds of tithes, one the tithing of animals and the other the tithing of grain, and it compares the case of an animal tithed with that of the tithing of grain; just as in the case of the tithing of grain it is forbidden to tithe the new for the old³¹ so in the case of the tithing of animals it is also forbidden to tithe the new for the old. If this be the fact,³² the same should apply to the case of lambs and goats? Why not say that we compare the tithing of animals to the tithing of grain so that, just as in the case of the tithing of grain you must not tithe one kind of grain for the other, so in the case of the tithing of animals you must not tithe one kind [of animal] for the other? — The Divine Law includes [all by stating] flock’.³³ If this be so,³⁴ then [include] also new and old [animals]?³⁵ — Scripture says:

‘Thou shalt truly tithe’?³⁶ And why do you see fit?³⁷ —

Said Rab: Scripture says: ‘year by year’, [intimating], I [Scripture] have compared the tithing of animals with the tithing of grain in respect of the year,³⁸ but not with reference to any other matter [e.g., one kind of animal for another]. We have learnt elsewhere: We must not separate [Terumah from] one kind of grain for another, and if one does so separate, his Terumah is no terumah.³⁹ Whence is this proved?

R. Ammi reported in the name of R. Jannai, (another version is: R. Ammi reported in the name of R. Simeon b. Lakish): [Scripture says]: All the best of the oil and all the best of the wine and of the wheat.⁴⁰ The Torah thus said: Give the best for this and the best for that.⁴¹

(1) Lit., ‘issues into the air of the world’; this remedy being even a better one than that of a heathen sharing a part of the animal, v. supra 3b. Therefore a first-born is holy because we do not entertain a fear lest one might be led to commit an offence, seeing that he could, if he wished, eliminate all sanctity from the animal at the outset.

(2) In the case of an animal set aside as tithe.

(3) There is therefore a remedy, and so there is no need to keep the animal, because it can be maimed from the outset. Why therefore should not the law of tithing animals apply even nowadays?

(4) So as to maim it at the beginning.

(5) Lit., ‘the head of the ten’.

(6) Lev. XXVII, 33. Implying that he must not bring out the animal but that it must go out by itself.

(7) Before the tithing when it is still in a state of Hullin (unconsecrated) as the law of tithing takes effect even with animals blemished.

(8) Where you say that he causes it a blemish.

(9) Animals bought or presented as gifts are not subject to the law of tithing. There is consequently no need to maim them.

(10) Those therefore which are born to him are thus disqualified, and therefore those animals bought are in a minority.

(11) Even by purchase and for this reason we do not set aside an animal nowadays as tithe.

BECHOROS –31b-61a

(12) Having been dedicated they belong to the Temple.

(13) The Mishnah needs to inform us that even in such cases the law of tithing animals does not apply.

(14) Lev. V, 21, Scripture adding: 'And lie against his neighbor', implying a trespass which is at the same time 'against the Lord' and 'against his neighbor'.

(15) So that if a man deposited for safe keeping with his neighbor a peace-offering which the latter at first denies on oath but which he afterwards admits to be in his possession, he pays the principal and the fine of one-fifth, for he has committed a trespass not only 'against the Lord' but also 'against his neighbor', since the owners partake of the offering.

(16) That the law of tithing animals does not apply even in such instances.

(17) That the law of setting aside an animal as tithe applies in the case of sacrifices of a minor grade.

(18) Ibid. XXVII, 32.

(19) As is the case with dedicated animals.

(20) Why the law of tithing animals does not apply to dedicated animals of a minor grade.

(21) Applying to it the prohibition attached to an animal tithed concerning which (as is explained later) Scripture says, 'It shall not be sold, It shall not be redeemed'.

(22) What is this major and minor holiness which cannot be superimposed?

(23) Dedication for the altar taking no effect on objects dedicated for Temple repair, although the former holiness is of higher grade than the latter. The same applies to objects dedicated for Temple repair, which cannot be changed into objects dedicated for the altar.

(24) One who received for example from another Israelite a sela' because he gives the animal to be offered up to a particular priest who is the son of the Israelite's daughter.

(25) V. Tem. 32a.

(26) In Tem. the reason is as follows.

(27) For the majority of animals are eaten. Consequently when he dedicates an animal for Temple repair, it is a genuine dedication and cannot be altered for offering up on the altar.

(28) Whether the sanctity of an animal tithed is superimposed upon that of a peace-offering or not?

(29) Lev. XXVII, 28, for peace-offerings are fit to be redeemed.

(30) Deut. XIV, 22. Lit., 'To tithe, thou shalt tithe', using the word Tithe twice.

(31) Scripture saying in the same verse: That the field bringeth forth year by year, thus intimating that it is forbidden to tithe last year's grain for

this year's and this year's grain for the coming year's.

(32) That we compare the tithing of animals with the tithing of grain.

(33) By writing וְיִצְאֵן v. Mishnah; lit., 'And of the flock'. The text thus includes all kinds of small cattle as being one in respect to tithing.

(34) That all is included.

(35) As regards tithing one for the other.

(36) Making the comparison with the tithing of corn as supra.

(37) To compare the tithing of new and old animals with tithing of grain. Why not compare the tithing of lambs and goats with the tithing of grain, thus forbidding the tithing of one for the other in small cattle?

(38) That those born after Elul, which is the New Year for animal tithing, cannot be tithed for those born before Elul.

(39) Ter. II, 4.

(40) Num. XVIII, 12.

(41) That for purposes of Terumah or tithes each must be tithed with the best of its own kind, as Scripture says: When ye have heaved the best thereof (Num. XVIII, 30).

Bechoroth 54a

We have found that wine and oil [cannot be tithed for each other].¹ Whence do we derive that this applies to wine and grain² or grain and grain?³ We deduce this a minori [as follows]: If in the case of wine and oil which are not counted as diverse kinds in regard to one another,⁴ you must not tithe one for the other, all the more must wine and grain or grain and grain, which are counted as diverse kinds in regard to one another,⁵ not be tithed one for the other.

But according to the opinion of R. Josaiah who said: [The law of diverse kinds does not apply] until one has sowed a wheat-seed, a barley-seed and a grape kernel with one and the same throw, how can you adduce this [argument]?⁶ He adduces it as follows: If in the case of wine and oil which are not counted as diverse kinds in regard to one another, even through the sowing of another seed,⁷ you must not tithe one for the other, all the more must wine and grain or grain and grain, which are counted as diverse kinds in regard to one another through the

BECHOROS –31b-61a

sowing of another seed,⁸ not be tithed one for the other. And whence do we know that you must not tithe generally any two other kinds⁹ [one for the other]? —

[The tithing of] these¹⁰ is a rabbinical enactment and all the enactments of the Rabbis have the same scope as the [corresponding] biblical enactment. Hence just as two kinds which are ordained biblically must not be tithed one for the other, so also [two kinds] which are ordained rabbinically must not be tithed one for the other.

Said R. Abba b. Memel to R. Ammi: According to this,¹¹ in the case of the tithing of animals, since Scripture does not say: ‘And concerning the tithe of the herd, and the tithe of the flock’

(1) Seeing that the expression ‘The best’ is used in connection with each.

(2) Since in connection with these, Scripture does not mention ‘the best’ in every case, but only with reference to wine.

(3) Wheat for barley or barley for wheat.

(4) Vine and olives not being treated as diverse kinds when sown together.

(5) A mixture of two kinds of grain constitutes ‘diverse kinds’ rabbinically. A mixture also of grain and vine constitutes ‘diverse kinds’ of the vineyard and is biblically forbidden.

(6) Since three seeds are necessary to cause ‘diverse kinds’, a mixture of two different grains or a mixture of vine and grain does not constitute ‘diverse kinds’.

(7) If he sowed a third seed, either wheat or barley, they are not considered ‘diverse kinds’ unless there are present two different kinds of grain.

(8) In the case of two kinds of grain, by sowing a vine and in the case of a vine and grain, by sowing barley or wheat.

(9) As e.g., beans and lentils, which are not grain.

(10) Biblically, tithing applies only to grain, wine and oil.

(11) Since you say above that the expression ‘the best’ used in each case with reference to wine and oil is for the purpose of forbidding tithing one for the other.

Bechoroth 54b

it should be permitted to tithe one for the other?¹ He replied to him: Scripture says: ‘The tenth’ intimating that you must give ‘the tenth’ of this [kind of animal] and the tenth of the other.² If this be the case, lambs and goats should also [not be tithed one for the other]?³ — Scripture says: ‘And of the flock’, implying that all kinds of flock are considered one. Here too let us say that the text ‘And of the wheat’ implies that all kinds of grain are considered one?⁴ —

Said Abaye: [Scripture says]: The first-fruits of them.⁵ And R. Ela likewise [adduced the text]: ‘The first-fruits of them’, Raba said: Even without [the text] ‘The first-fruits of them’, we could not say that the text ‘And of the wheat’ implies that all kinds of [grain] are considered one. For it is quite intelligible that we should say there that ‘And of the flock’ implies that all kinds of flock are considered one, for if you should be inclined to think that [Scripture intended that] lambs and goats are also not to be tithed one for the other, then let Scripture say, ‘And concerning the tithe of animal’.⁶ And should you object that if it had written, ‘And concerning the tithe of animal’, I might have assumed that it included even a beast of chase,⁷ [the answer is that] we have an analogy between the expressions ‘under’⁸ and ‘under’⁹ and we could have derived a *minori* from new and old that you must not tithe one kind of animal for another;¹⁰ and why therefore [does Scripture state] ‘Of the herd and of the flock’? [It must be] to intimate that only as regards the herd [large cattle] and the flock you must not tithe one for the other, but as regards lambs and goats, you may tithe one for the other. But here,¹¹ [Scripture] could not avoid saying ‘of the wheat’, in order to exclude other kinds.¹²

To this R. Huna B. Nathan demurred: Why not say [that the text] ‘Of the herd and of the flock’ intimates that you may tithe large cattle for flock?¹³ — Mar Zutra son of R.

BECHOROS –31b-61a

Nahman replied to him Raba also holds [the derivation from the text] ‘The tenth’.¹⁴ Some there are who say: Said Raba: Even without [the text] ‘the tenth’ you could not say that large cattle and sheep are tithed one for the other, for the tithing of animals is compared to the tithing of grain; just as in the case of the tithing of grain you must not tithe one kind of grain for the other, so in the case of tithing of animals you must not tithe one for the other.¹⁵ But was it not Raba who said: [Scripture says]: year [by year]’¹⁶ implying [thus]: I [Scripture] have compared the tithing of animals with the tithing of grain only with regard to the year¹⁷ but not with regard to any other matter?¹⁸ — Raba went back on this former teaching.¹⁹ Or if you wish I can say: One [of these statements] was made by R. Papa.²⁰

MISHNAH. ANIMALS ARE COMBINED FOR PURPOSES OF TITHING SO LONG AS THEY CAN STILL PASTURE WITHIN THE DISTANCE THAT CATTLE WANDER.²¹ AND WHAT IS THE DISTANCE OVER WHICH THEY CAN WANDER WHILE PASTURING? — SIXTEEN MILS.²² IF THERE WAS BETWEEN TWO GROUPS OF ANIMALS A DISTANCE OF THIRTY-TWO MILS,²³ THEY DO NOT COMBINE FOR THE PURPOSE OF TITHING. IF HOWEVER THERE WAS [A HERD] IN THE MIDDLE [OF THE DISTANCE OF THIRTY-TWO MILS] HE BRINGS THEM [INTO ONE SHED] AND TITHES THEM [AT SOME POINT] IN THE MIDDLE.²⁴ R. MEIR SAYS: THE [RIVER] JORDAN IS REGARDED AS FORMING A DIVISION AS REGARDS THE TITHING OF ANIMALS.²⁵

GEMARA. Whence is this proved? Said Rabbah b. Shila: Because Scripture says: Shall the flocks pass again under the hands of him that telleth them.²⁶ And it was certain to the Rabbis that the eye of a shepherd can exercise control for a distance of sixteen mils.

IF THERE WAS BETWEEN TWO GROUPS OF ANIMALS A DISTANCE OF

THIRTY-TWO MILS THEY DO NOT COMBINE, etc. You say that where the distance is thirty-two mils the animals do not combine [for the law of tithing], thus implying that in less of this distance they do combine. But does not [the Mishnah] state previously that the distance for combining the animals is sixteen mils, implying but not a greater distance? —

[The Mishnah mentions thirty-two mils] because it wishes to report in a later clause: **IF HOWEVER THERE WAS A HERD IN THE MIDDLE OF THE THIRTY-TWO MILS HE BRINGS THEM [INTO A SHED] AND TITHES THEM IN THE MIDDLE.**²⁷ And how many?²⁸ —

Said Rab: Five on this side and five on the other and five in the middle,²⁹ for the animals in the middle are fit to be combined either with those on the one side or with those on the other.³⁰ But Samuel says: Even if there are five animals on one side and five on the other, and one in the middle, they combine for tithing,³¹ for we regard the shepherd as standing in the middle.³² And we therefore apply here the text: Of him that telleth.

- (1) Let it therefore be permitted to tithe large cattle for sheep, since the word מעשר (tithe) is not mentioned in Lev. XXVII, 32 with reference to every kind of animal enumerated in the text.
- (2) The word מעשר (the tenth) occurs near the word בקר (cattle) and the word עשירי again occurs near the word וצאן (flock). Therefore מעשר is actually used in each case.
- (3) Just as above Scripture says ‘the best’ with reference to oil and ‘the best’ with reference to wine, and a minori we conclude that one cannot be tithed for the other, so, as מעשר is mentioned in connection with herd and עשירי (the tenth) is mentioned in connection with flock, let us here also conclude a minori from new and old as stated above that you cannot tithe one kind of small cattle for another kind of small cattle, v. Sh. Mek.
- (4) And therefore let wheat be tithed for barley.
- (5) Num. XVIII, 12. This occurs near the text ‘Of the wheat’ to intimate ‘Give the first-fruit of each kind of corn’.

BECHOROS –31b-61a

(6) Instead of 'of the herd'; and I should have known that you must not tithe one kind of animal for another, as I would have inferred this a fortiori from new and old, as explained above.

(7) The general term 'animal' בהמה including also חיה, 'beast of chase', v. B.K. 54b. Hence a beast of chase would be subject to the law of tithe.

(8) Under the rod (Lev. XXVII, 32) mentioned in connection with tithing.

(9) Under the dam (Ibid. XXII, 27), where a beast of chase is not included.

(10) If a new animal born after Elul cannot be tithed for one born before Elul although they are not counted as diverse kinds in regard to one another, how much more so is this the case with two kinds of animals counted, as they are, as diverse kinds in regard to one another.

(11) In connection with Terumah, the text 'And of the wheat' is not superfluous, since it enables us to deduce that you must not tithe wheat and wine one for the other, but you may tithe wheat for wheat.

(12) That they are not subject biblically to the law of tithes.

(13) Lit., 'to mix herd with flock'. How does Raba know that the reason why Scripture writes 'Of the herd, etc.' is so that one must not tithe one for the other? Perhaps Scripture specified the animals in details in order to deduce that you may tithe one for the other. For had Scripture only said: 'And concerning the tithe of the animal', I should have inferred a minori from 'new and old', as explained above, that you must not tithe one for the other. R. Huna in asking this question was under the impression that since Raba does not hold with Abaye's interpretation of the text 'The first fruits of them', he also does not accept the interpretation derived from the text 'the tenth' (Rashi)!

(14) Although he does not expound the text 'The first-fruits of them', he does agree with the interpretation based on the text 'the tenth'. Therefore we cannot explain the text 'Of the herd, etc.' as teaching that you may tithe one kind of animal for the other.

(15) And this does not apply to lambs and goats because we have an amplification in 'and of the flock'. It is also appropriate that we should exclude cattle and sheep from tithing one another, since they are two distinct kinds of animals rather than lambs and goats which are akin, as shown e.g., by the fact that when one vows an animal from the flock, he can bring either a lamb or a goat (Rashi).

(16) Deut. XIV, 22; v. supra 53b.

(17) I.e., that you must not tithe animals born after Elul for animals born before Elul.

(18) E.g., tithing one kind for the other, there being no restriction in this respect.

(19) And holds that the analogy between the tithing of animals and the tithing of grain applies even with regard to the tithing of cattle for flock and that you must not tithe one kind of animal for the other. With reference however to lambs and goats there is an amplification 'and of the flock'.

(20) Either for the analogy of 'year' or the comparison between the tithing of animals and the tithing of grain. R. Papa succeeded Raba in spiritual leadership and often a teaching emanating from the former was attributed to the latter (Tosaf.).

(21) Lit., 'foot of the animal'. And if there are five animals in one village and five in the other with a distance of sixteen mils between them, all belonging to one man, he brings them into one shed and sets aside an animal as tithe. But if the distance is greater, they are not subject to the tithe.

(22) The shepherd can exercise control over the animals for this distance but not more. A mil == two thousand cubits.

(23) The same applies to any distance exceeding sixteen mils.

(24) The centre herd combining with the herds on the sides. The Mishnah does not mean strictly that he has to bring them to the middle in order to be tithed.

(25) If there were five sheep on one side of the Jordan and five on the other although the distance was much less than sixteen mils, the river constitutes a boundary and therefore the animals are not combined so as to become subject to the law of tithe.

(26) Jer. XXXIII, 13, implying that if they can be numbered by one shepherd we apply to them the expression 'passed under the rod', a similar expression 'shall pass' also being used here.

(27) But in reality if the distance between the two flocks at all exceeds sixteen mils they cannot be combined for tithing.

(28) Animals must be there in the thirty-two mils so that the middle herd may combine the rest for tithing.

(29) And the surplus five animals are kept and eventually combined with others when they are born. But if the animals on the one side are nearer to the centre herd and the animals on the other side are more distant than sixteen mils from the centre herd, the distant animals are altogether exempted from tithing and there is no need to wait for others to be born in order to combine.

(30) But if there were five animals in the middle and four on one side and five on the other, the four do not combine for tithing and there is no need to wait for the period of the birth of new animals (Rashi).

BECHOROS –31b-61a

(31) And although this one animal is of little use as regards the number, since however the shepherd is in the habit of going there to look after it, it is as if he stood there and it combines with the other animals for the purpose of tithing.

(32) Of the thirty-two mils. And so according to Samuel we combine the animals to be subject to tithing, where there are four on one side, five on the other and one in the centre, as the latter is fit to combine for the number required to be tithed.

Bechoroth 55a

An objection was raised: If he had five animals in Kefar Hananiah¹ and five in Kefar 'Uthnaiz [a distance of thirty-two mils], the animals do not combine for tithing until he has one animal in Sepphoris. Shall we say that this confutes Rab? —

Samuel explained on the view of Rab [as follows]: [The case here is one] where e.g., there were nine on one side and nine on the other and one in the middle,³ the middle animal being fit to be combined either with the one group or with the other. R. Papa said: According to the opinion of Samuel, even the shepherd himself⁴ can combine the animals [for tithing] and even the implements of the shepherd.⁵

R. Ashi inquired: What of the shepherd's dog?⁶ Do we say that since when he calls it, it comes, therefore it, [the dog], cannot help to combine [the animals for tithing],⁷ or since the dog does not always come [at his bidding], he requires to go and fetch it [and therefore it does help to combine the animals for tithing]? — Let this stand undecided.

R. MEIR SAYS: THE [RIVER] JORDAN IS REGARDED AS FORMING A DIVISION WITH REFERENCE TO THE TITHING OF ANIMALS. Said R. Ammi: This is the case only where there is no bridge, but where there is a bridge the bridge combines the animals [for the purpose of tithing]. We see consequently that the reason is because they are not in contact with each other.⁹

An objection was raised: If he had animals on both sides of the Jordan or in two autonomous cities¹⁰ as e.g., Namer and Nemuri¹¹ the animals are not combined [for the purpose of tithing]. And needless to say [that animals] outside the Land [of Israel] and [animals] in the Land [of Israel] [do not combine for tithing purposes]. Now is not outside the Land [of Israel] and in the Land [of Israel] on a par with a place where there is a bridge,¹² and yet the [Baraita] states that they do not combine?¹³ —

Rather said R. Hiyya b. Abba in the name of R. Johanan: The following is the reason of R. Meir: Scripture says: And the Jordan was the border of it on the east side;¹⁴ Scripture thus makes it a separate border [boundary] on its own. But on this reasoning, where it says: And the border was drawn there, And the border went up,¹⁵ will you also say that the text makes it a separate border on its own?¹⁶ —

The case is different there, because Scripture says: This shall be unto you the land according to the borders round about,¹⁷ [intimating that] the whole of the Land of Israel is [regarded as possessing] one border.¹⁸ If this be the case,¹⁹ then is not the Jordan too [a part of the Land of Israel]?²⁰ —

[Scripture says: 'According to the border, etc.' with reference to the] 'land',²¹ but not [with reference to] the Jordan. There is no difficulty on the view of R. Hiyya b. Abba,²² for this reason [the Mishnah] specially mentions the Jordan, but on the view of R. Ammi, why does it not mention all the rivers?²³ This is indeed a difficulty. May it be said that Tannaim differ on these points²⁴ [Scripture says]: When ye pass over the Jordan into the land of Canaan,²⁵ implying that the 'land' is the land of Canaan but that the Jordan is not the land of Canaan. These are the words of R. Judah b. Bathyra.

BECHOROS –31b-61a

R. Simeon b. Yohai says: Behold Scripture says: On this side the Jordan near Jericho eastwards towards the sun rising,²⁶ implying that just as Jericho is part of the land of Canaan, so is the Jordan part of the land of Canaan. Said Rabbah b. Bar Hana: The real Jordan is only from Jericho and below.²⁷ What is the legal bearing of this remark? Shall I say it is with reference to one who vows?²⁸ Why not be guided by the common parlance of men so that wherever men call it 'Jordan' it should be forbidden to him? Rather it must be with reference to the tithing of animals. So indeed it has been taught in a Baraitha: The Jordan issues from the cavern of Paneas,²⁹ flows through the Lake of Sibkay,³⁰ the Lake of Tiberias, and the Lake of Sodom,³¹ and proceeds to run into the Mediterranean Ocean. And the real Jordan is from Jericho and below.

R. Hiyya b. Abba reported in the name of R. Johanan:³² Why is it called Yarden [Jordan]? Because it comes from Dan.³³ Said R. Abba to R. Ashi: You learnt this is from the name, we learn it from here: And they called Leshem Dan after the name of Dan their father,³⁴ [expounding which] R. Isaac said: Leshem is Paneas. And it has been taught: The Jordan issues from the cavern of Paneas. Said Rab Kahana: The chief supply of the Jordan comes from the cavern of Paneas. Where a person says 'I will not drink waters from the cavern of Paneas' the water of the entire Jordan is forbidden to him.

The liver is the fountain head of the blood, as R. Isaac said. For R. Isaac said: A mashed liver causes tent defilement with a quarter [of a log].³⁵

The chief source of all waters is the Euphrates. For Rab Judah reported in the name of Rab: If one vows forbidding himself to benefit from the waters of the Euphrates, he is forbidden to benefit from all the waters in the world. How am I to understand this? Shall I say that he said: 'I will not drink

from the waters of the Euphrates?' [Does not this imply that he meant to say:] I will not drink from the waters of the Euphrates but I will drink from any other river?³⁶ Rather he must have said: 'I will not drink from the waters which come from the Euphrates'. For Rab Judah reported in the name of Rab: All other rivers in the world are lower than the three³⁷ and these three are lower than the Euphrates.³⁸ But are there not

(1) [Kafr 'Anan, north of Sepphoris.]

(2) [Kefr Kud, on the border of Galilee and Samaria, South of Sepphoris.]

(3) And the expression 'one in the middle' of the Baraitha does not refer to the first clause, namely, where there are five on one side, etc. but it refers to where there were nine on one side, etc.

(4) If he has a residence in the middle of the thirty-two mils.

(5) Lying in that village in the middle combine to make him liable to tithe the animals, since he must go there eventually to fetch his things and we therefore regard the place as being under his observation.

(6) Do we consider the dog in the middle of the thirty-two mils capable of combining the animals on both sides as regards tithing?

(7) As then he has no occasion to go there and we cannot apply to him the text, Him that telleth.

(8) Why the Jordan forms a division.

(9) The animals are in touch neither with one another nor with the shepherd, the water intervening.

(10) Although in one province.

(11) Although they are near to each other, being only separated by one mil.

(12) For there is no water to interpose and one can go from one to the other territory without hindrance.

(13) Even although both are within a mil of each other, yet since one part is in Palestine and the other outside, there is no combination as regards tithing.

(14) Josh. XVIII, 20.

(15) Josh. XVIII, 12 and 14, with reference to the boundaries between tribe and tribe.

(16) So that the animals in the territory of one tribe and animals in that of another do not combine even within the sixteen mils. Why then does the Baraitha mention the case of outside Palestine and Palestine as not combining, since this occurs even in Palestine?

(17) Num. XXXIV, 12.

BECHOROS –31b-61a

(18) After mentioning the borders of the various tribes, Scripture proceeds to describe them as one land.

(19) If the whole of Palestine is considered as possessing one boundary.

(20) And therefore in the case of tithing it should not divide.

(21) The land borders of Palestine are regarded as non-existent for purpose of combining, but not the border of the Jordan.

(22) Who says that the reason why R. Meir holds that the Jordan forms a division is because it is described as 'a border'.

(23) As forming a division and not allowing combination for the purpose of tithing, since according to his view the only reason why the Jordan forms a division is because there is no contact between the animals on the one side and the shepherd on the other. All rivers, consequently and not only the Jordan divide if they have no bridges.

(24) Whether the Jordan is regarded as the land of Canaan or not.

(25) Num. XXXV, 10.

(26) Ibid. XXXIV, 15.

(27) But the part above is not the Jordan.

(28) Against deriving any benefit from the Jordan. Should he be permitted to drink of the waters of Jericho and above or not?

(29) Caesarea Philippi, modern Baniyas, a city in North Palestine (Jast.).

(30) Sea of Samachonitis, north of Lake Tiberias (Sea of Gennesareth).

(31) The Dead Sea.

(32) Var. lec. R. Jonathan.

(33) A combination of the word ירד ('going down') and דן (Dan). (12) That the Jordan comes from Dan.

(34) Josh. XIX, 47.

(35) One-fourth of a log being the quantity of vital blood from a corpse which is required to cause tent uncleanness (v. Num. XIX, 14).

(36) For usually when people speak of the Euphrates they refer to the river generally known as such.

(37) Pison, Gihon, Hiddekel mentioned in Gen. II, all waters drawing their supply from these.

(38) These in turn draw their supply from the Euphrates.

Said R. Nahman b. Isaac, (others say: R. Aha b. Jacob): [It means thus]: It is the Euphrates [mentioned] first.³ It has been taught: Its name⁴ is Yubal [river] because Scripture says: For he shall be like a tree planted by the waters and that spreadeth the roots by the river [Yubal].⁵ And why is it called Perath? Because its waters are fruitful [fructifying] and increase.⁶ [But the Sages say its name is Perath. The Master said: Because its waters are fruitful and increase].⁷ This supports Samuel.

For Samuel said: The river grows from the waters coming down its banks.⁸ In this he differs from Rab.

For R. Ammi reported in the name of Rab: The rise of the Euphrates is a weighty witness [indication] that it has rained in Palestine. The father of Samuel made a mikweh⁹ for his daughters in the days of Nisan and had mats laid for them¹⁰ in the days of Tishri. 'He made a Mikweh in the days of Nisan' because he agreed with Rab.

For R. Ammi reported in the name of Rab: The rise of the Euphrates is a weighty witness [indication] that it has rained in Palestine. We fear therefore lest the dripping water¹¹ will be more than the flowing water and thus the greater part will consist of rain water.¹² 'And had mats laid for them in the days of Tishri'. And there is a discrepancy between two opinions held by him.¹³

For Samuel said: Waters do not ritually cleanse in a running condition,¹⁴ except the river Euphrates¹⁵ in the days of Tishri.

Bechoroth 55b

springs higher than the Euphrates? — Said R. Mesharshea: These are the upper parts [the sources]¹ of the Euphrates. But is it not written: And as to the fourth river it is the Euphrates?² —

MISHNAH. AN ANIMAL BOUGHT OR GIVEN AS A PRESENT IS EXEMPT FROM THE LAW OF CATTLE TITHE.

GEMARA. Whence is this proved? — Said R. Kahana: Because Scripture says: The first-born of thy sons thou shalt give unto

BECHOROS –31b-61a

Me. Likewise thou shalt do with thine oxen and with thy sheep;¹⁶

(1) Lit., 'ladders', so called because they gush forth and look like ladders on the mountain slopes.

(2) Gen. II, 14 thus proving that the Euphrates is one of the rivers, and you say that they all issue from it.

(3) I.e., the river which went forth from Eden, and from thence was parted and became four heads (Gen. II, 10). The explanation is based on the superfluous 'it is'.

(4) That of the Euphrates.

(5) Jer. XVII, 8, referring to the Tree of Life and the Tree of Life was in the Garden of Eden, the Euphrates watering the Garden of Eden.

(6) Welling up spontaneously without the help of rain.

(7) Inserted with Sh. Mek.

(8) Aliter: from its bed. Not from rain. And although Samuel does not distinctly mention the Euphrates, yet since all rivers draw from it, if ordinary rivers are fruitful, this is due to the waters of Euphrates being fruitful and increasing (Tosaf.).

(9) A gathering of flowing waters for ritual immersion. Samuel would have one specially constructed as he would not allow them to bathe in the rivers in case the rain water dropping from the clouds and the melting snows were greater than the flowing waters.

(10) Spread at the bottom of the river in which they bathed so that the mud should not interpose when bathing. Another opinion (Tosaf.) is: that the mats were put up on the shore as a screen, for in the days of Tishri the rivers were low, and for fear of being seen, they might hurry the bathing and not do it properly.

(11) I.e., the rain water.

(12) And rain water does not cleanse when it turns into a stream.

(13) By Samuel, who says above that a river grows waters coming down the shores, which contradicts the opinion expressed by him in the following observation. Var. lec.: There is a discrepancy between one opinion of Samuel and another.

(14) For the dripping water, the rain water, is constantly the larger amount.

(15) Because there is then a decrease in the rain water and also because the Euphrates is constantly welling up with fresh waters. Consequently, we see that he holds that rivers grow from rain water, unlike the opinion expressed above. Another explanation is (Rashi): Samuel's father specially made a Mikweh for his daughters because it was the end of the winter

and after the great rains but not in the middle of winter, whereas here Samuel says that we always require a Mikweh except when bathing in the Euphrates in the days of Tishri. For further notes v. Ned., Sonc. ed., p. 129.

(16) Ex. XXII, 28, 29.

Bechoroth 56a

just as the law of [the first-born of] thy sons does not apply to a case of bought or presented,¹ so [the law referring to] 'Thine oxen and thy sheep' does not apply to the bought or given as a present. But does not this [text] refer to a first-born?² —

Scripture says: Thus thou shalt do.³ If the text has no bearing on the subject of a first-born, to which doing [i.e., the act of consecration] does not apply, since a first-born is holy from birth, then apply it to the subject of the tithing of animals. But why not say: Apply it to the case of a sin-offering or trespass-offering?⁴ —

[The inference to be made] must resemble the case of 'thy [first-born] son'.⁵ Just as 'thy [first-born] son' is not brought [to atone] for a sin, so 'thine oxen and [with] thy sheep' must be such as are not brought [to atone] for a sin. But why not say: Apply [the text] to a burnt-offering or peace-offering? —

[The inference to be made] must resemble the case of 'thy [first. born] son'. Just as the case of 'thy [first-born] son' [is obligatory]⁶ and he cannot be brought [to the altar] as the result of a vow or freewill-offering, so in the case of 'thine oxen and with thy sheep'. But why not say: Apply [the text] to the case of a pilgrim's burnt-offering of appearance [before the Lord]?⁷ —

[The rule] must resemble the case of 'thy first-born son'. Just as in the case of thy first-born son there is no fixed time for him to become holy,⁸ so in the case of 'thine oxen and with thy sheep' no time is fixed for their holiness. I might have said, however, that

BECHOROS –31b-61a

just as [the rule of] ‘thy first-born son’ does not apply at all to where he is bought, similarly [the rule of] ‘thine oxen and with thy sheep’ does not apply at all to where they are bought; why then did R. Assi report in the name of Rab Johanan: If one bought ten embryos which were in the insides of their mothers they all enter the shed to be tithed?⁹ —

Said Raba: Scripture says: ‘Thou shalt do’, intimating that only when doing [i.e., the act of consecration] is possible¹⁰ does Scripture impose restrictions.¹¹ [To revert to] the [above] text: ‘R. Assi reported in the name of R. Johanan: If one bought ten embryos which were in the insides of their mothers, all of them enter the shed to be tithed’. But have we not learnt: AN ANIMAL BOUGHT OR GIVEN AS A PRESENT IS EXEMPT FROM THE LAW OF CATTLE TITHE?

Said R. Eleazar: R. Johanan appeared [last night] to me in a dream [therefore I know] that I will say a good thing [to-day], [as follows]: Scripture says: ‘Thou shalt do’, intimating that only where the act of consecration is possible does Scripture impose restrictions.

R. Simeon b. Eliakim raised an objection against the opinion of R. Eleazar: [The law of] an animal bought, applies also to an animal too young for sacrifice!¹² — He replied to him: This is not a [recognized] teaching. And if you will say that it is a [recognized] teaching, then it must be the opinion of R. Simeon b. Judah.¹³ For it has been taught: R. Simeon b. Judah says in the name of R. Simeon: An animal too young for sacrifice may enter the shed to be tithed, and it is on a par with a first-born. Just as a first-born is holy before its time¹⁴ and is sacrificed after its time [i.e., after waiting seven days], similarly an animal too young for sacrifice becomes holy before its time and is sacrificed after its time.

A Tanna recited before Rab: What kind of ‘hire’¹⁵ may enter the shed to be tithed? Wherever it is given to her and then bought back from her.¹⁶ But is not the animal disqualified because it is bought? — The questioner failed to notice that which R. Assi reported in the name of R. Johanan: If one bought ten embryos which were in the insides of their mothers, all of them enter the shed to be tithed.¹⁷

(1) As the cases of being bought or given as a present are not relevant to human first-born, for only those born to him are liable to the law of the first-born.

(2) How then can you infer the case of tithing an animal from it? Moreover, a first-born is sanctified from birth.

(3) The words ‘Thou shalt do’ means the act of consecration which of course cannot apply to a first-born, since the latter is holy from birth and no special act of dedication is necessary.

(4) That they should not be brought from animals purchased or presented as a gift. What proof therefore have we that the text refers to the tithing of animals?

(5) The text referring to the first-born of man.

(6) Inserted with Sh. Mek.

(7) Which it is a duty to bring and which is not brought to atone for a sin.

(8) As it is sacred immediately after birth.

(9) Tosaf. observes that the same ruling applies even if they were already born, but are too young for sacrifice.

(10) Lit., ‘in the time of doing’. When dedication is appropriate, viz., after birth but not when the embryo is still in the inside of the animal.

(11) Ordaining that an animal bought or presented as a gift is not to be tithed.

(12) If he bought it before the seventh day from its birth, it no longer enters the shed to be tithed, this certainly being the case if he bought it as a full-grown animal. We see then that its being too young for sacrifice prevents consecration from taking place, and still the law of an animal bought applies to it.

(13) For according to his opinion an animal within seven days of its birth can be dedicated, and therefore the law of an animal bought applies to it. He admits nevertheless that if an embryo was in the inside of the mother, the law of an animal bought does not apply to it.

(14) For sacrifice has begun, viz., from seven days before its birth, since it is holy from birth.

(15) A lamb given as the hire of a harlot, v. Deut. XXIII, 19.

BECHOROS –31b-61a

(16) If therefore he has nine animals and this one, they are subject to tithing. And if one of the fit ones come out the tenth, then it is well. And if the harlot's offering came out the tenth, it is eaten when it becomes blemished by its owners.

(17) And here too we are dealing with a case where she was given an embryo which was in the inside of the mother.

Bechoroth 56b

And why should not [the harlot] herself tithe it?¹ — The reference is to a heathen harlot.² But does not [the Baraitha] deal with an Israelitish harlot and let her tithe it herself?—

This is what [the Baraitha] informs us [by implication]: That in the case of an Israelitish harlot, the animal has not the law of 'hire'³ as Abaye taught. For Abaye said: The hire of a heathen harlot is forbidden [for the altar] and a priest who has sexual relations with her is not liable to lashes for transgressing the negative precept: Neither shall he profane his seed among his people.⁴ But the hire of an Israelitish harlot is permitted [for the altar] and a priest, who has sexual relations with her is liable to lashes for transgressing the negative precept: 'Neither shall he profane his seed among his people'.

The hire of a heathen harlot is forbidden [for the altar] because we form an analogy between the expressions 'abomination' [mentioned in connection with a harlot]⁵ and 'abomination' mentioned in connection with forbidden relatives.⁶ Just as in the case of forbidden relations betrothal takes no effect,⁷ so a harlot [whose offering is forbidden] is one in whose case betrothal takes no effect.⁸ 'And the priest who has sexual relations with her is not liable to lashes', because Scripture says: 'Neither shall he profane his seed among his people'; the Divine Law says he must not profane his seed, but in this case it is not his seed.⁹

MISHNAH. IF BROTHERS BECAME PARTNERS,¹⁰ THOUGH THEY ARE STILL BOUND TO PAY AGIO,¹¹ THEY ARE EXEMPT FROM THE TITHE OF CATTLE.¹² AND WHEN THEY BECOME LIABLE TO TITHE OF CATTLE,¹³ THEY ARE EXEMPT FROM PAYING AGIO;¹⁴ IF THEY ACQUIRED¹⁵ ANIMALS [THE CATTLE] FROM THE ESTATE,¹⁶ THEY ARE BOUND [TO TITHE THEM].¹⁷ BUT IF NOT,¹⁸ THEY ARE EXEMPT FROM TITHING; IF¹⁹ THEY FIRST DIVIDED UP THE ESTATE AND THEN AGAIN BECAME PARTNERS, THEY ARE BOUND TO PAY AGIO AND ARE EXEMPT FROM TITHE OF CATTLE.

GEMARA. Our Rabbis taught: [Scripture says]: 'Shall be thine',²⁰ intimating, but not that is held in partnership.²¹ You might have thought that exemption applies even if one acquired the animals from the [paternal] estate. Therefore, the text states: 'Shall be'.²² But is not this written in connection with the case of a first-born? — If it has no bearing on the case of a first-born, since the law of the first-born applies even in the case of a partnership, because it is written. And the firstlings of your herds and of your flocks,²³ then apply it to the case of tithing animals.

Said R. Jeremiah: Sometimes they are bound to tithe and to pay agio and sometimes they are exempt from both. Sometimes they are bound to pay agio and are exempt from tithing [the animals] and sometimes they are bound to tithe [the animals] and are exempt from paying agio. They are bound to tithe the animals and pay agio in the case where they divided²⁴ the monies but not the animals.²⁵ They are exempt from both, where they divided the animals but not the monies. They are bound to pay agio and are exempt from tithing animals where both animals and monies were divided. They are bound to tithe and are exempt from paying agio where neither monies nor animals were divided. Is not all this obvious?²⁶ —

BECHOROS –31b-61a

He [R. Jeremiah] needed to inform us of the case where the animals were divided but not the monies.²⁷ You might have thought that since they divided the animals, they have thus shown their intention of dividing the rest, and therefore they should be bound to pay agio. He therefore informs us that [this is not so].

Said R. ‘Anan: This²⁸ is meant only when they divided kids against he-goats [in accordance with their value] and he-goats against kids [in accordance with their value]²⁹ but where they divided kids against kids and he-goats against he-goats one can say: ‘This is the portion which was his from the outset’.³⁰ But R. Nahman says: Even if they divided kids against kids and he-goats against he-goats we do not say: ‘This was the part which was his at the outset’.³¹

And R. Eleazar also says:³² This is meant only when they divided nine large animals against ten small³³ ones [according to their value], or ten small animals against nine large ones. But if they divided nine animals against nine or ten animals against ten, one can say: ‘This is the part which was his from the outset’. But R. Johanan says: Even if they divided nine animals against nine or ten animals against ten, one does not say: ‘This is the part which was his at the outset’.

(1) Since an embryo is not regarded as ‘hire’ but as a gift and can be eaten in its blemished state if it came forth the tenth. Why therefore must they proceed to buy it from her? (Rashi). R. Gershom explains that hire constitutes no prohibitions as regards tithing an animal, the rule of ‘lewdness’ not applying to an animal tithed, as is explained infra 57a.

(2) To whom the law of tithing animals is not applicable.

(3) And is even permitted for the altar, the law of ‘hire’ only applying to a heathen harlot.

(4) Lev. XXI, 15.

(5) Deut. XXIII, 19.

(6) Lev. XVIII, 26.

(7) For the penalty of Kareth (v. Glos.) applies to such cases, and all are agreed that betrothal cannot take effect in them.

(8) And a heathen's betrothal also is no betrothal, and therefore her hire is forbidden.

(9) For the offspring has the status of the gentile mother.

(10) Having divided their father's estate and then become partners.

(11) When they bring their half-shekels to the Temple. It was customary on such occasions to pay a surcharge to compensate for any loss incurred in the Temple shekels collection in changing the shekels or half shekels into other money, v. Shek. I,7. Even if they wish to give a whole shekel together, they must pay double agio as if they were two strangers.

(12) For partners are exempt from tithing animals born to them so long as partnership lasts.

(13) As, for example, where the estate was not divided and it is still the inheritance of their father.

(14) If the two brothers gave a whole shekel, for it is as if their father were alive, he being able to exempt them when alive from paying agio.

(15) The Mishnah here does not exactly mean by the word in bought with money. for an animal bought is exempt from the law of tithing, but only that the animals fell to them as an inheritance from their father.

(16) Lit., ‘that which belongs to (i.e., is the possession of) the house’.

(17) But are exempt from agio. The clause IF THEY ACQUIRED, etc. is an explanation of the previous clause of the Mishnah, as follows: In saying that where tithing is required there is exemption from agios, we mean where they acquired, etc.

(18) If they divided up the estate and then became partners again, the animals being born subsequently.

(19) This passage to the end of the Mishnah is an explanation of the previous clause; But if not, etc. For further notes v. Hull., Sonc. ed., p. 25b.

(20) Num. XVIII, 15.

(21) The text implying that you give the animal which belongs to you by yourself but not that which belongs to you in partnership.

(22) That even in such a case he gives the animal.

(23) Deut. XII, 6. Your herds, etc., the plural number being used.

(24) And became partners afterwards; hence they pay agio.

(25) And since the animals were not divided, they are still the fathers' inheritance and must be tithed.

(26) As I could have derived these ruling from the Mishnah. What need has R. Jeremiah to teach us all this?

(27) That we adopt the lenient view and exempt in both.

BECHOROS –31b-61a

(28) When we say that when they divided and then became partners they are exempt from tithing.

(29) For in that case one cannot say that this is the part which was due from his father's inheritance from the beginning, because at the death of their father, each brother acquired a half of the kids and a half of the goats. Consequently, the animals which were present at the time of the division of the estate are not subject to the tithe, as they come under the law of animals bought, while those which are born subsequently, are exempt on account of the brothers becoming partners.

(30) Because we hold the principle of bererah (retrospective designation; v. Glos.) and therefore each brother's share is still regarded as an inheritance, even after the brothers became partners again. Consequently, the animals born before the dividing up of the estate are not considered as animals bought to be exempted from tithing, nor are those that are born subsequently considered as born to brothers who hold the status of partners.

(31) For we do not hold the principle of bererah. Therefore at first when the division takes place the animals are regarded as bought, and those born later are regarded as born to brothers who hold the status of partners.

(32) The difference between R. Eleazar and R. Johanan is in principle the same as that between R. Anan and R. Nahman.

(33) Or lean ones (R. Gershom).

Jubilee, but not in the case of an inheritance or a present. And if R. Johanan had stated his ruling with reference only to a field,⁶ I might have said that in that case R. Johanan holds this opinion because it makes for greater stringency.⁷ Or indeed, a field returns in Jubilee because [after returning] it is [like] at the beginning [before the division],⁸ but here I might have said, it is not so.⁹ Therefore both [rulings by R. Johanan] are necessary.

An objection was raised: And likewise if partners divided [an estate] and one took ten lambs and the other took nine with a dog, [the lambs] taken against the dog are forbidden [for the altar]¹⁰ but those taken with the dog¹¹ are permitted. Now if you say that we hold the principle of bererah let him pick out one lamb as the equivalent of the dog and the rest should be permitted for the altar?¹² — Said R. Ashi: If they were all of the same value,¹³ it would really be so.¹⁴ We are assuming here,¹⁵ however, that they are not all alike in value and this dog is equal in value to one lamb plus a little and this little extends to all.¹⁶

Bechoroth 57a

And R. Johanan follows the opinion he expressed elsewhere:¹ For R. Assi reported in the name of R. Johanan: Brothers who divide an estate are considered as purchasers and return [their respective parts] to each other in Jubilee.² And it was necessary [for R. Johanan to state both rulings]. For if he had stated only this ruling,³ I might have said that R. Johanan only holds his view in this case because the tithing of animals is compared with 'thy first-born son'.⁴ Just as the text 'thy first-born son' deals with a case where you are certain⁵ so the text 'thine oxen and with thy sheep' deals with a case where you are certain. But with respect to a field, only in case of a sale does the Divine Law say that it should return [to its original owner] in

MISHNAH. ALL [LAMBS] ENTER THE SHED TO BE TITHED EXCEPT KIL'AYIM,¹⁷ TREFAH, OFFSPRING BROUGHT FORTH BY MEANS OF THE CAESAREAN SECTION, AN ANIMAL TOO YOUNG FOR SACRIFICE, AND AN 'ORPHAN' [ANIMAL]. AND WHAT IS AN 'ORPHAN'? WHEN ITS DAM HAS DIED DURING ITS BIRTH OR WAS SLAUGHTERED AND SUBSEQUENTLY GAVE BIRTH. BUT R. JOSHUA SAYS: EVEN WHEN THE DAM HAS BEEN KILLED, IF THE HIDE IS STILL INTACT THE OFFSPRING IS NOT AN 'ORPHAN' ANIMAL.

GEMARA. Whence is this proved? — For our Rabbis taught: Scripture says: When a bullock or a sheep,¹⁸ this excludes the case of Kil'ayim. Or a goat;¹⁹ this excludes the case of nidmeh;²⁰ Is brought forth²¹ excludes the case of offspring brought forth by the caesarean section; Then it shall be seven

BECHOROS –31b-61a

days excludes the case of an animal too young for sacrifice; Under the dam excludes the case of an 'orphan'. R. Ishmael son of R. Johanan b. Berokah says: Here it says: Under the rod,²² and there it says: Under the dam;¹⁸ just as there²³ all the categories²⁴ are excluded, similarly here all the categories are excluded. And just as here²⁵ a Trefah is excluded,²⁶ so there a Trefah is excluded. What is the word ALL meant to include in addition? — It includes what our Rabbis taught: [An animal] which covered [a woman], that was covered [by a man] or designated for idolatrous purposes and one actually so used,²⁷ or given as 'hire',²⁸ or as 'price [of a dog]',²⁹ a tumtum³⁰ and a hermaphrodite — all of these enter the shed to be tithed.

But R. Simeon b. Judah said in the name of R. Simeon: A Tumtum and a hermaphrodite do not enter the shed to be tithed. And our Tanna?³¹ — If he draws an analogy between 'under'³² and 'under' mentioned in connection with consecrated objects, these also³³ should not be tithed?³⁴ And if he does not infer from the case of consecrated objects, whence does he infer these?³⁵ — One may still say that he does draw the analogy, but the Divine Law included these because it is written: Because their corruption is in them and blemishes be in them; they shall not be accepted for you.³⁶

And R. Ishmael taught: Wherever corruption is mentioned, the act of 'lewdness'³⁷ and idolatry is meant. An act of 'lewdness' because it is written in the Scriptures: For all flesh hath corrupted his way on the earth³⁸ and idolatry because it is written: Lest ye corrupt yourselves and make you a graven image the similitude of any figure the likeness of a male or female.³⁹ And where ever a blemish disqualifies, the act of 'lewdness' and idolatry also disqualify,⁴⁰ and wherever a blemish does not disqualify, the act of 'lewdness' and idolatry do not disqualify. And in the case of tithing an animal, since a blemish does not

disqualify, because Scripture writes: He shall not search whether it be good or bad neither shall he change it,⁴¹ the act of 'lewdness' and idolatry also do not disqualify an animal for tithing. The case of an animal which covers [a woman] or that was covered [by a man] come under the head of 'lewdness'. [An animal] designated for idolatrous purposes and one so used are cases of idolatry. And [one given as] 'hire' comes under the category of an act of 'lewdness'; and the — 'price [of a dog]' is compared with the case of the 'hire'. As regards a Tumtum and a hermaphrodite, he holds that there exists a doubt [in each case].⁴²

'R. Simeon b. Judah says, etc.' He holds that a Tumtum and a hermaphrodite are of doubtful sex. Now in the case of consecrated objects, the Divine Law restricted the offering to an undisputed male and an undisputed female, prohibiting a Tumtum or a hermaphrodite; and with regard also to the tithing of animals we form an analogy between 'under' and 'under' mentioned in connection with consecrated objects.

Our Rabbis have taught: All lambs enter the shed to be tithed except Kil'ayim and Trefah. These are the words of R. Eleazar b. Judah a man of Kefar Bartotha, who reported this in the name of R. Joshua. Said R. Akiba: I have heard from him that this applies also to offspring which came forth through the caesarean section, an animal too young for sacrifice and an 'orphan'. And the first Tanna [R. Joshua] quoted above?⁴³

If he draws the analogy between 'under' and 'under' mentioned in connection with consecrated objects, these too [which are added by R. Akiba] should not be tithed. And if he does not make the analogy, we can indeed understand why Trefah is not tithed, because Scripture says: 'All that shall pass under the rod', thus excluding the case of Trefah which does not 'pass'⁴⁴ but with regard to Kil'ayim, whence does he prove

BECHOROS –31b-61a

this?45 — One may still say that [the first Tanna] draws the analogy [mentioned] and in respect of offspring brought forth by means of the caesarean section

- (1) That there is no bererah.
- (2) V. supra 52b.
- (3) The case of an animal tithed.
- (4) The first-born of thy sons thou shalt give unto Me. Likewise thou shalt do with thine oxen, etc. Ex. XXII, 28, 29.
- (5) That your son was born in your possession.
- (6) That there is no bererah and that the field returns in Jubilee.
- (7) For as there is a doubt we adopt the more stringent view that the brothers are considered as buyers and thus the field returns in Jubilee, whereas in the case of the tithing of animals, if you say that the animals are considered as bought, you are adopting the more lenient view.
- (8) Since returning in Jubilee applies to a field, and therefore when this takes place we can apply the text: And ye shall return every man to his possession. We therefore say that there is no bererah in order that it should return to Jubilee.
- (9) Because in the case of tithing animals, since the law of returning in Jubilee does not apply here, I might have said that we hold the principle of bererah and that what each of the brothers receives now is the same part which was his originally.
- (10) Because one of them is the exchange for the dog, and as we do not know which, therefore all are prohibited for the altar.
- (11) There is no prohibition as regards the nine lambs which are with the dog.
- (12) For since we hold the principle of bererah, then we ought to leave it to his judgment and to assume that his intention was from the beginning that the lamb he would choose would be the equivalent of the dog (Tosaf.).
- (13) If every lamb of the nine lambs had a companion in the ten lambs of equal value and thus it would be found that the tenth is the equivalent of the dog, then we would hold the principle of bererah.
- (14) That he would pick out one and the remainder would be fit to be offered up on the altar.
- (15) When we say that all the ten lambs are forbidden.
- (16) Where the nine lambs of the ten are worth more than the nine which are together with the dog and the dog worth the tenth plus a little over. Thus a portion of the value of the dog is to be found in all the opposite lambs and consequently they are all forbidden for the altar. For example, suppose the ten lambs are each worth four and

- one-tenth Zuz, making a total of forty-one Zuz, and the dog is worth five Zuz. Then the nine remaining lambs are worth thirty-six Zuz or four Zuz each — one-tenth of a Zuz less than each of the others. Hence the dog is the equivalent of each of the ten opposite lambs plus the tenth of a Zuz in each, and this tenth in each is the equivalent of a portion of the dog and therefore causes them all to be forbidden to be sacrificed being 'the price of a dog' (v. Deut. XXIII, 19).
- (17) Beasts that are cross-bred.
 - (18) Lev. XXII, 27.
 - (19) A continuation of the previous scriptural text.
 - (20) Lit., one who resembles'. One whose mother is a ewe while the animal itself resembles a goat.
 - (21) A continuation of the previous text. The other three texts given below are also a continuation of the same passage in Lev. XXII, 27.
 - (22) Lev. XXVII, 32, with reference to the tithing of animals.
 - (23) In the case of dedicated objects.
 - (24) Lit., 'names', i.e., those enumerated in the Baraitha above, vis., Kil'ayim, nidmeh, etc.
 - (25) In the case of the tithing of animals.
 - (26) Because Scripture says: 'All that shall pass', thus excluding a Trefah which cannot pass, since Trefah includes an animal whose leg was cut from the knee and upwards; v. infra 58a.
 - (27) By the offering of a libation between its horns (Rashi).
 - (28) A harlot's hire.
 - (29) An animal taken in exchange for a dog.
 - (30) One whose sex is unknown.
 - (31) Of the Mishnah who says ALL, what is his position?
 - (32) Under the rod mentioned in connection with tithing.
 - (33) The cases of an animal designated for idolatrous purposes and one so used, an animal which covered a woman, etc.
 - (34) For all these are disqualified in the case of dedicated objects.
 - (35) Viz., an animal too young for sacrifice an orphan, etc. as not being tithed.
 - (36) Lev. XXII, 25.
 - (37) Like the case of an animal which covered a woman, etc.
 - (38) Gen. VI, 12. The 'corruption' referred to here means immorality, as mentioned in verse 2 in the same chapter.
 - (39) Deut. IV, 16.
 - (40) For Scripture compared them with a blemish: 'Because their corruption is in them and blemishes be in them'.
 - (41) Lev. XXVII, 33.
 - (42) Whether it is a male or female and consequently both are tithed.

BECHOROS –31b-61a

(43) Who does not mention the cases referred to by R. Akiba.

(44) If it became a Trefah, for example, through having its leg broken from the knee upward, in which case it is not in a position physically to 'pass under the rod' in order to be tithed.

(45) That it does not enter to be tithed.

Bechoroth 57b

he holds with the view of R. Simeon, who said: Offspring brought forth by means of the caesarean section is a genuine offspring,¹ and not with the opinion of R. Johanan.² With respect to an animal too young to sacrifice, he agrees with the view of R. Simeon b. Judah.³ As regards an 'orphan', he assumes e.g., that the hide is still intact and R. Joshua follows the opinion he expressed elsewhere: **EVEN IF THE MOTHER HAS BEEN KILLED BUT THE HIDE IS STILL INTACT, IT IS NOT AN ORPHANED ANIMAL.** R. Ishmael b. Sathriel of Arkath Libnah⁴ testified before Rabbi: In our place we strip the hide from the dead [dam] and put it on the living [offspring].⁵ Said Rabbi: The reason of our Mishnah is now revealed.⁶ [He further testified]: The lettuces in our place have six hundred thousand peelings [of small leaves] around their core.⁷ Once a certain cedar tree fell in our place and sixteen wagons alongside each other passed its width.⁸ Once the egg of a Bar Yokani⁹ fell and its contents swamped sixteen cities and destroyed three hundred cedar trees. But does it actually throw the egg?¹⁰ is it not written: The wing of the ostrich beateth joyously?¹¹ — The egg [which it smashed] was a rotten one.¹²

MISHNAH. THERE ARE THREE PERIODS¹³ FOR THE TITHE OF CATTLE.¹⁴ IN THE PERAS¹⁵ OF PASSOVER, IN THE PERAS OF PENTECOST AND IN THE PERAS OF TABERNACLES. THESE ARE THE WORDS OF R. AKIBA. BEN AZZAI SAYS: ON THE TWENTY-NINTH OF ADAR, ON THE FIRST OF SIWAN AND ON THE TWENTY-NINTH OF AB. R. ELEAZAR AND R. SIMEON SAY: ON THE FIRST OF NISAN, ON THE FIRST OF

SIWAN AND ON THE TWENTY-NINTH OF ELUL.

AND WHY DID THEY SAY THE TWENTY-NINTH OF ELUL AND NOT THE FIRST OF TISHRI?¹⁶ BECAUSE IT IS A HOLY DAY AND YOU CANNOT TITHE ON A HOLY DAY.¹⁷ CONSEQUENTLY THE RABBIS FIXED IT EARLIER, FOR THE TWENTY-NINTH OF ELUL.

R. MEIR SAYS: THE FIRST OF ELUL IS THE NEW YEAR FOR THE TITHE OF CATTLE.¹⁸ **BEN AZZAI SAYS: THOSE BORN IN ELUL ARE TITHED BY THEMSELVES.**¹⁹ **ALL THOSE BORN FROM THE FIRST OF TISHRI UNTIL THE TWENTY-NINTH OF ELUL COMBINE [TO ENTER INTO ONE SHED].**²⁰

FIVE LAMBS BORN BEFORE ROSH HASHANAH²¹ **AND FIVE BORN AFTER ROSH HASHANAH DO NOT COMBINE. BUT FIVE LAMBS BORN BEFORE THE PERIOD [OF TITHING] AND FIVE AFTER THE PERIOD [OF TITHING] DO COMBINE [TO ENTER ONE SHED FOR TITHING].**

IF SO, WHY DID THEY SPEAK OF THREE PERIODS FOR THE TITHE OF CATTLE?²² [IT IS FOR THE PURPOSE OF INFORMING US THAT] UNTIL THE ARRIVAL OF THE [TITHING] PERIOD IT IS PERMITTED TO SELL AND KILL [THE ANIMALS],²³ BUT WHEN THE PERIOD HAS ARRIVED HE MUST NOT KILL, THOUGH IF HE KILLED, HE IS NOT CULPABLE.

GEMARA. What reason is there for these three periods? — Said Rabbah b. Shila: Corresponding [to the three periods when animals give birth]; [some give birth] early [in the season],²⁴ [some] late [in the season]²⁵ and [some in] the summer.²⁶ And why [are the lambs] tithed in these particular times?²⁷ — Said R. Tanhum son of R. Hiyya a man of Kefar Acco:²⁸

(1) The mother being unclean through the confinement and therefore it is eligible to enter the shed to be tithed, v. supra 47b.

BECHOROS –31b-61a

(2) Who explains (Nid. 40a) that R. Simeon admits that as dedicated objects they are not consecrated for the altar, comparing them with a first-born which is only hallowed when born from the womb (Rashi).

(3) Who holds (supra 21b) that an animal too young for sacrifice may enter the shed to be tithed.

(4) Arca Caesarea Libani at the north-western foot of Mt. Lebanon (Jast.).

(5) Thereby preserving it alive.

(6) The reason why R. Joshua in the Mishnah says that where the hide is still intact the animal is not considered an orphan is therefore because since the hide is of assistance to the offspring, it is as if the mother were alive.

(7) Lit., 'in its stomach'. Var. lec. insert after peelings, 'A gnat has in its stomach sixty thousand peelings.' Others read, 'A he-goat, etc.'

(8) The tree being exceptionally thick.

(9) A fabulous bird of the ostrich family.

(10) In order to smash it.

(11) Job. XXXIX, 13. The word נעלסה (beateth, etc.) is explained acrostically (Men. 66b): נושא (it carries) עולה (it goes up) למעלה (above) נחטה (it comes down). It carries its large egg, ascends aloft and then comes down to lay it gently in its nest on the ground without smashing it.

(12) Not being fit for chicken to come forth and therefore the bird deliberately threw and smashed it.

(13) Lit., 'threshing floors', v. Gemara.

(14) I.e., the animals which are born between the periods must be tithed at the approach of the period. Previous however to these intervals, one may eat or sell the animals directly even without tithing.

(15) Lit., 'half (a month)'. The fifteen days before Passover, etc. V. the Gemara infra.

(16) Which is really the New Year for animals.

(17) On account of the required marking of the tenth animal with paint.

(18) So that those born before this period do not enter the shed with those born subsequently, as it would be tithing the new for the old.

(19) And neither with those born in Ab nor for those born in Tishri, as there is a doubt whether the New Year for tithing is the first of Tishri or the first of Elul.

(20) An anonymous ruling in accordance with the opinion of R. Eleazar and R. Simeon, who maintain that the first of Tishri is the New Year for the purpose of tithing.

(21) I.e., the first of Tishri,

(22) Since the periods fixed for tithing do not form an interval with respect to the lambs born before them.

(23) Directly without tithing.

(24) Before Passover.

(25) Between Passover and Pentecost.

(26) Between Pentecost and Tabernacles. And therefore those born earlier in the season have their period for tithing fixed in the Peras of Passover, those born late, in the Peras of Pentecost, and those born in the summer, in the Peras of Tabernacles. Another explanation given by Rashi and R. Gershom is: that those born in summer, the period given is the Peras of Pentecost and those which are born late are assigned for tithing purposes to the Peras of Tabernacles.

(27) Why not some other month before Passover, Pentecost and Tabernacles?

(28) In Lower Galilee.

Bechoroth 58a

In order that animals may be easily obtained by the pilgrims.¹ And although we have learnt in the Mishnah: UNTIL THE ARRIVAL OF THE TITHING PERIOD IT IS PERMITTED TO SELL AND KILL ANIMAL FOR FOOD,² a man likes to perform a religious duty³ with his money first, and only then to proceed to sell or eat the animals. And why does [the Mishnah] call [the cattle tithing period] 'threshing floor'?⁴ — Because [the approach of the tithing period] makes [the animals] tebel [according to a rabbinical enactment] like the period of the 'threshing floor'.⁶ And what is [the period of] Peras mentioned in the Mishnah? —

R. Jose b. Judah explained: Peras is [a period of] no less than fifteen days. How is this implied? — Said R. Abahu: Peras means a half.⁷ Half of what? Half of the period of instruction in the laws of the Passover, in accordance with what was taught: The laws of the Passover are discussed and expounded thirty days before Passover.⁸ R. Simeon b. Gamaliel says: The period is two weeks.

BEN 'AZZAI SAYS: IN THE TWENTY-NINTH OF ADAR, IN THE FIRST OF SIVAN. Wherein do R. Akiba and Ben 'Azzai differ?⁹ — R. Akiba holds that the month of Adar which is next to Nisan is

BECHOROS –31b-61a

sometimes full¹⁰ [i.e., thirty days] sometimes defective [i.e., twenty-nine days] so that sometimes the Peras of Passover falls on the thirtieth of Adar and sometimes it falls on the twenty-ninth of Adar and for this reason he does not fix the time for the Peras. But Ben ‘Azzai holds that the month of Adar which is next to Nisan is always defective; consequently he fixes the time for the Peras on the twenty-ninth of Adar. And the reason why he fixes the first of Siwan¹¹ is that since animals are not plentiful,¹² if you therefore say that he should tithe earlier,¹³ by the time the festival arrives, he will have finished eating them [the animals].

ON THE TWENTY-NINTH DAY OF AB, etc. Ben ‘Azzai follows the opinion he expresses when he Says: **THOSE BORN IN ELUL ARE TITHED BY THEMSELVES.**¹⁴ And why not tithe them on the thirtieth of Ab?¹⁵ Sometimes¹⁶ the month of Ab is defective¹⁷ [i.e., twenty-nine days] and we need to make a distinction between the new and the old.¹⁸

R. ELEAZAR AND R. SIMEON SAY: ON THE FIRST OF NISAN, ON THE FIRST OF SIWAN, etc. ‘ON THE FIRST OF NISAN’ in accordance with the opinion of R. Simeon b. Gamaliel who said: Two weeks.¹⁹ **ON THE FIRST OF SIWAN** as we have explained above.²⁰

ON THE TWENTY-NINTH OF ELUL because R. Eleazar and R. Simeon follow the opinion they express elsewhere, where they said: The first of Tishri is the New Year for the tithing of animals.²¹

AND WHY DID [THE RABBIS] SAY THE TWENTY-NINTH OF ELUL AND NOT THE FIRST OF TISHRI? BECAUSE IT IS A HOLY DAY, etc. And why not say that the reason is because we need to make a distinction between the new and the old?²² — [The Mishnah] gives one reason and yet another. One reason is because we need to make a distinction between the new and the

old. And yet another reason is because it is a Holy Day, and you cannot tithe on a Holy Day on account of the required marking of the tenth animal with paint.²³

R. MEIR SAYS: THE FIRST OF ELUL IS THE NEW YEAR FOR THE TITHING OF ANIMALS. BEN ‘AZZAI SAYS, etc. It has been taught: Said Ben ‘Azzai: Since some hold the one opinion²⁴ and others the other,²⁵ therefore the animals born in Elul are tithed by themselves. And why not see which authority holds the more reasonable opinion? And should you say that he [Ben ‘Azzai] could not discover the reason of the authorities concerned, has it not been taught: ‘Ben ‘Azzai says: All the Sages of Israel are in comparison with myself, as thin as the husk of garlic,²⁶ except that bald head’?²⁷ —

Said R. Johanan: They²⁸ gave their opinions purely as traditions derived from the prophets Haggai, Zechariah and Malachi.²⁹ It has been taught: In what way³⁰ did Ben ‘Azzai say that those born in Elul are tithed by themselves? If five lambs were born in Ab and five in Elul, they do not combine [to enter one shed to be tithed]. [If] five [were born] in Elul and five in Tishri, they do not combine. If, however, five [were born] in Tishri and five in the following Ab, they combine. Surely this is obvious?³¹ —

You might have said that just as ‘the years interrupt,³² similarly the tithing periods also interrupt.³³ [The Baraitha] therefore informs us [that this is not so]. As we have learnt: **FIVE LAMBS BORN BEFORE ROSH HASHANAH AND FIVE LAMBS BORN AFTER ROSH HASHANAH DO NOT COMBINE [TO ENTER THE ONE SHED] WHEREAS FIVE LAMBS BORN BEFORE THE TITHING PERIOD AND FIVE AFTER THE TITHING PERIOD DO COMBINE.**

Said Raba: According to the opinion of Ben ‘Azzai,³⁴ if five were born to him in Ab, five

BECHOROS –31b-61a

in Elul and five in Tishri, he brings them into a shed to be tithed.

(1) For since the period of the tithing of animals does not take place until the Peras of the Festivals, people will keep their animals until the tithing period and will not meanwhile sell or kill them, with the result that there will be a plentiful supply of animals to eat and to offer up on the Festivals.

(2) We see then that only the arrival of the tithing period causes the animal to be subject to the tithe.

(3) So Sh. Mek. cur. edd., 'to be performed'. Viz., in the case here, that of tithing animals, as there is no loss for him, since he himself brings the animal set aside as tithe and eats it as a peace-offering.

(4) V. supra p. 391, n. 10.

(5) Subject to tithing.

(6) The threshing floor is the place where the grain is to be made fit for food and where it is made subject to tithes, similarly the respective periods of tithing make the animals subject to tithing rabbinically.

(7) Peras means something divided into two parts.

(8) And a half of this period is fifteen days. The tithing of animals and thus making them more easy to obtain by the pilgrims for the use of the Passover, can also be considered as preparation for the Festival (Rashi "כֵּן").

(9) For even Ben 'Azzai agrees that fifteen days before Passover, i.e., the Peras of Passover make the animal subject to tithing, since the twenty-ninth of Adar plus the fourteen days of Nisan constitute fifteen days before Passover.

(10) In some years.

(11) And does not say fifteen days before Pentecost, in the same way as he mentions fifteen days before Passover as a period of tithing.

(12) Between Passover and Pentecost, animals being then few in number.

(13) Viz., fifteen days before Pentecost.

(14) We cannot tithe those born in Elul for those born in Ab, in case the first of Elul is the New Year for the tithing of animals and we should thus be tithing the new for the old. We cannot also tithe the animals born in Tishri for those born in Elul, in case the first of Tishri is the New Year for tithing purposes. Since therefore there is a doubt whether the first of Elul or the first of Tishri is the New Year for tithing, those born in Elul are tithed amongst themselves. And for this reason the tithing Period of those born in summer is not fixed for the twenty-ninth of Elul i.e., the Peras of Tabernacles, so as not to combine the animals born in Ab with those born

in Elul, which would be tithing the new for the old. On the other hand, we do not fix the period earlier than the twenty-ninth of Ab because we must defer the period of tithing to as near to the Festival as possible.

(15) Instead of the twenty-ninth of Ab.

(16) In some years.

(17) The thirtieth of Ab would therefore fall on the first of Elul.

(18) And although a lamb born on the first of Elul is too young for sacrifice, we nevertheless make a distinction so as not to tithe the new, viz., those born in Elul, for the old, viz., those born in Ab. Therefore we do not tithe at all those born in Ab with the animals born in Elul, even those born on the first of the month.

(19) I.e., fourteen days are the period of preparation for the Passover, these Tannaim not accepting the prescribed period of the Peras.

(20) In connection with Ben 'Azzai's opinion above.

(21) V. R.H. 2a. And therefore we could not defer the tithing period later than to the last day of Elul, for we require that there should be a distinction between the new and the old.

(22) And because of this we cannot fix the tithing period on the first of Tishri as then we should be tithing the new, viz., those born after the first of Tishri, which is a New Year for animals, for the old, those born before the first of Tishri.

(23) And painting on a Holy Day is work which is forbidden. And the reason why it was fixed on the twenty-ninth day of Elul and not on the thirtieth is because in the majority of years Elul is defective i.e., twenty-nine days, and thus the thirtieth day of Elul would be Rosh Hashanah.

(24) I.e., R. Meir, who holds that the first of Elul is the New Year for tithing.

(25) I.e., R. Eleazar and R. Simeon who hold that the first of Tishri is the New Year for tithing purposes. Ben 'Assai therefore does not know which view to adopt.

(26) Consequently we see that Ben 'Azzai was a wise man, well able to discover which ruling in any dispute had the better reason.

(27) R. Akiba, R. Joshua b. Korha mentioned in various places in the Talmud being the same person as the son of Akiba, and the word Korha meaning bald head. Tosaf. comment that it is not conceivable that Ben 'Azzai would thus refer to a great Sage like R. Akiba, the term bald head being employed in many cases in an abusive sense. Tosaf. therefore say that the word Korha refers to R. Eleazar b. Azariah, concerning whom it is said in the Jerushalmi that he was bald headed. Rabbenu Tam says that קרְה ('bald-head') was the name of a man.

(28) R. Meir as well as R. Eleazar and R. Simeon.

BECHOROS –31b-61a

(29) And not derived by a process of reasoning or supported from biblical texts. Thus Ben ‘Azzai could not decide purely on grounds of reason which opinion he should adopt.

(30) Var. lec.: ‘How’.

(31) That those born in Tishri and those born in the subsequent Ab combine to enter one shed, since the first of Tishri is a New Year and therefore all were born in the same year.

(32) Every first of Tishri, the New Year for tithing animals, makes it forbidden to tithe animals born after this period for those born previously.

(33) And that one cannot tithe animals born after one tithing period for those born previously, and between Tishri and the following Ab there are a number of tithing periods for animals.

(34) Who is in doubt whether the first of Elul or the first of Tishri is the New Year of tithing animals.

Bechoroth 58b

He can also take one from those born in Elul¹ and the rest are exempt in any case, for if the first of Elul is the New Year [for cattle tithe], [the animals] of Elul and Tishri combine [to enter one shed] and those of Ab are exempt,² and if the first of Tishri is the New Year, the animals of Ab and Elul combine and those of Tishri are exempt.³ You will perhaps argue against this that [those five of Tishri] should be combined with those born in a subsequent tithing period.⁴ The Divine Law however refers to a sure tenth⁵ and not to a doubtful tenth.⁶ But is not this obvious?⁷ — You might have said that we ought to enact a prohibition lest he should come to take from these.⁸ [Raba] therefore informs us [that we have no such fear of this].⁹

MISHNAH. HOW DO WE TITHE ANIMALS? WE BRING THEM TO A SHED AND MAKE FOR THEM A SMALL OPENING SO THAT TWO SHALL NOT BE ABLE TO GO OUT AT THE SAME TIME. AND WE COUNT [WITH THE ROD],¹⁰ ONE, TWO, THREE, FOUR, FIVE, SIX, SEVEN, EIGHT, NINE. AND HE MARKS EVERY TENTH LAMB THAT GOES OUT AND SAYS: THIS IS [THE TITHE].’

IF HE FAILED TO MARK IT, DID NOT COUNT THEM [THE LAMBS] WITH A ROD, OR IF HE COUNTED THEM WHILE THEY WERE CROUCHING OR STANDING, THEY ARE STILL CONSIDERED TITHED. IF HE HAD ONE HUNDRED [LAMBS] AND HE TOOK TEN¹¹ OR IF HE HAD TEN AND HE TOOK ONE,¹² THIS IS NOT [VALID] TITHE.¹³

BUT R. JOSE B. JUDAH SAYS: THIS IS [VALID] TITHE. IF ONE [OF THE LAMBS] ALREADY COUNTED¹⁴ LEAPED AMONG THE FLOCK [IN THE SHED]¹⁵ THEY ARE ALL EXEMPT.¹⁶ IF ONE OF THEM THAT WAS MARKED AS TITHE LEAPED AMONG THE FLOCK [IN THE SHED],¹⁷ THEY ALL GO TO PASTURE UNTIL THEY BECOME UNFIT FOR SACRIFICE,¹⁸ AND THE OWNERS MAY EAT THEM IN THEIR UNFIT STATE.¹⁹

GEMARA. Our Rabbis taught: How does he tithe animals? He brings them into a shed and makes for them a small opening so that two may not go out at the same time. He also places their mothers outside [the shed] while the offspring are inside, so that [the mothers] low and [the offspring] go out to meet their mothers. But let him bring them out himself? — Scripture Says: Shall pass,²⁰ intimating that he must not cause them to pass. But let him throw them some green herb [outside]²¹ so as to induce them to go out? —

Said R. Huna: This was prohibited²² on account of an animal bought or orphaned.²³ Our Rabbis taught, Scripture says: Even of whatsoever passeth under the rod:²⁰ this excludes a Trefah which is unable [physically] to pass under the rod.²⁴ It is a duty to count them with the rod. If, however, he did not count them with the rod, or if he counted them while they were crouching or standing, whence do we infer that the tithing is valid? The text states: The tenth shall be holy,²⁰ in any case.²⁵ I have here mentioned only that the tenth animal is holy when he calls it the tenth. Whence is it derived that it

BECHOROS –31b-61a

is holy even if he did not call it the tenth? Scripture says: 'It shall be holy', intimating that [it is holy] in any case. You might think that if he had a hundred [lambs] and he took ten [at the same time as the tithe], or if he had ten lambs and he took one [as the tithe], they are redeemed? The text states: 'The tenth', and this is not the tenth.²⁶

But R. Jose son of R. Judah says: Such is [valid] tithe. What is the reason of R. Jose son of R. Judah? He agrees with Abba Eleazar b. Gomel.²⁷ For it was taught: Abba Eleazar b. Gomel Says: [Scripture says]: And this your heave-offering shall be reckoned unto you as though it were the corn of the threshing-floor.²⁸ Scripture speaks of two kinds of terumah,²⁹ one that of Terumah gedolah³⁰ and the other the Terumah of the tithe.³¹ Just as Terumah Gedolah may be set apart for the priest by estimating [without measuring the quantity]³² and by [merely] mentally planning [the separation],³³

(1) Not deliberately taking one out, as this would be forbidden, but where, for example, he numbers them either in a crouching position or standing, when he is able mentally to fix upon one from those born in Elul as tithe.

(2) Because there are no more than five lambs belonging to that year.

(3) As there are only five lambs and they belong to a different year.

(4) In the same year, viz., the Peras of Passover,

(5) Lev. XXVII, 32.

(6) In case the first of Elul is the New Year for tithing and therefore the five lambs of Elul and the five of Tishri have combined to enter the shed. Consequently, those of Tishri have already been redeemed and the law of tithing does not apply to where there is a doubt,

(7) That he takes one from those born in Elul. For those born in Ab cannot help to tithe the others, in case Elul is a New Year and therefore there are only five of the previous year, a number insufficient for tithing. Again, he cannot take one lamb as a tenth from those born in Tishri for those born in Ab and Elul, in case Tishri is the New Year and therefore there are only five lambs, a number to which tithing cannot apply.

(8) Born in Ab and Tishri, and this would lead to an offence against the law by bringing Hullin to the Temple, as, for example, if he takes one of the

animals born in Ab as the tithe for the others. If Elul is the New Year, it will be found that these cannot combine for tithing and consequently the one taken is not the tithe, and if therefore he eats this as the tithe he will be eating Hullin in the Temple. The same applies if he took one lamb from those born in Tishri.

(9) As it is possible to distinguish those born in Elul by arranging for them to be standing or crouching while the counting takes place, thus avoiding taking from the others (R. Gershom).

(10) Inserted with Sh. Mek.

(11) At the same time, as tithe, without counting one, two, etc., merely choosing ten lambs from the hundred.

(12) As tithe without counting one, two, etc.

(13) Because he must count them, in order that the tenth may be holy.

(14) Even if there had been no tithing yet, as for example if he had not yet counted ten.

(15) Not yet tithed.

(16) For those already counted are exempt from redemption because a count properly begun redeems, since there were ten in the shed when counting commenced, and as we are in doubt which is the redeemed lamb among the flock, all are exempt.

(17) Not yet tithed.

(18) Because concerning each lamb there is a doubt whether it be the one set aside as tithe.

(19) Because they cannot be eaten while in a fit condition for sacrifice, as any one of them may be the tithe, and he will thus be eating a consecrated animal without the Temple wall.

(20) Lev. XXVII, 32.

(21) What need therefore is there to place the mothers outside?

(22) No other device being adopted except that of placing the mothers outside the shed.

(23) Because an animal bought or orphaned is exempted from tithing, and the placing of the mothers outside is a reminder that an animal bought and not born to him, or one whose mother died during or soon after confinement, is exempt from tithing; whereas if some other plan were adopted of inducing the young to go out, orphans and animals bought might enter the shed and thus cause the rest to be exempted.

(24) Where, for example, its leg from the knee and upwards is broken.

(25) Even in the instances just mentioned.

(26) Not having been counted.

(27) Or, Gamala; v. Bez. 13b, Git. 30b.

(28) Num. XVIII, 27.

(29) The verse refers to the Levite who has to give Terumah to the priest from the tithe he received from the Israelite and this is compared to the Terumah which the Israelite gives to the priest from the threshing-floor, v. Glos. s.v. Terumah.

BECHOROS –31b-61a

(30) The gift which the Israelite gives to the priest is called the 'great' because it is the first to be separated from the grain.

(31) The text: 'And this shall be reckoned ונהשב unto you , referring to the gift of Terumah given by the Levite to the priest may also be held to refer to the Terumah given by the Israelite to the priest.

(32) Estimating approximately how many se'ah there are, and he gives Terumah according to his judgment.

(33) And not actually separating with the hand but merely glancing at one side and deciding (Lit., 'thinking') to give it as Terumah, after which he can immediately eat what is on the other side.

Bechoroth 59a

similarly the Terumah of the tithe may be set apart by estimating [without measuring the quantity] and by [merely] mentally planning [the separation]. And we find that tithe is called by the Divine Law Terumah, because it is written: But the tithes of the children of Israel which they offer as a heave-offering¹ unto the Lord I have given to the Levites to inherit.² And the tithing of animals is also compared to the tithing of grain.³ Just as the tithe of grain is set apart by estimating [without measuring the quantity] and by [merely] planning [the separation], similarly the tithing of animals may be set aside by estimating and by merely planning [the separation].⁴

Said Raba: The tenth is holy of its own accord.⁵ Whence does Raba know this? Shall I say from what was taught: I have here [mentioned] only that the tenth animal is holy when he calls it the tenth. Whence is it derived [that it is holy] even if he did not call it the tenth? The text states: 'It shall be holy', [intimating that] in any case [it is holy]. But perhaps [it means that] he did not call it the tenth but still called it holy?⁶—

Rather [Raba derives his ruling] from what has been taught: If he called the ninth the tenth and when the tenth came out he said nothing, the ninth is eaten [only] if blemished and the tenth is the tithe!⁷

Perhaps it is different here,⁸ for it was made quite clear that it was the tenth.⁹ Or indeed [the Baraita] refers to a case where he indicated¹⁰ that it should be the tithe!¹¹—

Rather [he derives his ruling] from what has been taught: If he called the ninth the tenth and the tenth died in the shed, the ninth is eaten [only] if blemished¹² and all are exempt.¹³ Now why are they all exempt? Is it not because the tenth is sacred?¹⁴ — Perhaps the reason is because they became exempt by means of the [interrupted] count properly begun,¹⁵ for Raba said: A count properly begun exempts!¹⁶

Rather [Raba derives his ruling] from what has been taught. If he called the ninth the tenth and the tenth remained in the shed, the ninth is eaten [only] if it is blemished and the tenth is the tithe.¹⁷ But has it not been taught: The ninth is Hullin [secular]?¹⁸ — A Tanna recited before R. Shesheth: Whose opinion is this? It is that of R. Simeon b. Judah: For it was taught: R. Simeon b. Judah reported in the name of R. Simeon:

(1) תרומה.

(2) Num. XVIII, 24.

(3) V. supra 53b.

(4) R. Jose will therefore agree with Abba Eleazar, and tithes of animals can be set aside even without counting one, two, etc.

(5) If he counted nine lambs and one remained in the shed although he did not count it, it is sacred of itself.

(6) Aliter: Perhaps the Divine Law did not call it the tenth, but still called it holy, so that it cannot be eaten without first becoming blemished, and holiness takes effect with reference to it though it need not be taken up to be eaten in Jerusalem. (Rashi: first interpretation). Perhaps although he did not call it the tenth, it is holy because he called it holy, but where he did not even call it holy, then no holiness whatsoever attaches to the animal. Whence, consequently, does Raba derive his ruling that the tenth animal becomes sacred on its own accord?

(7) We therefore say that the tenth is tithe automatically without having been called so.

(8) In the Baraita.

(9) For since it followed the ninth, it was obvious that it was the tenth, and therefore it is like other

BECHOROS –31b-61a

tithe, although it was not called so. Raba therefore will not be able to prove his ruling from this Baraitha. Another explanation is: the reason it was the tithe, although it was not called so, was because it passed through the same door as the other nine; but if it remained in the shed or if it passed through a different door, I might have thought that it does not become sacred automatically (Rashi).

(10) With his finger when it passed through.

(11) Not saying anything, however. But where it remained in the shed and he made no sign that he wished it to be the tithe, one could not have inferred from the Baraitha that it was holy like other tithe.

(12) Since it has been called the tenth, the name of tithe making it holy.

(13) The eight which have already come out.

(14) Of itself in the shed, although it did not pass through.

(15) When the nine went out through the door there was the right number for tithing, for the tenth was still alive and was in a condition to follow in order to exempt them. And since the counting was properly begun, it is as if the tenth had actually passed through and it exempts the lambs counted. The tenth animal itself, however, is not sacred unless it passed under the rod.

(16) If one began to count ten lambs or more for tithing purposes and during the counting one animal died or ran off, those which passed the rod are accounted redeemed.

(17) Consequently we see that although it did not pass under the rod, it becomes holy on its own account.

(18) Unlike the Baraitha above which says that the ninth is eaten only while blemished.

Bechoroth 59b

The ninth also is not sacred¹ except when the name of the tenth was eliminated therefrom.² And it is a proper conclusion. For if the eleventh [animal] possesses sufficient holiness to be sacrificed³ and is yet not holy except when the name of the tenth has been eliminated therefrom,⁴ it surely follows that in the case of the ninth, which does not possess sufficient holiness to be sacrificed,⁵ if the name of the tenth is eliminated therefrom it is holy⁶ but if not,⁷ it is not [holy at all]!

But [on the contrary], it is thus that we should argue: The eleventh is capable of

becoming holy enough to be sacrificed. If therefore the name of the tenth has been eliminated therefrom,⁸ it should require this holiness, but if not, not.⁹ But the ninth is not capable of becoming holy enough to be sacrificed. Hence it should become holy¹⁰ even if the name of the tenth has not been eliminated therefrom. Or perhaps [we can argue] seeing that the eleventh is not reached till the tenth has already established itself [as the tithe],¹¹ then if the name of the tenth was eliminated therefrom,¹² the eleventh becomes holy but if not,¹³ not; whereas the ninth which comes before the tenth has established itself [as the tithe]¹⁴ is holy even if the tenth has not been eliminated therefrom.¹⁵ And there is nothing more to be said against it.¹⁶

Said Raba: A count properly begun redeems.¹⁷ Whence does Raba derive this? Shall I say from what we have learnt: IF ONE [OF THE LAMBS] ALREADY COUNTED LEAPED IN AMONG THE FLOCK [IN THE SHED] THEY ARE ALL EXEMPT?¹⁸ Now how are [the lambs] already counted exempt? Is it not by means of the count properly begun?¹⁹ But perhaps they²⁰ had been already tithed!²¹ —

This you cannot say, for does it not state: IF ONE OF THOSE ALREADY TITHED LEAPED IN AMONG THE FLOCK! But perhaps the phrase ONE OF THOSE ALREADY TITHED refers to one actually set aside as tithe²² I can also prove it.' For it Says: LET THEM GO TO PASTURE!²³ —

Raba thereupon said: [My proof is as follows]. Scripture says: Shall pass,²⁴ intimating, but not that which has already passed. Now what does 'But not that which has already passed' mean? If it means those already tithed,²⁵ is there any need to say this?²⁶ It must refer to those exempted because of a count properly begun.²⁷ It stands proved. It has been taught in accordance with the ruling of Raba: If he had ten lambs and he led them into a shed,

BECHOROS –31b-61a

and after he had counted five²⁸ one of them died, if the one which died was of those already counted, he counts and combines them [with others].²⁹ But if the one which died was not of those yet counted, the counted ones are exempt³⁰ but those not yet counted combine with [others born] in a later tithing period.

Raba further said: If he had fourteen lambs and he led them into a shed, six [first] passing through one door,³¹ four through another door and four remaining there [in the shed], if these four [eventually] passed through the same door as the six, he takes one of them as tithe,³² and the rest³³ combine [in one shed] with those [born] in a later tithing period.³⁴ But if not,³⁵ the six are exempt³⁶ and the four together with the other four combine with those [born] in a later tithing period. If four pass through this door [first] and six through another door, four remaining there in the shed, if the four [eventually] pass through the same door which the six had passed through, he takes one as tithe and the rest are exempt.³⁷ And if not,³⁸ the first four and the six are exempt³⁹ and the last four combine with those [born] in a later tithing period. If four passed through this door and four through another door, six remaining there [in the shed], if the remaining [six] passed through the door of one of them,⁴⁰ he takes one [as tithe]⁴¹ and the rest are exempt.⁴² And if not,⁴³ [the first] four and [the second] four are exempt⁴⁴ and the [remaining] six combine with those [born] in a later tithing period. What does he [Raba] teach us? That a counting properly begun exempts! But has not Raba already taught us this ruling? —

You might have said that we apply the principle that a counting properly begun exempts where it is certain that there is a proper number⁴⁵ but where it is uncertain whether there is a proper number⁴⁶ seeing that it is possible to combine the six either here⁴⁷ or there,⁴⁸ we do not apply [this

ruling].⁴⁹ He [Rab] therefore informs us [that it is not so].

Raba further said: If he had fifteen⁵⁰ lambs he cannot say: 'I will select ten, bring them into the shed, take one [as tithe] from them and the rest will be exempt'. But he must bring them [all] into the shed, bring out ten lambs, take one from them [as the tithe] and the rest combine with those [born] in a later tithing period. So indeed it has been taught: If he had fifteen lambs

(1) Referring to the Mishnah below where it says that if one called the ninth the tenth, the tenth the tenth, and the eleventh the tenth, the eleventh is not holy, since he has not omitted the proper name of the tenth, having counted the tenth as the tenth and not the tenth as the ninth. If, however, he called the tenth the ninth, i.e., if he omitted the proper name of the tenth therefrom, then the eleventh is sacred. The ninth, however, if it has been called the tenth, is sacred even if he called the tenth the tenth, i.e., if he did not omit the name of the tenth therefrom. R. Simeon thereupon comes and says that even the ninth in such circumstances is not sacred, etc.

(2) If he called the tenth the ninth.

(3) For if he called the eleventh the tenth, it is brought as a peace-offering, this ruling being derived later on from a scriptural verse, and, yet in spite of this considerable sanctity, it is, etc.

(4) When, for example, the tenth is called the ninth.

(5) Even if he called it the tenth it is not offered up, only it becomes so far holy that it must not be eaten except when it is blemished.

(6) That the ninth receives this minor holiness.

(7) If he does not eliminate the name of the tenth therefrom. i.e., if he calls the tenth the tenth.

(8) If he called the tenth the ninth.

(9) This being a comparatively high grade of holiness.

(10) I.e., acquire the minor holiness of not being eaten except when it is blemished.

(11) The tenth having already gone out before the eleventh, thus becoming the tithe automatically.

(12) By calling the tenth the ninth.

(13) If he called the tenth the tenth.

(14) As the calling of the ninth obviously precedes the calling of the tenth.

(15) If he proceeded to call the tenth the tenth.

(16) You cannot argue against this, for this is certainly the case that the ninth is holy in all circumstances, even if the tenth is counted the tenth.

BECHOROS –31b-61a

(17) If he had ten lambs in the shed and he counted nine and the tenth died in the shed or passed through a different door from the others, the nine are redeemed and there is no need to combine them with the others of a later tithing period, since when he commenced counting the requisite number was available for tithing purposes.

(18) The questioner was under the impression that 'the lambs already counted' refers to the nine (or less) lambs already counted, one of which leaped back into the flock and those in the shed are exempted because he does not recognize which among them is the one which leaped back. Owing therefore to this doubt, not one of the animals is fit to be brought as tithe.

(19) There being ten lambs in the shed when the counting commenced.

(20) 'The lambs already counted' referred to in the Mishnah.

(21) And not merely counted up to nine but actually redeemed.

(22) Therefore the passage 'those already counted' will refer to those already set aside as tithe and consequently Raba cannot prove his ruling that where he properly began to count and the tenth died, we consider the counted ones as redeemed.

(23) If therefore the lamb that leaped was Hullin, 'why should it be condemned to pasture until blemished? The reason must therefore be because it is actually tithe, possessing the holiness of an animal set aside as tithe, and concerning each animal there is a doubt whether it be tithe.

(24) Lev. XXVII, 32.

(25) That they cannot be redeemed again.

(26) Surely there is no question that those already tithed once need not further be redeemed.

(27) Where a number were already counted, counting having begun properly with ten in the shed and the tenth died. This case Scripture exempts from redemption, since the animals had already passed through under the rod.

(28) The number five is not strictly meant, as it can be any number up to nine.

(29) In one shed until there are ten and then he takes one as tithe.

(30) Because it is a counting properly begun.

(31) There being two doors to the shed.

(32) Since ten lambs had passed through the same door.

(33) The four which passed through the other door, for we cannot exempt them on account of having begun to count them properly, as when the first four passed through the door there were only four left in the shed and you cannot combine four with four.

(34) To be tithed.

(35) If the four did not pass through the same door as the six but either remained in the shed or passed through the door of the other four thus making a total of eight, a number insufficient for tithing.

(36) Because when they left the shed there were sufficient lambs in the shed together with these for the requisite number for tithing.

(37) Even the first four are exempt because their counting was properly begun.

(38) If the four did not pass through the door of the six.

(39) Because when the first four passed through the door the counting was properly begun, there being ten left in the shed. Likewise with the six, when they passed through the door there were four left in the shed to combine for tithing.

(40) Either through the door of the first four or through the door of the last four.

(41) Because there are ten passing through the same door.

(42) Even those four through whose door the six did not pass, because when they went through the counting was properly begun.

(43) If the six did not pass through the door of the first four or the door of the other four, either remaining in the shed or passing through a third door.

(44) Because in the case of both the first and the second four lambs, the counting was properly begun, there being ten in the shed at the time of counting.

(45) Where, for example, he counted five or six and there were sufficient lambs in the shed to combine for tithing purposes, there being also one door in the shed. In such circumstances, the rest are certainly fit to pass through that door and to combine in order to be tithed with those already counted.

(46) As, for example, where four passed through one door and four through another door, six remaining in the shed. Here we cannot say whether the six will pass through this door or the other.

(47) With the four which passed through one door.

(48) With the four which passed through the second door.

(49) Of a counting properly begun exempting from tithing.

(50) The number is not strictly meant, the usual practice however being to combine five with five so as to make up the required number for tithing (Rashi).

BECHOROS –31b-61a

Bechoroth 60a

he cannot say: 'I will select ten [meager ones], take one from them [as tithe] and the rest will be exempt'. But he must bring them [all]¹ into the shed, bring out ten, take one from them [as tithe], and the rest combine with those of a later tithing period.² But has it not been taught: If he had nineteen lambs he cannot say: 'I will select ten, take one from them [as tithe] and the rest will be exempt'. But he must bring them [all] into the shed, bring out ten, take one from them [as tithe] and the rest are exempt?³ —

R. Huna b. Sehorah explained this before Rab on [the Sabbath preceding] a Festival:⁴ We are dealing here with a shed which has two doors. Nine lambs passed through one door and nine through the other, thus [the remaining lamb] is fit [to combine either with those] here or there.⁵ But why not explain⁶ [the Baraitha] as dealing with a case where he counted nine and when he reached [the number] ten, he called it One, [as] from the beginning?⁷ — He holds that the tenth is holy on its own account.⁸ And why not explain [the Baraitha]⁹ as dealing with a case where e.g., he counted [the nineteen lambs] in pairs?¹⁰ —

R. Huna holds: The tenth is rendered holy by the actual number of the animals.¹¹ R. Nahman b. Isaac said: The mother of R. Huna b. Sehorah was privileged to have a son who explained [Raba's ruling] on [the Sabbath previous to] a Festival¹² in line with Raba's teaching.¹³

MISHNAH. IF TWO [LAMBS] CAME FORTH AT THE SAME TIME,¹⁴ HE COUNTS THEM IN PAIRS.¹⁵ IF HE COUNTED [THE TWO]¹⁶ AS ONE, THE NINTH AND THE TENTH ARE SPOILT.¹⁷ [IF THE NINTH AND THE TENTH CAME OUT AT THE SAME TIME, THE NINTH AND THE TENTH ARE SPOILT.]¹⁸ IF HE CALLED THE NINTH THE TENTH, THE TENTH THE NINTH AND THE ELEVENTH THE TENTH, THE THREE ARE HOLY. THE

NINTH IS EATEN WHILE BLEMISHED, THE TENTH IS THE TITHE AND THE ELEVENTH IS SACRIFICED AS A PEACE-OFFERING, AND IT CAN EFFECT A SUBSTITUTE.¹⁹ THESE ARE THE WORDS OF R. MEIR.

SAID R. JUDAH: CAN THAT ONE SUBSTITUTE EFFECT ANOTHER SUBSTITUTE?²⁰ THEY SAID IN THE NAME OF R. MEIR: IF IT²¹ WERE A SUBSTITUTE, IT WOULD NOT HAVE BEEN SACRIFICED.²² IF HE CALLED THE NINTH THE TENTH, THE TENTH THE TENTH AND THE ELEVENTH THE TENTH, THE ELEVENTH IS NOT CONSECRATED.²³ THE FOLLOWING IS THE RULE: WHEREVER THE NAME OF THE TENTH [ANIMAL] HAS NOT BEEN ELIMINATED THEREFROM,²⁴ THE ELEVENTH IS NOT CONSECRATED.²⁵

GEMARA. Said R. Johanan: If he counted [the lambs] in pairs or in hundreds; the tenth in his counting becomes holy. In what counting? — R. Mari says: The holiness of the tenth is determined by his counting,²⁶ whereas R. Kahana says: The holiness of the tenth is determined by the actual number of animals.²⁷

We have learnt: IF TWO CAME OUT AT THE SAME TIME, HE COUNTS THEM IN PAIRS. IF HE COUNTED [THE TWO] AS ONE, THE NINTH AND THE TENTH ARE SPOILT. Now there is no difficulty according to him who holds: The holiness of the tenth is determined by his counting; for this reason the ninth and the tenth are spoilt, and he calls the tenth the ninth and the eleventh the tenth.²⁸ But according to him who holds that the holiness of the tenth is determined by the actual number of the animals, it is as if he called the [certain] ninth the ninth and the [certain] tenth the tenth!²⁹ R. Johanan can reply thus:³⁰ I only say [that the holiness of the tenth is determined by the counting of the animals] where he planned to bring them out in pairs, but where [as in the Mishnah] they came out [of the shed] of themselves,³¹ it is not so.³²

BECHOROS –31b-61a

Come and hear: If he counted them backwards,³³ the tenth of the counting is holy. Now I grant that according to him who holds that the holiness of the tenth is determined by the actual number of the animals, there would be no difficulty. But according to him who holds that the holiness of the tenth is determined by his counting, then he calls the tenth the first!³⁴ — Said Raba: The reason is because it so happens that in the Persian system of counting that they call ten One.³⁵

- (1) Both the meager ones and the fat ones (Rashi).
- (2) We are therefore taught here two things. First, that he cannot select the meager ones alone to be tithed, and again, that, although only five lambs remain, he cannot say that they are altogether exempt but must combine them with those born at a later tithing period.
- (3) Although he had brought all of them into the shed for tithing.
- (4) When the laws of the forthcoming Festival were being expounded.
- (5) Either with the nine which passed through this door or the nine which passed through the other door, the reason why it exempts the rest being that a counting properly begun redeems. The lamb itself is holy, however, on its own account whether it remains in the shed or passes through the door.
- (6) And even when the shed had only one door.
- (7) He did not say ten but proceeded to count, two, etc. thus calling the tenth, One. Therefore the nineteenth was the tenth according to the second counting of the animals, the last ten being thus exempt through the nineteenth which is the tithe. And the first nine already counted are exempted on the grounds of a counting properly begun.
- (8) Even if he called it One and did not call it the Tenth. Thus the nine lambs which remained cannot be exempted, as there is here no counting properly begun.
- (9) Where there was only one door.
- (10) There being nine pairs and he brought out the last lamb and called it the Tenth in order to exempt the first nine and the other nine on account of *מנין הראוי*.
- (11) And it is not how one counts them, viz., one, two, etc. which matters. Therefore as soon as he counted five pairs, one of the lambs becomes the tithe and the remaining nine are not exempt since the counting of them was not properly begun.

(12) Where there was a large public present to hear the exposition of the regulations of the forthcoming Festival.

(13) When he says above: Thus (the remaining lamb) is fit to combine, etc., which is the principle which Raba adopts, namely that of a counting properly begun.

(14) When he commenced to count them two came forth simultaneously through the width of the door.

(15) And the tenth pair are holy. The same applies if they passed through in threes, fours, etc.

(16) E.g., when he reached the sixth or the seventh (Rashi).

(17) As regards offering up on the altar, for the ninth, according to his counting, is really the tenth and the tenth is really the eleventh. There is therefore (according to R. Gershom) a mixture here of tithe and a peace-offering. Consequently, the animals are condemned to pasture until blemished. The case here also is unlike the case of one who called the tenth the ninth and the eleventh the tenth, when the tenth is the tithe and the eleventh is offered up as a peace-offering, because since he counted the animals one by one it is clear that the animal he called the ninth was really the tenth, the mistake being on his part. The tenth is holy therefore without the slightest doubt, and the eleventh is also holy as the result of a Divine decree, as mentioned below. But where a pair came out in the beginning simultaneously, and instead of counting them in pairs, he counted them singly, it was not absolutely clear that the animal which he counted the ninth would be the tenth (Rashi).

(18) As regards being offered up as tithe, for it is impossible to ascertain which came forth first and is consequently the tithe. Hence since we are in doubt which passed through, first both must pasture and are eaten when blemished.

(19) It can transfer its holiness to another animal substituted for it, v. Lev. XXVII, 10.

(20) Because he maintains that the holiness of the eleventh animal is due to the fact that it is a substitute. For when he called the eleventh the tenth, it is as if he had said: 'Let this be holy instead of the tenth' and that which is already a substitute, etc.

(21) The eleventh animal which he called the tenth.

(22) The eleventh is not the substitute for the tenth, for had it been a substitute it would not have been offered up, for Scripture says: Thou shalt not redeem, they are holy (Num. XVIII, 17). And we deduce thus: They (themselves) are holy but not their substitutes. And although the text refers to the first-born, we derive the case of tithe therefrom (Rashi). The fact that the eleventh is

BECHOROS –31b-61a

offered up as a peace-offering proves therefore that it cannot be a substitute and that its holiness is in its own right.

(23) Since sometimes the eleventh can receive the comparatively stringent holiness of a peace-offering, when, for example, he made a mistake and called the tenth the ninth, then in this case when he called the tenth the tenth, the eleventh receives no holiness at all. The ninth, however, will retain the minor holiness of not being eaten unless blemished, even where he called the tenth the tenth.

(24) I.e., when he called the tenth the tenth and thus there was a proper tithe.

(25) Although he called it the tenth.

(26) In the case of pairs, therefore, the tenth pair is holy as tithe, and in the case of the counting of hundreds, the tenth hundred is holy.

(27) We are not concerned with his counting, and therefore in the case of pairs, the tenth animal becomes holy as tithe of itself and every tenth animal of the hundred becomes holy, making ten animals as tithes in every hundred. If, therefore, the tithes can be recognized it is well, and if not, they are all condemned until they are blemished (Rashi).

(28) There is some holiness in the eleventh, his naming it as the tenth having this effect.

(29) For the fact that he called the tenth the ninth and the eleventh the tenth makes no difference, and therefore why should not the tenth be the tithe and the eleventh a peace-offering?

(30) On the explanation of R. Kahana.

(31) The Mishnah saying distinctly: IF THEY CAME OUT, etc.

(32) That we go according to the actual number of the animals, but the tithe also depends on the way he counts.

(33) E.g., the first he called the tenth, the second the ninth, the third the eighth, etc.

(34) He then calls the tenth animal the first, and if therefore we are guided by what he says why should the last animal be sacred, since he actually calls it the first?

(35) Counting only the Units. Therefore what he calls the first is in fact the tenth.

Bechoroth 60b

IF HE CALLED THE NINTH THE TENTH, THE TENTH THE NINTH AND THE ELEVENTH THE TENTH, etc. Our Rabbis taught: Whence do we know that if he called the ninth the tenth, the tenth the ninth and the eleventh the tenth, the three are consecrated? The text states: And concerning the tithe of the herd or of the

flock even of whatsoever passeth under the rod the tenth shall be holy,¹ thus including all.² One might have thought that I include also the eighth and the twelfth.³ [Against this] you can argue thus: Since it [the tenth] is holy and [the animal] he by mistake [called the tenth] is consecrated, just as [the tenth] is only consecrated when it is next [to it],⁴ similarly [the animals] he by mistake called [the tenth] must be next to it.⁵ But has it not been taught: Just as the tenth can only be one,⁶ similarly [the animal] called by mistake [the tenth] can only be one?⁷ —

A Tanna recited before R. Johanan: [This Baraitha]⁸ will represent the opinion of R. Eleazar b. Simeon. For it has been taught: R. Eleazar b. Simeon says: The eleventh is holy only when he is silent at the ninth,⁹ calls the tenth the ninth, and the eleventh the tenth.¹⁰ He [R. Eleazar] concurs with R. Judah who said: A mistake in counting the animal for tithes renders [the animal styled tenth] as a substitute,¹¹ and he also holds the opinion of his father [R. Simeon] who said: No substitute can effect another substitute.¹²

Said Raba: If two came out of the shed at the ninth¹³ and he called them the ninth, the tenth and Hullin are mixed together.¹⁴ The tenth is sacred on its own accord.¹⁵ And the ninth [is Hullin] because he called it the ninth. If he called them¹⁶ the tenth, the tenth and the ninth are mixed together.¹⁷ What is the reason? Because he called them both the tenth. If two came out [of the shed] at the tenth¹⁸ and he called them the tenth, the tenth and the eleventh are mixed together.¹⁹ If he called them²⁰ the eleventh, the tenth and Hullin are mixed together.²¹ What need is there [for Raba] to give this additional ruling?²² Is it not the same?²³ — He informs us of this, that wherever they came out at the same time and he called them the tenth they are consecrated, although the name of the tenth was not eliminated therefrom.²⁴

R. Kahana sat and was stating this tradition. Said R. Ashi to R. Kahana: But the name of

BECHOROS –31b-61a

the tenth has not been eliminated therefrom, and we have learnt: **THE FOLLOWING IS THE RULE: WHEREVER THE NAME OF THE TENTH HAS NOT BEEN ELIMINATED THEREFROM THE ELEVENTH IS NOT CONSECRATED?**²⁵ — This is the case²⁶ only when [the lambs] came out one after the other,²⁷ but where they came out simultaneously,²⁸ both are holy.²⁹ But is not the case [where he called the tenth and the eleventh] one after the other [the tenth] explicitly stated: **IF HE CALLED THE NINTH THE TENTH, THE TENTH THE TENTH AND THE ELEVENTH THE TENTH, THE ELEVENTH IS NOT CONSECRATED?** Now what does the statement **THE FOLLOWING IS THE RULE** include? Does it not include the case where he called the tenth and the eleventh simultaneously the tenth?³⁰ —

No. It includes the case where the tenth came out and he did not say anything,³¹ for here the name of the tenth was not eliminated therefrom.³² For if you will not agree to this,³³ what of this which has been taught: If two came out at the tenth³⁴ one not preceding the other, and he called them the tenth, the tenth and eleventh are mixed together [viz., tithe and a peace-offering]. [Now why is this, seeing that] the name of the tenth has not been here eliminated therefrom?³⁵ Must not we say therefore that wherever both came out [of the shed] at the same time they are consecrated? —

Were it only for this, there would be no proof, because the case here³⁶ is where one put forth its head before the other and he called it the eleventh,³⁷ and subsequently, it mixed with the others [and two animals] came out together and he called them the tenth, the name of the tenth having thus been eliminated therefrom.³⁸ But does not [the Baraitha] state above: ‘One not preceding the other’? —

The phrase ‘One not preceding the other’ means that it afterwards mixed with the others.³⁹ And whose opinion does this⁴⁰ represent? Not that of Rabbi, for if that of Rabbi, does he not say: The [calling of] the eleventh [before the tenth] is not considered as eliminating [the name of the tenth]? —

You may even say that this represents the opinion of Rabbi, for Rabbi's ruling refers only to a case where he has many animals to tithe, for then we say that he means ‘one [group of] ten’.⁴¹ But here we are referring to a case where he has no more animals.⁴² What is this ruling of Rabbi? —

As it has been taught: If he called the tenth the eleventh⁴³ and the eleventh the tenth, the eleventh is not sacred. There are the words of Rabbi. R. Jose son of R. Judah says: The eleventh is sacred. Rabbi stated a rule: So long as the name of the tenth has not been eliminated therefrom,⁴⁴ the eleventh is not holy. [But has not [the name of the tenth] been eliminated]?⁴⁵ —

Said Raba: What are the circumstances here? Where he has many animals and we say that he means one ten.⁴⁶ [It has been said]: If two came out at the tenth,⁴⁷ one [Baraitha] teaches: Let them pasture⁴⁸ and another [Baraitha] teaches: Let them be offered up. And yet another teaches: Let them be left to die. There is no contradiction here. The one which says: Let them pasture, gives the opinion of the Rabbis who say: We must not wittingly cause sacred flesh to be brought to the place where the unfit [are burnt].⁴⁹

(1) Lev. XXVII, 32.

(2) Implying that it is the tithe whether he called it the tenth or it was the actual tenth, even though he did not call it tithe.

(3) If he called them the tenth, that they are sacred.

(4) And what can be nearer to the tenth animal than the very animal itself?

(5) Viz., the ninth or the eleventh which is the next one, before or after the tenth.

BECHOROS –31b-61a

(6) For obviously the tenth can only be one animal.

(7) So that if he made a mistake in calling the ninth and the eleventh the tenth, both are not consecrated but only one.

How then can you say that all are consecrated?

(8) Which requires the mistake to refer to one animal only.

(9) When he did not call it the tenth, for had he done so the eleventh would not have been holy, as then he would have made two mistakes.

(10) There being only one mistake here viz., calling the eleventh the tenth, because calling the tenth the ninth is no mistake, since the tenth automatically becomes consecrated (R. Gershom).

(11) The animal marked as the tenth by mistake is deemed sacred as a substitute, and having therefore made the ninth a tenth, the eleventh can no more become a substitute, as R. Judah says in the Mishnah above.

(12) V. Tem. 9a. And similarly here two mistakes, viz., calling the ninth the tenth and the eleventh the tenth, do not confer holiness on the two animals in substitution for the holiness of the tenth.

(13) When the ninth was about to go out.

(14) And they must not be eaten unless in a blemished state and if he shears or works one of the animals, he is not liable to lashes since it may be Hullin.

(15) Although he has not called it the tenth.

(16) The two animals which left the shed together when about to go out.

(17) They are both therefore holy, and if he redeemed or sold one of them he is liable to lashes, for he called them both the tenth, and the owners can eat them only while they are blemished (R. Gershom).

(18) When the tenth animal was about to go out.

(19) The tenth is actually the tithing and the eleventh is a peace-offering. Therefore both are sacrificed and are eaten subject to the restriction applying to each, viz., two sprinklings of blood and the separation of the breast and shoulder for the priest.

(20) The two lambs which came out of the shed when the tenth was about to go out.

(21) And both are eaten while blemished by their owners without redemption (R. Gershom).

(22) Where the two came forth as the tenth was about to go out, that the tenth and the eleventh are mixed together.

(23) Could I not have inferred that the tenth and the eleventh are mixed together from the ruling of the tenth and the ninth which are considered as mixed together?

(24) Since he also called the tenth the tenth.

(25) Viz., where he called the tenth the tenth. Therefore how can the eleventh be holy here, since he called the tenth the tenth?

(26) That we require the name of the tenth to be eliminated therefrom.

(27) And since he called the tenth the tenth, the eleventh is not holy.

(28) And he called both the tenth and the eleventh the tenth.

(29) Even the eleventh.

(30) And even so the eleventh is not holy.

(31) He did not call it the tenth, and yet the eleventh which subsequently came out and which he called the tenth is not holy, because the tenth becomes holy in its own accord, the silence not being considered the elimination of the name of the tenth therefrom.

(32) But where both came out of the shed at the same time and he called the tenth and the eleventh the tenth, they are both holy.

(33) That if they came out simultaneously they are holy.

(34) When the tenth was about to go out.

(35) Because he called the tenth the tenth.

(36) In the Baraitha which says that the tenth and the eleventh are mixed together and we regard the eleventh as consecrated, although he called the tenth the tenth.

(37) Thus removing the name of the tenth therefrom, since he did not call it the tenth but the eleventh. Where he called it the ninth, there is no question that this is eliminating the name of the tenth, but the Baraitha wishes to inform us that even if he called it the eleventh, although this is not the view of Rabbi below, it is also regarded as removing the name of the tenth.

(38) And therefore the eleventh is holy. But where he first called them the tenth, although they came out together, it may be that the eleventh is not consecrated.

(39) And then both animals actually came out at the same time, one not preceding the other.

(40) The ruling which says that if he calls the tenth the eleventh it is regarded as eliminating the name of the tenth therefrom.

(41) אחד עשר (eleven) lit., 'one ten' may signify (by dividing the words) 'one (group) of ten', and meaning: this is the first tenth, the first ten animals that have been tithed. Therefore by calling the tenth אחד עשר he has not really eliminated the name of the tenth therefrom according to Rabbi.

(42) Than eleven, or twelve or thirteen, or fifteen. We cannot therefore explain the words אחד עשר as meaning the first ten, as this would imply that he has more tens of animals to tithe. In this instance, consequently, he must actually mean to call the animal the eleventh, and even Rabbi will admit here that the calling of the tenth the

BECHOROS –31b-61a

eleventh eliminates the name of the tenth therefrom.

(43) Before he called the tenth.

(44) I.e., where he called the tenth the tenth.

(45) By calling the tenth the eleventh. Inserted with Sh. Mek.

(46) V. supra nn. 1 and 1a.

(47) Referring to the ruling of Raba above where he called both animals which came out at the tenth the tenth and we say that the tenth and the eleventh are mixed together. The Gemara now proceeds to give a number of Baraithas which explain the implications of the phrase ‘the tenth and eleventh are mixed together’.

(48) Until they are blemished.

(49) Now here since we have the tithe and a peace-offering, if we offer them up and impose on them the restrictions applying to each of them, we shall have to separate the breast and the right shoulder of each animal for the priest, owing to the doubt that each may be the peace-offering. It may happen that the priests have many sacrifices to eat and will not be able to partake of the breast, etc., thus causing sacred meat to be burnt. But in the case of the tithe, not only priests are privileged to eat it but also Israelites, and, as there are many Israelites, there is no fear that sacred meat might be left over to be burnt among the unfit. Thus if we impose on both the restrictions applying to each of them, we shall have to treat both animals as peace-offerings as far as the priest's gifts of the breast, etc. are concerned. We therefore say that the remedy is to condemn them both to pasture until they become blemished, one being redeemed and both eaten while blemished (R. Gershom).

Bechoroth 61a

And the one who says: Let them be offered up, represents the opinion of R. Simeon who says: We may cause sacred flesh to be brought to the place where the unfit [are burnt].¹ The one who says: Let them be left to die, gives the opinion of R. Judah who says: A mistake [in counting] for tithes renders the tenth animal as a substitute;² and R. Judah further holds: That which has been made as substitute for [an animal set aside as] tithe must be allowed to perish. But does R. Judah hold that that which is made a substitute for [an animal set aside as] tithe must be allowed to perish?

Have we not learnt: **THEY SAID IN THE NAME OF R. MEIR: IF IT WERE A SUBSTITUTE IT WOULD NOT HAVE BEEN SACRIFICED**, thus implying that R. Judah holds that it is sacrificed? And should you say that R. Meir says this in accordance with his own opinion,³ has it not been taught: The only difference between the eleventh [called by mistake the tenth] and an actual peace-offering is that the latter confers the degree of consecration⁴ required for an offering whereas the former does not confer the degree of consecration required for an offering.⁵ These are the words of R. Judah. Thus it cannot effect a consecration [for another animal] to be offered up but, as far as [the animal] itself is concerned, [the eleventh called by mistake the tenth] can be offered up [according to R. Judah]!

Moreover it has been taught: [Scripture says]: If he offer it of the herd⁶ this includes the eleventh⁷ as a peace-offering. You might think that I include also the ninth as a peace-offering. Against this argue thus: Does Hekdesh consecrate [an unblemished animal of Hullin] which comes before it⁸ or the one which comes after it? You must admit that it consecrates only the one coming after it.⁹ Now whose opinion does an anonymous view in Sifra¹⁰ represent? Is it not that of R. Judah? And yet it says: ‘If he offer of the herd’ includes the eleventh as a peace-offering!¹¹ —

Rather explained R. Simeon b. R. Abba before R. Johanan: It¹² refers to tithing in our days¹³ and for fear that an offence might be committed.¹⁴ If this be the case, why [does the Baraitha speak of] two,¹⁵ since the same ruling applies also to one?¹⁶ — [The Baraitha above] gives a particularly strong instance:¹⁷ Not only in the case of one where there is not much loss,¹⁸ but even in the case of two lambs, where I might have said that since there is much loss we should keep them until a blemish befalls them in order to eat them, does [the Baraitha] inform us [that the ruling applies].

BECHOROS –31b-61a

It has been stated: If one says to his agent: 'Go and tithe on my behalf', R. Papi in the name of Raba says: If he called the ninth the tenth, it is sacred,¹⁹ whereas if he called the eleventh the tenth, it is not sacred.²⁰ But R. Papa in the name of Raba Says: Even if he called the ninth the tenth, it is not sacred, for he [the sender] can say to him: 'I sent you to do the right thing²¹ not to do it wrong'.²² And why is this different from what we have learnt in a Mishnah: If one says to his agent: 'Go and separate Terumah', he separates according to the disposition of the owner.²³ If, however, he does not know the disposition of the owner, he separates the amount of Terumah for an average person, one in fifty. If he decreased the Terumah by ten²⁴ or increased it by ten, his Terumah is valid!²⁵

I will tell you: There [in the Mishnah] since some separate Terumah liberally and others meanly, he [the agent] can say to him: 'I guessed this to be your intention';²⁶ but here there was a mistake.²⁷ He [the owner] can therefore say to him [the agent]: 'You should not have made a mistake'.²⁸

(1) There is a difference of opinion on the subject in Zeb. 75b.

(2) The animal marked as the tenth by mistake is sacred.

(3) Meaning thus: 'According to my view that the eleventh marked by mistake as tithe is offered up as a peace-offering, it is not a substitute, for were it a substitute it would not have been offered'. But according to R. Judah, the animal must be left to die.

(4) I.e., an animal substituted for it is sacred enough to serve as an offering.

(5) I.e., an animal substituted for the eleventh is not sacred enough to be offered up.

(6) Lev. III, 1.

(7) Which was marked the tenth.

(8) I.e., can an offering transfer its sanctity to a substitute made for it before it itself has been consecrated? Similarly here, is it possible that the tenth which is not yet holy itself should be able to confer holiness on the ninth.

(9) The eleventh which follows the tenth.

(10) The source of the cited Baraitha.

(11) We see therefore that R. Judah holds that the eleventh which was marked the tenth is sacrificed. How then can we explain the Baraitha above which says 'Let them be left to die' as being the opinion of R. Judah?

(12) The Baraitha above which states that where the two came out together and he called the tenth and the eleventh the tenth, they are both left to die.

(13) After the destruction of the Jewish Temple, when there cannot be any sacrifices. This explanation is not in agreement with the opinion of R. Huna above (53a), that nowadays the law of tithing animals is not practiced. (Rashi) Tosaf. observes however that although the law of tithing does not apply in our days, nevertheless, if he did tithe, the animal set aside as tithe is sacred.

(14) Lit., 'on account of a stumbling-block'. That he might maim it deliberately or that he might eat it without waiting for it to become blemished or he might shear it and work with it. Therefore we leave the animals to die rather than to let them pasture until they become blemished.

(15) Where he called the two animals the tenth and the eleventh the tenth.

(16) The fear of his maiming the animal or eating it while it is unblemished applies equally to one animal, seeing that it cannot be offered nowadays. Therefore the ruling that the animal is left to die should be taught with reference even to one animal.

(17) Lit., 'states a "not only"'.
(18) Does the Baraitha say that we condemn it to die.

(19) For he loses nothing thereby, as he can wait until the animal is blemished in order to eat it.

(20) Since it is a peace-offering, he loses the breast and the right shoulder which must be given to the priest, and therefore the sender can say: 'I did not send you to cause me a loss'. We therefore maintain that the sending was void.

(21) To benefit me.

(22) To cause me a loss, having to wait for a blemish before the animal can be eaten.

(23) If he knows the owner to be a liberal person, the agent separates as Terumah one part in forty, if a mean person, he separates as Terumah one part in sixty and if the owner is an average person, the agent separates as Terumah for him one part in fifty.

(24) Giving one in forty, which is a liberal amount.

(25) Ter. IV, 4. Why cannot the owner say here, as R. Papa maintains above, that the one in forty which the agent separated as Terumah was a mistake which caused him a loss and that therefore his agency is void?

BECHOROS –31b-61a

(26) I judged in my mind that this was the amount of Terumah that you proposed separating.

(27) To mark the ninth animal as the tenth.

(28) You should have marked the certain tenth as the tenth. R. Papa therefore maintains that in every case the agency is void and thus the animal is not sacred.