Talmud - Mas. Bechoroth 2a

C H A P T E R I

MISHNAH. [AN ISRAELITE] WHO BUYS AN EMBRYO[1] OF AN ASS BELONGING TO A HEATHEN OR WHO SELLS ONE TO HIM, ALTHOUGH THIS IS NOT PERMITTED,[2] OR WHO FORMS A PARTNERSHIP WITH HIM,[3] OR WHO RECEIVES [AN ANIMAL] FROM HIM TO LOOK AFTER[4] OR WHO GIVES [HIS ASS] TO HIM TO LOOK AFTER,[5] IS EXEMPT FROM THE [LAW OF THE] FIRSTLING,[6] FOR IT SAYS:[7] ['I HALLOWED UNTO ME ALL THE FIRSTBORN] IN ISRAEL', BUT NOT IN GENTILES[8]

GEMARA. What need is there for all these [cases mentioned in the Mishnah?[9] — It is necessary [to state all these cases]. For if it taught only the case of HE WHO BUYS etc., I might have thought the reason was because he brings it [the animal] into the state of holiness[10] but where he sells [to a heathen], since he releases it from holiness, he should be punished.[11] He accordingly states the second case [WHO SELLS etc.] What need is there for the statement OR WHO FORMS A PARTNERSHIP WITH HIM?[12] — It is to exclude the ruling of R. Judah Who said: A partnership with a heathen is subject to the law of the first-born.[13] [The Mishnah] accordingly informs us [that a partnership with a heathen exempts the Israelite from the duty of the first-born]. What need is there for the case OR [AN ISRAELITE] WHO RECEIVES etc.?[14] — It is necessary because [the Mishnah] wishes to teach the next case: OR [AN ISRAELITE] WHO GIVES [HIS ASS] TO HIM TO LOOK AFTER. And what need is there to state [the latter case itself.] OR [AN ISRAELITE] WHO GIVES etc.?[15] — It is necessary. You might be inclined to assume that since the animal itself belongs to the Israelite[16] we should punish him lest one come to confuse this with another animal.[17] [The Mishnah] accordingly informs us that we have no such fear. We have learnt elsewhere:[18] R. Judah permits the selling to a heathen of a maimed [animal][19] Ben Bathyra permits the selling of a horse.[20] The question was asked: What is R. Judah's ruling on selling an embryo to a heathen? Is the reason of R. Judah for allowing in that case[21] because the animal is maimed and therefore an embryo also being incapable of work is on a par with a maimed [animal]? Or is the reason perhaps because a maimed [animal] is not a frequent occurrence,[22] but a case of an embryo, being a frequent occurrence,[23] is unlike the case of a maimed [animal]? — Come and hear: OR WHO SELLS AN EMBRYO TO HIM ALTHOUGH HE IS NOT PERMITTED; and R. Judah does not contest this![24] — But, according to your argument [in the cases mentioned in the Mishnah] OR WHO FORMS A PARTNERSHIP OR WHO RECEIVES FROM HIM OR WHO GIVES HIM, where [the Mishnah] does not expressly state that R. Judah differs, is it really the fact that he does not differ?[25] You must admit that he does differ without [the Mishnah] saying so; similarly here[26] also he differs without the Mishnah saying so. Come and hear: R. Judah says: If one received an animal from a heathen to look after[27] and it gave birth [to a firstling] we settle [with the gentile partner] for what it is worth and half of its value is given to the priest.[28] Or if [an Israelite] gives [an animal] to him [a heathen] to look after, although he is not permitted.[29] we punish him by compelling him to redeem the animal[30] even up to ten times its value and he gives its whole value to the priest.

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(1) A firstling.

(2) For one is forbidden to sell large cattle to a heathen because the animal is worked on the Sabbath. (A.Z. 14b).

(3) Both purchasing an animal between them.

(4) The Israelite for attending to the animal receiving in payment half of the offspring, but the animal itself belonging to the heathen.

(5) The Israelite sharing a half or a third of the offspring.

(6) Which required the Israelite to set apart the first-born as holy to be given to the priest and in the case of the firstling of an ass, to redeem it with a sheep, failing which its neck was broken. (Ex. XIII, 12, 13).

(7) Num. III, 13.

(8) Lit., 'in others'; where a Gentile has any share in the mother or the offspring, the firstborn is not holy.

(9) HE WHO . . . . SELLS ... FORMS A PARTNERSHIP etc., since obviously the principle that a non-Jew sharing in an animal or its offspring exempts the Israelite from the law of the first-born and which is applied in the first case (HE WHO BUYS etc.), applies equally to the others.
(10) The animal coming into the possession of an Israelite will now rest on the Sabbath and therefore, having thereby performed a meritorious act he should not be punished by being made liable to observe the law of the firstling.
(11) By being compelled to redeem it and give it to the priest.
(12) If where the whole firstling belongs to the Israelite he is exempt, how much more so when he only shares in the offspring as a partner?
(13) Half of the value of the first-born is consequently given to the priest.
(14) Since, clearly, the rule that a non-Jew sharing in the animal or offspring exempts the Israelite from the law of the firstborn, applies here as in the previous passages.
(15) What is the difference whether the Israelite undertakes to care for the heathen's animal or the non-Jew undertakes to attend to the Israelite's animal? For in both instances, since the non-Jew has a share in the offspring, the law of the first-born does not apply.
(16) In the case of: OR WHO GIVES HIM etc., the whole animal, as well as half of the offspring. belongs to the Israelite.
(17) In which the gentile has no portion either in the mother or in its offspring, claiming that exemption is also applicable in this instance.
(18) A.Z. 14b.
(19) An animal with a broken leg. The permission refers only to a place where there is no fear of carnal relations with animals.
(20) Since a horse is generally used for riding, and if a gentile employed it in that manner on the Sabbath, there would be no breaking of the biblical prohibition of the Sabbath law, as riding on the Sabbath is only a rabbinic restriction.
(21) In the case of a maimed animal.
(22) And therefore we do not fear that if this is permitted, one would sell an ordinary animal to a heathen.
(23) Because after its birth it is fit for work, and therefore if we allow it to be sold as an embryo, we may think that it is also permissible to sell an ordinary animal to a heathen.
(24) And we are dealing with the case of an embryo and the Mishnah says ALTHOUGH HE IS NOT PERMITTED. Hence from the silence of R. Judah we may infer that the selling of an embryo to a heathen is forbidden according to every authority.
(25) R. Judah differs from the Mishnah, as we have seen, with reference to a partnership with a heathen, and he also differs as stated later in the cases where an Israelite undertakes to look after a heathen's animal where a heathen looks after an Israelite's animal.
(26) Where an Israelite sells an embryo to a heathen.
(27) To share half the offspring between the Israelite and the heathen.
(28) The animal, however, is not consecrated for sacrifice on the altar, since half of it belongs to a heathen.
(29) To sell an animal to a heathen.
(30) From the possession of the heathen.

Talmud - Mas. Bechoroth 2b

Now, does this[1] not refer to the case of an embryo?[2] — No, it refers to the animal.[3] But it does not say ‘damaw’ [‘its value’]?[4] — Read ‘dameha’.[5] But does it not say ‘and he gives its whole value to the Priest’? Now if [the words ‘its value’] refer to the animal, what has the priest to do with it?[6] — [No.][7] We are dealing here with a case where e.g., [an Israelite] gave him a pregnant animal to fatten;[8] since we punish him for [selling the] animal [to a gentile,] we also punish him for [selling] an embryo.[9] Said R. Ashi, Come and hear: R. Judah permits the selling of a maimed [animal].[10] because it cannot be cured.[11] But if it could be cured, it would be forbidden. Now, is not an embryo also like [an animal] which can be cured?[12] Deduce, therefore, from this [that it is forbidden to sell an embryo to a heathen according to R. Judah].

Some there are who referred [R. Judah's ruling on an embryo] to our Mishnah:[13] AND WHO

SELLS [AN EMBRYO] TO HIM [A HEATHEN] ALTHOUGH HE IS NOT PERMITTED. May we say that the Mishnah is not in agreement with R. Judah? For we have learnt: R. Judah permits the selling of a maimed [animal]![14] — You can even say [that the Mishnah] agrees with R. Judah. For the case of a maimed [animal] is not a frequent occurrence[15] whereas the case of an embryo is a frequent occurrence.[16] Come and hear: R. Judah Says: if one received an animal from a heathen to look after and it gave birth [to a firstling], we settle [with the gentile partner] for what it is worth and half of its value is given to the priest. Or if [an Israelite] gives [an animal] to him to look after, although he is not permitted to do so, we punish him [by making him, redeem the animal] even up to ten times its value and he gives its whole value to the Priest. Now, does this not refer to the case of an embryo? — No, it refers to the animal. But does it not say 'damaw'? ['its value'?] — Read 'dameha'. But does it not say 'and he gives its whole value to the Priest'? Now if [the words 'its value'] refer to the animal, what has the Priest to do with it? — We are dealing here with a case where e.g., an Israelite gave him a pregnant animal to fatten, and since we punish him for [selling] the animal [to a gentile,] we also punish him for [selling] an embryo. Said R. Ashi, Come and hear: R. Judah permits the selling of a maimed [animal] because it cannot be cured. But if it could be cured it would be forbidden. And an embryo is on a par with an animal that can be cured. Deduce therefore from this [that according to R. Judah it is not allowed to sell an embryo to a heathen]. The following query was put forward: If one sold an animal for its [future] offspring [to a gentile,][17] what is the ruling?[18] You can put this question to R. Judah and you can put this query to the Rabbis.[19] You can put the query to R. Judah thus: are we to say that R. Judah only permits the case of a maimed [animal][20] because he [the Israelite] will not come to confuse it with another animal and sell it [to a heathen], but in the case of a whole animal,[21] where he may confuse it with another, [he will say that] it is forbidden, or are we to say that perhaps, if in the case of a maimed [animal] where he severs all connection with it,[22] [it is allowed,] how much more so in the case of a whole animal where he has not severed all connection with it?[23] You can put this query to the Rabbis, thus: are we to say that the Rabbis only prohibit in the case of a maimed [animal] because he severs all connection with it,[24] but in the case of a whole animal, where he does not sever his connection from the animal, it is permissible; or are we perhaps to say that if in the case of a maimed [animal], where he will not come to confuse it [with another animal], they forbid [the selling to a heathen,] how much more so in the case of a whole animal, is there the fear [of confusion.][25] But is the reason of the Rabbis because of what [is stated] here?[26] Has it not been taught: They, [the Rabbis,] said to R. Judah:[27] Is it not possible to couple [an animal with a broken foot] so that it gives birth? Consequently, the reason is on account of the [future] offspring?[28] — This is what the Rabbis said [to R. Judah:] 'Our reason [why we forbid the selling of a maimed animal] is because he may come to confuse it with another [animal]. But as for you, why do you permit a maimed [animal]? [It is] because it cannot be cured, and therefore it is as if he had sold it to be slaughtered.[29] But do we not couple it and it gives birth? And since we couple it and it gives birth, he will detain it.'[30] And thereupon he replied to them: 'When it gives birth,[31] for [in fact] it cannot take a male [for coupling purposes]'.[32] Come and hear: OR AN ISRAELITE WHO GIVES [HIS ASS] TO HIM [A HEATHEN] TO LOOK AFTER. And it does not say 'although he is not permitted'![33] — But, according to your argument, when it says: OR WHO FORMS A PARTNERSHIP WITH HIM, since it does not say [it is forbidden,] are we to infer that it is allowed? Has not the father of Samuel said: One must not form a partnership with a heathen lest he [the heathen] will be bound to take an oath to him and he will swear in the name of his idol and the Torah says: [And make no mention of the name of other gods.] neither let it be heard out of thy mouth?[34] You must, therefore, admit that when [the Mishnah] lays down that selling [to a heathen] is forbidden[35] the same ruling applies to a partnership [with a heathen]. Likewise here also when [the Mishnah] lays down that selling [is prohibited] the same ruling applies to kablanuth.[36] Why then does the Mishnah cite [the prohibition] specifically in connection with selling?[37] — Because the main prohibition refers to the selling. Come and hear: R. Judah said: If one receives an animal from a heathen to look after and it gives birth [to a first-born] we settle [with the gentile partner] for what it is worth and half of its value is given to the priest. If again an Israelite gives an animal [to a heathen] to look after, although [he knows that] this is not

permitted, we fine him even up to ten times its value and he gives its whole value to the Priest.[38] But the Sages say, so long a gentile has a share in it,[39] it is exempt from the law of the first-born.

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(1) The statement that we punish him because he is not permitted to sell to a heathen.

(2) I.e., where an Israelite gives a pregnant animal to a heathen to look after, both sharing the offspring while the animal itself belongs to the Israelite, the words 'although it is not permitted' referring to the embryo. We punish him by making him give the value of the embryo to the Priest. Hence we can deduce that one is forbidden to sell an embryo to a heathen.

(3) The words 'although it is not permitted' refer to the animal, but an embryo is allowed to be sold to a heathen.

(4) The masculine ending of the Hebrew word דמיו , proves that it refers to the embryo.

(5) With a feminine ending referring to בהמה (animal), which is a feminine noun.

(6) The Priest having no claim on the animal itself, only on its first-born.

(7) We cannot deduce from here the prohibition to sell an embryo to a heathen.

(8) The Israelite and the heathen share the offspring and any increase in the animal's value after it is sold.

(9) But elsewhere, R. Judah may hold that an embryo may be sold to a gentile, just as he allows the selling of a maimed animal.

(10) Supra p. 2, n. 8.

(11) To enable it to do work on the Sabbath.

(12) For in time, after its birth, it will be fit for work.

(13) And do not, in the first place, propound a query which they subsequently attempt to solve from the Mishnah.

(14) And an embryo may be compared with a maimed animal since in both cases the animals are unable to work, and therefore R. Judah will hold that an embryo may be sold to a heathen, contrary to the ruling of our Mishnah.

(15) As it is an unusual occurrence, R. Judah permits its selling, and we do not fear lest one will sell in other circumstances also.

(16) If we therefore permit in this case, one may come to sell in other cases also.

(17) The animal itself, however, he does not sell.

(18) Should we punish him by forcing him to redeem the animal for having broken the rule prohibiting the selling of large cattle to a gentile?

(19) Who differ from R. Judah with reference to a maimed animal.

(20) Supra p. 4, n. 22.

(21) As in our query, he may think that it is permissible to sell to a gentile a whole animal, since here, too, we allow him to sell an animal for its future offspring.

(22) The Israelite leaving nothing for himself after selling.

(23) Since the animal itself belongs to the Israelite and is not yet pregnant, and when the offspring is born, it will be in the possession of the heathen.

(24) The selling her is complete and, therefore, there is the fear that one might sell also a whole animal to a heathen.

(25) For another animal, where the selling is complete and the Israelite has no share in the animal, unlike the circumstances in our query, where the animal still belongs to the Israelite and there is as yet no offspring.

(26) So that the above query naturally arises.

(27) In arguing why they forbid the selling of a sheburah to a heathen.

(28) We may therefore solve from here our query by concluding that according to the Rabbis it is forbidden to sell an animal to a heathen for the sake of its future offspring, and according to R. Judah it is permissible.

(29) Therefore there can be no fear that one might substitute another animal which is not to be slaughtered and sell it to a gentile.

(30) For the sake of its offspring, and one who sees it in the house of a heathen at the end of a year or two may come to the conclusion that it is permissible to sell an animal which is not for slaughter to a heathen.

(31) You will then inform me.

(32) Because of the animal's disability.

(33) Now here the animal was sold to the heathen for its offspring and therefore we can infer that it is permissible to sell an animal to a gentile for its future offspring.

(34) Ex. XXIII, 23. 'Out of thy mouth', caused by thy mouth, i.e., when you are responsible for the heathen's oath, which shows that it is not allowed.

(35) The passage in the Mishnah ALTHOUGH HE IS NOT PERMITTED.

(36) Where the heathen undertakes to take care of the Israelite's animal in return for its offspring.

(37) And not in connection with the other cases enumerated in the Mishnah.

(38) Supra 2b.

(39) Lit., 'has a hand in the middle'.

Talmud - Mas. Bechoroth 3a

Now, does not this statement[1] deal with the case of the animal? — No. It deals with the case of an embryo.[2] I can also prove this [from the wording]. For it says: We fine him up to ten times its value; from which you may deduce that it refers to the embryo.[3] [The ruling that we punish him for selling to a gentile] supports the view of Resh Lakish. For Resh Lakish said: If one sells large cattle to a heathen, we punish him by forcing him [to redeem the animal][4] even up to ten times its value. [Does Resh Lakish mean] exactly ten times or not?[5] — Come and hear: For R. Joshua b. Levi said: If one sells a slave to a heathen, we punish him by forcing him [to redeem the slave] even up to a hundred times his value.[6] — The case of a slave is different, for every day he [his gentile master] prevents him from carrying out religious duties.[7] Another version [of this argument] is: Said Resh Lakish: If one sells large cattle to a heathen, we punish him by forcing him to redeem the animal even up to one hundred times its value. But we have learnt in a Mishnah: or if [an Israelite] gives an animal to him [a heathen] to look after, although he is not permitted, we punish him by forcing him [to redeem the animal] even up to ten times its value![8] — By selling he severs all connection with it [the animal.][9] But in the 'case of kablanuth[10] there is no severing of his connection with the animal.[11] [Does Resh Lakish mean] exactly [one hundred times] or not?[12] — Come and hear: For R. Joshua b. Levi said: If one sells his slave to a heathen, we punish him by forcing him [to redeem the slave], even up to ten times his value![13] — The case of a slave is different, for he does not return[14] [to his master after being redeemed].[15] Now in the case of an animal, what is the reason [why an Israelite is forced to redeem it even up to one hundred times its value]? Presumably, because it comes back [to its master]. Let us then force him [to pay] once over [the ten etc.]?[16] — Rather the reason must be because the case of a slave [being sold to a heathen] is a rare occurrence,[17] and any case which is of a rare occurrence, the Rabbis did not [in their rulings] guard against.[18] 'But the Sages say: So long a gentile has a share in it etc.' Said R. Joshua:[19] And both[20] expounded the same verse: [Sanctify unto me] all the first-born [whatsoever openeth the womb in Israel].[21] The Rabbis hold that [the word] 'first-born' is to be understood as meaning even if a portion [of a first-born] belongs to an Israelite.[22] Therefore the Divine Law inserts the word 'all' implying that the whole [of the first-born must belong to the Israelite].[23] R. Judah on the other hand holds that the word 'first-born' [by itself] is to be understood as meaning the whole of the first-born. Therefore the Divine Law inserts 'all' to show that even if any portion whatsoever [of the first-born belongs to the Israelite it[24] is subject to the law of the firstling.] Or if you prefer, I may say that all [the authorities] understand that the word 'first-born' denotes the larger part [of the animal]. One Master, however, holds that the [purport of the] word 'all' is to add[25] while the other Master[26] holds that it is to diminish.[27] And how much must a gentile's share be to exempt [the animal] from the law of the first-born? — Said R. Huna: Even if it is no more than of the [firstling's] ears. R. Nahman demurred. Let him [the Priest] say to him [the gentile] 'Take your portion of the ear and go'?[28] It was stated: R. Hisda said: [The heathen's share in the animal] must be something which renders an animal nebelah.[29] Raba said: [The heathen's share in the animal] must be something which renders it trefah.[30] What is the point at issue between them? — Whether a trefah can live. He who says that [the gentile's share in the animal] must be something which renders it trefah, would maintain that a trefah cannot live,[31] whereas he who says [the gentile's share] must be something which renders the animal nebelah but a trefah, he would maintain, that it is able to live.[32] The Rabbis said in the presence of R. Papa: The ruling of R. Huna on the one hand and the rulings of R. Hisda and Raba on the other, do not differ.[33] The one [R. Huna's] relates to it [the first-born;][34] the other [the rulings of R. Hisda and Raba] relate to the mother.[35] Said R. Papa to them [the Rabbis]: Why is there this ruling in connection with the first-born? [Presumably] because we require [the condition of] 'all of the first-born'[36] and it is not found here.[37] In connection with its

mother also,[38] we require [the condition specified in the verse]: And of all thy cattle thou shalt sanctify the males,[39] which is not found here. But there is in fact no difference.[40] Mar, the son of R. Ashi demurred: Why should this[41] be different from the premature [first births] of animals, which although they are not viable, are sacred? For a Master said: The words, [And every firstling that is a male] which thou hast coming from an animal [shall be the Lord's],[42] [denote the foetus] which dwells in the animal? — There,[43] since there is no mixture of an unconsecrated [part of the animal],[44] we apply to it the words 'in the animal', 'all the first-born'.[45] Here,[46] however, since there is a mixture of the unconsecrated part of the animal,[47] we do not read concerning it the words 'all the first-born'.[48] R. Eleazar once did not attend the House of Study. He came across R. Assi and asked him 'What did the Rabbis say in the House of Study'? — He replied

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(1) The ruling that we punish the Israelite to redeem it from the gentile refers to the animal. Consequently we see that if one sold an animal to a gentile for its future offspring, we punish him according to both the ruling of R. Judah and the Rabbis, for the opponents of R. Judah only differ from him in connection with the first-born.

(2) We punish him for making over the embryo in a pregnant animal to a gentile. But with the case of an animal sold for its future offspring, we are not here concerned. Therefore we are unable to solve the above query.

(3) Since it says דמיו ('its value') with the masculine ending and also speaks of giving it to the Priest, v. supra p. 4, n. 2.

(4) From the possession of the heathen.

(5) Must the Israelite actually pay even ten times its value in order to redeem the animal or does the ruling only mean that even if the gentile demands a larger price than its worth, the Israelite is compelled to redeem it?

(6) Now, since it says here a hundred times the value of the object sold and in reference to an animal it states ten times, we can infer that ,the numbers are meant to be taken literally, for if it were otherwise, why does it not say in both instances either a hundred times or ten times?

(7) And in the case of a heathen slave he would be preventing him from living up to the obligations resting on the Noahide. We therefore force the Israelite to pay even one hundred times the value of the slave. But in the case of an animal, we are not so strict and the ten times mentioned may be taken as an exaggeration.

(8) Thus the Mishnah is contrary to the ruling of Resh Lakish.

(9) We therefore force him to pay even one hundred times its value to the gentile.

(10) The case in the Mishnah just cited where a heathen undertakes to attend to an Israelite's animal.

(11) Since the animal still belongs to the Israelite.

(12) Or is the one hundred times mentioned a mere hyperbole?

(13) And since in connection with a slave it says ten times and in reference to an animal one hundred times, we may infer that the numbers mentioned are not to be taken literally, for otherwise in the case of a slave where lie is prevented from observing his religious obligations, the penalty should be much more severe than in the case of an animal.

(14) According to Rashi he is automatically set free. Y. Git. 43b. R. Gershom says that the slave hates to return of his own free will to his former master, after the latter had sold him to a heathen.

(15) And therefore we do not force him to pay more than ten times the value of the object sold, but in the case of an animal the number stated may be taken as precise.

(16) Since the animal returns to its former owner it cannot be counted as part of the fine i.e. the Israelite should be forced to pay eleven times its value.

(17) And therefore we do not force the Israelite to pay more than ten times the value of the object sold.

(18) But in the case of selling an animal which is a frequent occurrence, the Rabbis were more stringent.

(19) Var. lec.: R. Johanan.

(20) The Sages and R. Judah.

(21) Ex. XIII, 2.

(22) In order to be subject to the law of the first-born.

(23) Meaning literally 'all'.

(24) The animal.

(25) So that the entire animal must, be in the Israelite's possession.

(26) R. Judah.

(27) Meaning 'any', so that if the Israelite has a share in the first-born, however small, he is required to carry out the

duty of the first-born.

(28) For a first-born, even with a blemish, although unfit for sacrifice on the altar, is given to the Priest.

(29) An animal that has died a natural death or was killed not in accordance with the Jewish ritual law, is called nebelah. If the gentile therefore had for his share an essential part of the animal the absence of which would make it impossible to perform ritual slaughter, e.g., its gullet or windpipe, since such a vital part of the animal was in his hand, it was as if the whole animal belonged to him and was therefore exempted from the law of the first-born.

(30) An animal afflicted with an organic disease or disability as e.g., the removal of a certain portion of the knee. v. Hul. 42a.

(31) And since the animal cannot live, it is as if it belonged completely to the gentile.

(32) The gentile consequently does not posses a vital part of the animal.

(33) R. Hisda and Raba however do differ.

(34) Even if the gentile has the share of an ear in it, the law of the first-born does not apply.

(35) And they differ as to whether the blemish must be of a nature which renders it nebelah or trefah.

(36) In the possession of the Israelite so as to be subject to the duty of the first-born.

(37) Where the ear belongs to the gentile.

(38) Where the gentile has an element in the animal which makes it either trefah or nebelah.

(39) Ex. XXXIV, 19, i.e. if the animal belongs entirely to you, then you are commanded to observe the law of the first-born.

(40) Between the mother and its first-born, and consequently R. Huna on the one hand and R. Hisda and Raba on the other, do actually differ.

(41) The case of a heathen having a share in an animal which renders it either trefah or nebelah.

(42) Ex. XIII, 12 שגר (sheger) coming from the word שגר (shegor), the root being גר to dwell, sojourn. Or שגר (shegor) that which it casts forth prematurely.

(43) In the case of premature first births.

(44) Shared by a heathen.

(45) Whatever is in the animal has the holiness of a firstling.

(46) In the case of the mother.

(47) Shared by a heathen.

(48) Which phrase denotes that any part shared by an Israelite makes it subject to the law of the first-born.

Talmud - Mas. Bechoroth 3b

Thus did R. Johanan say: Even if [the heathen's share in the firstling was only something constituting] a slight blemish,[1] And as to what we have learnt:[2] 'A ewe which gave birth to a species of a goat or a goat which gave birth to a species of a ewe, is exempt from the duty of the firstling'.[3] But if [the offspring] possessed some features [similar to the mother] it is subject to the [law of the firstling]. [Thereon R. Johanan commented that this[4] means that] it is [like a firstling with] a permanent blemish, on account of which it is slaughtered.[5] We well understand R. Johanan laying down a ruling with reference to a slight blemish, for this informs us that [the law] is according to R. Huna and excludes the rulings of R. Hisda and Raba. But his ruling regarding a permanent blemish — what new thing does he teach us therewith? Is it to inform us that since it [the animal] is abnormal this is regarded as a blemish? [Surely] we have [already] learnt [this ruling[6] in a Mishnah]: Or if the firstling's mouth is like a pig, it is a blemish![7] And should you argue that [in the Mishnah just cited] the firstling has changed into a species [of animal] in which the sanctity of the firstling does not exist[8] but here the firstling has changed into a species [of animal] in which the sanctity of the firstling does exist,[9] this too we have learnt: If one of its eyes is large and one is small [it is a blemish].[10] And a Tanna taught that 'large' means large like a calf's and 'small', small like that of a goose. Now, we may giant your argument as far as [the case of a firstling] with a small eye like a goose is concerned, this being a species[11] in which the sanctity [of the firstling] does not exist.[12] But in the case of a large eye like a calf's — this is a species in which the sanctity of the firstling does exist.[13] Must you not therefore admit that [the reason is] that we say since [the animal] is abnormal, it is regarded as a blemish?[14] — No. The reason is because it is a sarua'.[15] This really also stands to

reason. For we have learnt: The above mentioned blemishes, whether permanent or transitory, make also human beings unfit for the Priesthood. To these must be added in the case of blemishes of human beings, two large eyes or two small eyes.[16] [Because] with reference only to human beings it is written: Whatsoever man of the seed of Aaron[17] requiring 'man' among the seed of Aaron to be with normal [human features].[18] But the case of an animal, two large or two small eyes is not also regarded as a blemish. Now in the case of an animal with one large or one small eye what is the reason [why it is a blemish]? If because of the abnormality, then the same should apply to an animal with two large eyes or two small eyes? Then must you not admit that the reason [in the former case] is because of sarua'?[19] — No. I can indeed still say that [the reason why an animal with one large and one small eye is blemished] is because of the abnormality. And as for your question that the [same ruling] should apply to the case of an animal with two large and two small eyes, [the answer is that] there [in the latter instance] if [the change is] because of the animal's extra obesity, the two eyes need to be large, and if because of its unusual leanness, then both [eyes] have to be lean [small].[20] There was a woman proselyte to whom the Achii[21] gave an animal to fatten. She came before Raba.[22] He said to her: There is no authority that pays any attention to the ruling of R. Judah who said: The partnership of a heathen [in an animal] is subject to the law of the firstling. R. Mari b. Rahel possessed a herd of animals. He used to transfer [to a heathen] possession of the ears [of the firstlings while still in the womb].[23] He [nevertheless] forbade the shearing and the working of the animals and gave them to the Priests.[24] The herd of R. Mari b. Rahel died. Now, since he forbade the shearing and the working of the animals and gave them to the Priests, why did he give [a heathen] possession of the ears [of the firstlings?][25] — [It was] lest he should be led to commit an offence.[26] If so, why did the herd of R. Mari die?[27] — Because he deprived them of their holiness.[28] But has not Rab Judah said: One is permitted to make a blemish in a firstling before it comes into the world?[29] — There, [in the latter case] he deprives the animal of the holiness of being sacrificed on the altar but he does not deprive it of the holiness [of belonging to] the Priests.[30] But in the former case, he even deprives it of the holiness [of belonging to] the Priests.[31] Or, if you prefer, I may say that R. Mari b. Rahel knew how to make a valid transfer to a heathen.[32] But we are afraid that another man may see this and go and do [likewise], thinking that R. Mari did nothing significant[33] [when transferring to a heathen].[34] And thus he will be lead to commit an offence.

MISHNAH. PRIESTS AND LEVITES ARE EXEMPT[35] A FORTIORI: IF THEY EXEMPTED THE FIRST-BORN BELONGING TO THE ISRAELITES IN THE WILDERNESS,[36] IT FOLLOWS A FORTIORI THAT THEY SHOULD EXEMPT THEIR OWN.

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(1) Like the ear of the animal which is not a vital part, in which case the Israelite is exempt from the duty of the firstling.

(2) V. infra 16b.

(3) For Scripture says: Or the firstling of a goat. Num. XVIII, 17. Both the firstling and the mother must belong to the same species and class i.e. a goat.

(4) The ruling that it is subject to the law of the firstling.

(5) I.e., outside the Temple. And eaten like any other firstling which possesses a blemish. It is, however, not suitable for sacrifice on the altar. This was R. Johanan's novel ruling emanating also from the House of Study, i.e., that a change in the animal renders it blemished.

(6) That a change in the animal renders it blemished.

(7) Infra 402.

(8) That of a pig.

(9) And therefore this would be the novelty in the ruling of R. Johanan, that even in such an instance it is regarded as a blemish.

(10) Infra 40b.

(11) Birds being exempt from the law of the firstling.

(12) There is need therefore for R. Johanan to inform us that even in this case it is a blemish since there is a change in the animal.

(13) And even so it is regarded as blemished.

(14) What new thing consequently does R. Johanan tell us in his ruling that a change renders it blemished, since this may be inferred from the Mishnah?
(15) An animal whose one limb is larger than the other is called a sarua'. Therefore were it not stated in the House of Study that a change in the offspring e.g., where its wool resembles that of a goat, renders it blemished, I should not have been in a position to infer this from the Mishnah, as sarua' is a permanent blemish explicitly mentioned in the Scripture.
(16) Infra 43a.
(17) Lev. XXII, 4.
(18) V. infra p. 289, n. 8.
(19) And it is not because of the change that an animal with one long and one short eye is regarded as blemished and therefore there is need for R. Johanan to inform us that elsewhere a change in the animal constitutes a blemish.
(20) So that two large or small eyes constitute no change. Now since we can after all deduce from the Mishnah that a change renders the animal blemished, one can still raise the question, what is there novel in R. Johanan's ruling? (R. Gershom).
(21) Certain heathens.
(22) To enquire whether the duty of the firstling applies.
(23) To be exempt from the law of the firstling.
(24) As if they were actually firstlings and holy.
(25) For in this manner he carried out the prohibitions in connection with the firstling.
(26) In case he should shear and work the animal. And therefore he rendered himself exempt by transferring a part of the embryo to a heathen.
(27) Since his motives were good.
(28) By transferring a share of them to heathens.
(29) As the sanctity of a firstling only begins after its birth.
(30) Like a firstling with a blemish whose shearing is forbidden and work with which is prohibited, still possessing a certain degree of holiness.
(31) Although he actually observes all the prohibitions with reference to a blemished firstling, it is really rendered, owing to the share of the heathens, an unconsecrated animal.
(32) To accept money from a heathen which is the valid method whereby a selling transaction is concluded with a gentile.
(33) Lit., 'did a mere word'.
(34) By means of words only the transference was effected and no money was paid i.e., he simply informed the heathen that he had given him possession.
(35) Presumably from the first-born of an ass.
(36) This at present understood as meaning that since the Levites themselves exempted the asses of the Israelites in the wilderness, how much more should they exempt their own asses.

Talmud - Mas. Bechoroth 4a

GEMARA. Did they [themselves] exempt?[1] [Surely] a man [a Levite] exempted a man [a first-born Israelite]; an animal [of a Levite] exempted an animal [an Israelite's first-born ass]. For it is written: 'Take the Levites instead of all the first-born among the children of Israel and the cattle of the Levites instead of their cattle'?[2] — Said Abaye: The Mishnah means this: 'As for priests and Levites, their animals are exempt a fortiori. If the animal [the sheep] of the Levites released the animal of the Israelites in the wilderness,[3] it follows a fortiori that it should release their own'.[4] Said Raba to him: But does not the Mishnah say: 'THEY EXEMPT' meaning the Levites] themselves? And further, if it is [as you state],[5] they [the Levites] should be exempted even from [liabilities for] a clean animal?[6] Why have we learnt: They [the Levites] are not exempted from the law of the firstling of a clean animal only from the redemption of the first-born male, and the first birth of an ass![7] No, said Raba; the [Mishnah] must be read thus: 'Priests and Levites exempt themselves [from the redemption of the first-born] a fortiori'. If the holiness of the [non-first-born] Levites canceled the holiness of the first-born Israelite [in the wilderness], should it not cancel that of their own [first-born]? We thus find that man [the Levite first-born is exempt]. Whence do we know that this

also applies to an unclean animal?[8] The text says: Howbeit the first-born of man shalt thou surely redeem and the firstling of unclean beasts shalt thou redeem.[9] Whosoever is required [to redeem] the first-born of a man, is required [to redeem] the firstling of an unclean animal. But whosoever is not required [to redeem] the first-born of a man[10] is not required to redeem the firstling of an unclean animal. Said R. Safra to Abaye: According to your interpretation, which is that [the a fortiori argument] also refers to their [the Levites'] animals,[11] a Levite who had a sheep [in the wilderness] to release [a first-born of an Israelite ass], could ipso facto release [his own], but he who did not possess a sheep to release [a first-born of an Israelite ass] could not release his own? Further, both according to your interpretation and Raba's,[12] [a Levite] of a month old who released [an Israelite first-born of a month old in the wilderness][13] should therefore release [himself from the necessity of redemption,] while [a Levite first-born] less than a month old, who did not release [a first-born Israelite of the same age], should not therefore be able to release himself?[14] Also, a Levite's daughter[15] who gave birth to a first-born, should not be exempt [from redemption].[16] Why then did R. Adda b. Ahaba say: If a Levite's daughter [married to an Israelite] gave birth, her son is exempt from the five sela's?[17] — That is no objection, as Mar the son of R. Joseph [explained in the name of Raba who said: [Scripture says]: peter rehem [the opening of the womb]. The Divine Law makes [the duty of the first-born] depend on the opening of the womb.[18] But what of Aaron since he was not included in that counting [of the Levites],[19] then [the first-born of his asses] should not be released [from redemption]; (for it has been taught: Why is [the word] 'Aaron' dotted in the Book of Numbers?[20] Because he [Aaron] was not in that numbering [of the Levites]?) — Scripture said 'The Levites' implying that all Levites are compared to one another.[21] And whence do we know [that] Priests [are included in the term Levite?] — As R. Joshua the son of Levi explained. For said R. Joshua: In twenty-four places Priests are called Levites and the following [instance] is one of them: But[22] the Priests the Levites the sons of Zadok.[23]

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(1) The first-born of asses in the wilderness.

(2) Num. III, 45.

(3) From the redemption of the first-born of an ass.

(4) The Levites' own first-born of asses. Similarly, according to Abaye, just as the Levites themselves exempted the first-born of the Israelites in the wilderness, so they should a fortiori exempt their own first-born.

(5) That we argue a fortiori with reference to the animals of the Levites.

(6) From the law of the firstling, for the Levites' clean animals exempted the clean animals of the Israelites in the wilderness.

(7) Infra 13a.

(8) I.e., that priests and Levites are exempt from the law of the first-born of an ass!

(9) Num. XVIII, 15.

(10) E.g., the Levites and priests who are exempt a fortiori, are therefore also free from redeeming their first-born of asses.

(11) Inferring that the firstling of an ass belonging to a Levite and Priest is also exempt a fortiori.

(12) For both agree that we argue a fortiori that the first-born of a Levite is exempt from redemption.

(13) If the holiness of a plain (non-first-born) Levite of a month old released from holiness an Israelite first-born of a month old-as only the first-born of a month old were numbered, V. Num. III,40 — how much more so should the Levite first-born of a month old release himself from redemption?

(14) Why therefore does not Scripture state that the first-born Levites in the wilderness who were at the time of counting less than a month old had to be redeemed?

(15) Who married an Israelite.

(16) Since females were not included in the count in the wilderness.

(17) The sum of money necessary for the redemption of the first-born.

(18) We go therefore by the mother and since she comes of a tribe which is exempt from redemption of the first-born, we link the son with the mother and not with the father, that is provided the exemption in the wilderness extended to all Levites, even those who were not a month old at the time.

(19) Num. III, 14 etc. Neither he nor his animals were included and therefore they did not cancel the holiness of the

first-born of the Israelites.

(20) Num. III, 39: All that were numbered of the Levies which Moses and Aaron numbered. For all dottings of a word have the purpose of limiting and excluding something.

(21) All Levites irrespective of age, including anybody performing sacred functions, such as the priests, all were exempt from redeeming the first-born of an ass. This answers all the questions raised above.

(22) Ezek. XLIV, 15.

(23) We see here therefore that the priests are described as Levites. Similarly where the word 'Levites' is mentioned by itself, it also embraces the priests.

Talmud - Mas. Bechoroth 4b

Whence do we know [that the exemptions][1] apply to all time?[2] The text says: 'And the Levites shall be mine';[3] 'and they shall be' means that they [the Levites] retain their status [for all time]. And whence [do we know] that [the Levite exempted the Israelite's first-born of asses in the wilderness] with a sheep?[4] — Said R. Hisda: Money[5] is written [in connection with the redemption of the first-born] for all time; and 'a sheep' is written [in connection with the redemption of the first-born of an ass][6] for all time. Just as with the money prescribed for all time, they both redeemed [the first-born] at all times and they redeemed at that particular time [in the wilderness], so with sheep prescribed for all time, they [the Levites] both redeemed [the firstlings] at all times and they redeemed at that particular time [in the wilderness]. But it may be objected[7] , that the case of money is different, because with it we also redeem consecrated objects and the second [year's] tithing![8] Rather [we deduce from the following]. Scripture said: 'Nevertheless the first-born of man thou shalt surely redeem and the firstling of unclean beasts shalt thou redeem'.[9] Just as in the case of the first-born of a man you make no distinction between all time and that particular time [in the wilderness, the redemption in each case being] with money, so [in the case of an unclean animal], you shall not make a distinction between for all time and that particular time, [the redemption in each case being] with a sheep. R. Hanina said: One sheep of a Levite exempted many firstborn of the asses of the Israelites. Said Abaye: The proof is that Scripture numbers the surplus of men[10] [over the Levites] but does not number the surplus [of Israelite] animals [over the Levites' animals]. But what proof is this? Perhaps they [the Israelites in the wilderness] did not possess many animals [asses] to redeem?[11] — That cannot enter your mind. For it is written: 'Now the children of Reuben and the children of Gad had a very great multitude of cattle'.[12] Perhaps even so the ordinary [non-first-born animals] of the Levites just corresponded with [the number] of the first-born of the Israelites?[13] — Scripture says: And the cattle of the Levites instead of their cattle;[14] one Levite animal instead of many [Israelite] animals [firstlings of asses]. But why can we not say that the word ['cattle'] also implies many [animals?] — If so let Scripture write either 'cattle instead of cattle' or 'their cattle instead of their cattle'. Why does Scripture write 'cattle of . . . instead of their cattle'? Deduce from this that one [Levite] animal exempted many [Israelite] animals. Said Raba: We have also learnt [R. Hanina's ruling]: And he can redeem with it [the sheep][15] many times [the first-born of asses]. And R. Hanina?[16] — He explains the reason of the Mishnah and what he means is this: What is the reason that he can redeem with it [the sheep] many times [the first-born of asses]? Because one sheep of a Levite exempted many firstborn of asses belonging to an Israelite. It was stated: R. Johanan said: The first-born[17] in the wilderness were sanctified; Resh Lakish said: The first-born in the wilderness were not sanctified.[18] R. Johanan said that the first-born were sanctified in the wilderness, for the Divine Law said that they should be sanctified, as it is written: Sanctify unto me all the first-born.[19] Resh Lakish said that the first-born were not sanctified in the wilderness, since it is written: And it shall be when the Lord shall bring thee [into the land of the Canaanites] and it says subsequently: That thou shalt set apart [unto the Lord all that openeth the womb].[20] From this you can infer that previously [to their entering the land],[21] it [the first-born] was not sanctified.[22] R. Johanan raised an objection to Resh Lakish's [view]: Before the Sanctuary was erected,[23] the High places[24] were permitted and the service [was performed] by the first-born![25] — He replied to him: [The service was performed] by those [first-born] who departed from Egypt.[26] It also stands to

reason. For if you will not say so, is a one year old[27] capable of performing the service? And [R. Johanan] how could he raise such a question at all?[28] — This was his [R. Johanan's] objection [to Resh Lakish's view]. You would be right if you said that the holiness [of the first-born] did not cease [in the wilderness],[29] because then those [first-born] also originally born [in Egypt], did not have their holiness canceled. But if you say that their holiness ceased,[30] then those [firstborn] originally born in Egypt, should also have had their holiness canceled?[31] And [what says] the other [to this]? — Those who were holy [the first-born of Egypt], remained holy[32] and those who were not hitherto holy,[33] [did not become] holy. He [R. Johanan] raised an objection: On the day on which the Sanctuary was erected, votive-offerings, freewill-offerings, sin-offerings, trespass-offerings, firstlings and the tithe of cattle, were sacrificed in Israel![34] — Here, also, it refers to those [firstborn] who departed from Egypt. And [from the Baraitha] itself we can deduce this: 'On that day [firstlings] were sacrificed', but after that, [in the wilderness], there was no sacrifice [of firstlings].[35] Some there are who say, Resh Lakish cited against R. Johanan the following: 'That day on which the Sanctuary was erected, votive-offerings, freewill-offerings, sin-offerings, trespass-offerings, firstlings, tithe of cattle were sacrificed in Israel', as much as to say 'on that day' but after that [in the wilderness], there was no [sacrifice of firstlings]![36] — R. Johanan replied: Amend [the Baraitha] thus: 'From that day and onward'.[37] And what does he tell us here? — That from that day [these sacrifices] were permitted but not at first, from which we are to infer that obligatory sacrifices were not sacrificed on a High place.[38] Come and hear: 'Consequently in three places were the firstborn sanctified for Israel: in Egypt, in the wilderness, and when they entered the Land. With reference to the first-born in Egypt, what does Scripture say? Sanctify unto me all the firstling.[39] With reference to the firstling in the wilderness Scripture says: For the first-born of the children of Israel are mine.[40] With reference to [the first-born] when they entered the Land, [Scripture] says: And it shall be when the Lord shall bring thee [into the land of the Canaanites] . . . That thou shalt set apart![41] Said R. Nahman b. Isaac: [This passage means] that in three places the Israelites were commanded concerning the sanctification of the first-born but they were not [actually] sanctified.[42] And were not also the [first-born] in Egypt sanctified? Did we not say that they were holy?[43] — This is what the [passage] means: In some [of the three places referred to], [the first-born] were sanctified, and in some, they were not sanctified.[44] R. Papa demurred: And were not the first-born sanctified in the wilderness? Behold it is written: Number all the first-born males of the children of Israel.[45] Rather [if the above dispute was] stated, it was stated as follows: R. Johanan said: They [the first-born] were sanctified and did not cease [from their holiness].[46] But Resh Lakish said that they were sanctified [temporarily]

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(1) For priests and Levites.

(2) And not limited to the wilderness.

(3) Num. III, 45.

(4) Perhaps the verse 'And the cattle of the Levites instead of all the firstlings among the cattle of the children of Israel', (Num. III, 41.) means that the first-born of the Levite's ass exempted the Israelite's firstling of an ass, but not the sheep, (R. Gershom).

(5) Num. XVIII, 16.

(6) Ex. XIII, 13.

(7) To this analogy between 'money' and 'sheep'.

(8) Whereas we do not as a rule redeem sacred objects with a sheep. Consecrated objects are redeemed with money. V. Lev. XXVII, 15 and the second year's tithes are also redeemed with money, V. Deut. XIV, 25.

(9) Num. XVIII, 15.

(10) Of first-born Israelites who had to be redeemed with money. And since Scripture does not mention the surplus of Israelite animals over the Levites' animals, we can infer that one Levite sheep exempted many Israelite animals.

(11) And this being the case, one Levite sheep did not have to redeem many first-born of asses.

(12) Ibid. XXXII, I.

(13) So that there was no surplus and there is thus no evidence that the firstlings of the Israelites outnumbered the plain Levites' animals.

(14) Ibid. III, 45.
(15) Infra 9a. If the sheep which he gave to the priest as a redemption for the first-born of an ass, comes back to him either through the priest selling or giving it as a present to him, he can redeem another first-.born of an ass with the same sheep.
(16) Since the Mishnah just cited teaches his ruling, then his is superfluous.
(17) Both of men and animals and certainly those born in Egypt.
(18) And Only the first-born in Egypt and those who were born when they entered the land were sanctified.
(19) Ex. XIII, 2.
(20) Ibid. XIII, II, 12.
(21) In the wilderness.
(22) And the above verse 'Sanctify unto me all the first-born' will refer to those born in Egypt.
(23) Zeb. 112b.
(24) Improvised and temporary altars.
(25) We therefore see that the first-born in the wilderness, were sanctified contrary to the ruling of Resh Lakish.
(26) But the first-born born in the wilderness were not sanctified.
(27) Since only one year had elapsed since the departure from Egypt and the erection of the Sanctuary.
(28) Surely there could be only one explanation of the Mishnah in Zebahim.
(29) That the first-born born in the wilderness were also sanctified.
(30) For a period, namely, those first-born born in the wilderness.
(31) And therefore the question is raised, according to Resh Lakish, how were the first-born permitted to offer sacrifices.
(32) And their holiness never ceased.
(33) The firstborn born in the wilderness.
(34) We therefore see that the first-born in the wilderness were sanctified contrary to the ruling of Resh Lakish.
(35) Because, as Resh Lakish says, the first-born in the wilderness either of men or cattle were not sanctified and those of cattle offered on the day the Sanctuary was erected, were born in Egypt.
(36) Which is contrary to the view of R. Johanan.
(37) For the first-born were sanctified in the wilderness.
(38) An improvised and temporary altar. Obligatory offerings are e.g. sin-offerings, firstlings, etc.
(39) Ex. XIII, 2.
(40) Num. VIII, 17.
(41) Ex. XIII, 11, 12. We see therefore that contrary to the view of Resh Lakish the firstlings were sanctified in the wilderness.
(42) Until they entered the land.
(43) For this was agreed by all the above.
(44) Those born in the wilderness.
(45) Num. III, 40. The male first-born were to be numbered from a month and upwards and this took place in the wilderness.
(46) After being numbered in the wilderness.

Talmud - Mas. Bechoroth 5a

and then ceased [from their holiness]. As to Resh Lakish it is well, for the reason stated above.[1] But what is the reason of R. Johanan? — Said R. Eleazar: R. Johanan appeared to me in a dream telling me that I said an excellent thing, viz., Scripture said: Mine shall they be[2] [denoting] that they [the first-born] shall remain in their status. And what does R. Johanan do with the verses [which follow:] And it shall be when the Lord shall bring thee unto the land . . . That thou shalt set apart unto the Lord? — That [textual proximity] is required [to deduce] what the School of R. Ishmael taught: Perform this Divine command,[3] on account of which you will be worthy to enter the Land. Said R. Mordecai to R. Ashi: You reported it in this manner, we reversed the names; R. Johanan said: Firstlings were not sanctified in the wilderness. But Resh Lakish said: Firstlings were sanctified in the wilderness. He thereupon asked him: 'And do you also propose to reverse [the name of the author] of the refutation[4] together with R. Eleazar's statement?[5] — He replied to him: [The words]

'They were not sanctified' [of R. Johanan] mean, there was no need for the firstlings to be sanctified [in the wilderness].[6] If so, then it is identical with our version [of the dispute between R. Johanan and Resh Lakish]? — It teaches us that a man must cite a ruling in the exact language of his master.[7] A Roman general Controcos[8] questioned R. Johanan b. Zakkai. 'In the detailed record of the numbering of the Levites, you find the total is twenty-two thousand three hundred,[9] whereas in the sum total you only find twenty-two thousand.[10] Where are the [remaining] three hundred?' He replied to him: ['The remaining] three hundred were [Levite] first-born, and a first born cannot cancel the holiness of a first-born'. What is the reason? said Abaye: Because it is sufficient for a [Levite] first-born to cancel his own holiness. And again he questioned him: 'With reference to the collection of the money,[11] you count two hundred and one kikkar[12] and eleven maneh[13] for Scripture writes: A beka' for every man, that is, half a shekel after the shekel of the Sanctuary,[14] whereas when the money was given,[15] you find only one hundred kikkar, for it is written: And the hundred talents of silver were for casting, etc.?[16] Was Moses your teacher either a thief or a swindler or else a bad arithmetician? He gave a half, took a half, and did not [even] return a complete half'?[17] — He replied to him: 'Moses our teacher was a trustworthy treasurer and a good arithmetician, only the sacred maneh was double the common'.[18] R. Ahi argued: What is his [the general's] difficulty? It says: And the hundred talents that were for casting etc.; these were used for casting[19] and those others, [the two hundred and one kikkar] were for the treasury! — [Scripture] wrote another verse: And the silver of them that were numbered of the congregation, was a hundred talents etc.[20] And as to his reply that the sacred maneh was double the common, — whence did he derive this? If you say from it [this very verse], for here we have seventy-one maneh,[21] since Scripture writes: And of the thousand seven hundred seventy and five shekels he made hooks for the pillars and recorded them only in Units [of shekels]. Now if [the value of a sacred maneh] is [not higher], Scripture ought to have written one hundred and one kikkar and eleven maneh?[22] But since Scripture does not record them except in units [of shekels,] you may deduce from here that the sacred maneh was double the common.[23] But perhaps it is only the sum total [of a hundred] kikkar that Scripture records but the odd amount [of only one kikkar or so], it does not record?[24] Rather deduce then from here:[25] And the brass of the offering was seventy talents and two thousand and four hundred shekels.[26] For here are ninety-six maneh, and Scripture does not record them except in units [of shekels]. Deduce from here, therefore, that the sacred maneh was double the common.[27] Perhaps, however, a large odd number [of kikkar][28] Scripture records but a small odd number[29] it does not record? Rather said R. Hisda, Deduce from here:[30] And the shekel shall be twenty gerahs; twenty shekels, five and twenty shekels, fifteen shekels, shall be your maneh.[31] [

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(1) The juxtaposition of the verses in Ex. XIII, 11 and 12.

(2) Num. III, 13, indicating that there was no break in their holiness, even in the wilderness.

(3) The law of the firstling.

(4) That it was R. Johanan who refuted Resh Lakish with reference to the Baraitha; 'That day on which the sanctuary was erected etc.' and not vice versa, as in our version.

(5) That he saw R. Johanan in a dream, and will you also alter this to Resh Lakish? Surely, it is more feasible to assume that it was R. Johanan, the teacher of R. Eleazar, who appeared to him in a dream.

(6) Since they were holy at birth, as R. Johanan maintains above that the first-born in the wilderness were sanctified.

(7) Although there may be no actual difference in the ruling.

(8) Rashi and Tosaf. in Hullin 27b read Contricon. There are a number of variants in the reading of this name, owing to corruptions. It is suggested that the name refers either to Quintus or Quietus. V. Hul., Sonc. ed., p. 141, n. 2.

(9) The families of Gershom numbered seven thousand and five hundred, the families of Kohath numbered eight thousand and six hundred, and the families of Merari numbered six thousand and two hundred, making a grand total of the families of the Levites of twenty-two thousand and three hundred.

(10) V. Num. III, 39.

(11) When every Israelite was bidden to give half a shekel.

(12) A weight of silver or gold, a talent. Now a kikkar contains sixty maneh, a maneh has twenty five sela's or holy shekels, therefore we have one thousand and five hundred shekels in one kikkar. Six hundred and three thousand five

hundred and fifty half shekels collected from the people make three hundred and one thousand seven hundred and seventy-five shekels. Divide one thousand and five hundred into this, we have two hundred and one kikkar with the remainder of two hundred and seventy-five shekels, i.e., eleven maneh.

(13) A weight in gold or silver of twenty-five common shekels.

(14) Ex. XXXVIII, 26.

(15) When Moses rendered the account to the Israelites.

(16) Ibid. 27.

(17) For a complete half would have been one hundred and a half kikkar and five and a half maneh and he only returned one hundred kikkar. And although Scripture says: 'And of the thousand seven hundred seventy and five shekels he made hooks' and consequently, he returned more than a half, the general did not mention this verse, for he wanted to catch him with words.

(18) There were therefore one hundred and twenty maneh in a kikkar. The hundred kikkar were therefore really two hundred and the remaining kikkar and eleven maneh, were the one thousand seven hundred and seventy-five shekel mentioned, from which hooks were made.

(19) And this would be separate from the two hundred and one kikkar mentioned.

(20) Ex. XXXVIII, 25. And here no mention is made of being used for casting purposes.

(21) A maneh containing twenty-five shekels; therefore one thousand seven hundred and seventy-five shekels make seventy-one maneh.

(22) If all maneh consisted of sixty shekels, then seventy-one maneh is one kikkar more, plus eleven maneh.

(23) And therefore the seventy-one maneh i.e. the one thousand seven hundred and seventy-five shekels, could not be counted in terms of kikkar, as there would then be one hundred and twenty maneh in a kikkar.

(24) It is not of sufficient importance to record in terms of kikkar, but the sacred maneh may still have the same value as the common. Therefore the point would once again arise that Moses received two hundred and one kikkar and, when rendering the account, Scripture only mentions one hundred kikkar. (5) That the sacred maneh was double the common.

(25) Ibid. XXXVIII, 29.

(26) There being twenty-five shekels in a maneh.

(27) I.e., one hundred and twenty maneh in a kikkar, and therefore Scripture could not count this in terms of kikkar.

(28) Like seventy kikkar, although they cannot be counted in terms of one hundred kikkar.

(29) Like one kikkar; but a sacred kikkar may contain only sixty maneh as the common.

(30) That the sacred maneh was double the common.

(31) Ezek. XLV, 12. We therefore see there were sixty shekels in a maneh.

Talmud - Mas. Bechoroth 5b

Now would not this [maneh] be two hundred and forty [denars]?[1] Therefore deduce from this that the sacred maneh was double [the common].[2] And further deduce from here that we may add to the measures, but not more than a sixth part. And still further deduce from here, that the sixth part added, is a sixth of the total.[3] Said R. Hanina: I asked [R. Eliezer] in the great School of Learning [Beth Hamidrash:] 'Why were the first-born of asses different from the first-born of horses and camels?' — He replied: 'It is a decree of Scripture'.[4] Moreover, they [the asses] helped the Israelites when they departed from Egypt, for there was not an Israelite who did not possess ninety Libyan asses laden with the silver and gold of Egypt. I also asked him: 'What does the word "Rephidim" signify?' And he told me: 'Rephidim was the name [of a place]'. There is a difference between Tannaim. R. Eliezer says: 'Rephidim' was the name [of a place], but R. Joshua says, it means that they relaxed [rifu] their hold on the words of the Law. And so Scripture says: The fathers shall not look back to their children for [rifyon] feebleness of hand.[5] And I asked him further: 'What is the meaning of the word "Shittim"?' And he told me: 'Shittim was the name [of a place]'. Here too Tannaim differ. R. Eliezer says: 'Shittim' was the name of the place, whereas R. Joshua says, it means that they gave themselves up to lust.[6] 'And they called to the people unto the sacrifices of their gods'.[7] R. Eliezer says, this verse means that they [the Israelites] came into contact with naked bodies.[8] But R. Joshua says they all became polluted.[9]

MISHNAH. IF A COW GAVE BIRTH TO A SPECIES OF ASS, OR AN ASS GAVE BIRTH TO A SPECIES OF HORSE, IT IS EXEMPT FROM [THE LAW OF] THE FIRSTLING, FOR IT IS SAID: FIRSTLING [PETER] OF AN ASS',[10] 'FIRSTLING [PETER] OF AN ASS',[11] TWICE [TO TEACH] [THAT THE LAW OF THE FIRSTBORN DOES NOT APPLY] UNTIL THAT WHICH GIVES BIRTH IS AN ASS AND THAT WHICH IS BORN IS AN ASS. AND WHAT IS THE LAW WITH REFERENCE TO EATING THEM?[12] IF A CLEAN ANIMAL GAVE BIRTH TO A SPECIES OF UNCLEAN ANIMAL, IT IS PERMITTED TO BE EATEN. BUT IF AN UNCLEAN ANIMAL GAVE BIRTH TO A SPECIES OF A CLEAN ANIMAL, IT IS FORBIDDEN TO BE EATEN, FOR THAT WHICH GOES FORTH FROM THE UNCLEAN IS UNCLEAN AND THAT WHICH GOES FORTH FROM THE CLEAN IS CLEAN.

GEMARA. We have learnt elsewhere:[13] If a ewe gave birth to a species of goat or a goat gave birth to a Species of ewe, it is exempt from [the law of] the firstling. But if the offspring possesses some marks [resembling the mother], it is subject to [the law of] the firstling. Whence is this proved? Said Rab Judah: Scripture says: 'But the firstling of an ox',[14] meaning that it [the animal] should be an ox and its firstling must be an ox; 'Firstling of a sheep',[15] indicating that [the animal] should be a sheep and its firstling must be a sheep; 'Firstling of a goat',[16] indicating that [the animal] 'Firstling of a goat' ,[16] indicating that [the animal] should be a goat and its firstling must be a goat. You might think that even if it [the offspring] possesses some marks [similar to the mother]?[17] There the text stated 'ak' [but],[18] intimating that there is a distinction.[19] But does not the Tanna [of our Mishnah] derive the ruling [for the exemption] of a cow [which gave birth to a species of ass] from 'peter' [firstling['peter' [firstling].[20] — He [R. Judah] follows the view of R. Jose the Galilean. For it was taught: R. Jose the Galilean said: 'But the firstling of an ox':[21] [the law of the firstling does not apply] until it [the animal] is an ox and its firstling is an ox; 'firstling of a sheep': [the law of the firstling does not apply] until it [the animal] is a sheep and its firstling is a sheep; 'firstling of a goat': [the law of the firstling does not apply] until it [the animal] is a goat and its firstling is a goat. You might think that even if it [the offspring] possesses some marks [similar to its mother]?[22] The text states 'ak' intimating that there is a distinction.[23] Wherein do they differ?[24] — Our Tanna [in the Mishnah] holds that the Divine Law informs us in that case of that which is consecrated for its value[25] [that a change in the offspring exempts it from the law of the firstling], and the same applies to an object consecrated as such.[26] But R. Jose the Galilean maintains that the Divine Law informs us in connection with an object consecrated as such [that a change in the offspring exempts it from the law of the firstling] and the same principle applies in connection with an object which is consecrated for its value. And we derive an object which is consecrated for its value from an object which is consecrated as such. And our Tanna[27] — what does he make of 'bekor' [firstling], 'bekor' [firstling].[28] — He requires it for R. Jose b. Hanina's [explanation]. For R. Jose b. Hanina said: Why does Scripture mention 'emurim'[29] in connection with the firstling of an ox, emurim in connection with the firstling of a sheep, emurim in connection with the firstling of a goat? It is necessary. For if the Divine Law had written 'emurim' in connection with the firstling of an ox [only], [I might have said], the reason [for the emurim was] because there was an increased drink offering.[30] [And if the Divine Law had written 'emurim'] in connection with the firstling of a sheep [only], [I might have said] the reason [for the 'emurim'] was because of the fat-tail which was included [to be sacrificed together with the emurim].[31] [And if the Divine Law had written 'emurim'] in connection with the firstling of a goat [only], [I might have said] the reason [for the 'emurim' was] because a goat was included as a suitable offering in the case of the sin of idolatry committed by an individual. You could not have derived 'emurim' in connection with any single case [of a firstling of an ox, firstling of a sheep or firstling of a goat] from any other single case. [Perhaps] you could derive however 'emurim' in a single case [of a firstling mentioned] from the remaining two cases?[32] in connection with what case should the Divine Law have omitted to write 'emurim'? Should the Divine Law not have written ['emurim'] in connection with the firstling of an ox, and should we have proceeded to derive this from the remaining two cases, [the firstling of a sheep and the firstling of a goat quoted above], [I might have raised the objection] that the two cases [mentioned where emurim was

written], were dif ferent, for a sheep and a goat are included as suitable to be brought as Passover sacrifices.[33] Or should the Divine Law have omitted [emurim] in connection with the firstling of a sheep and should we then have derived this from the remaining two cases [of the firstling of an ox and the firstling of a goat], [I might have raised the objection] that the cases [of an ox and a goat] were different, for they are included as suitable offerings for the sin of idolatry committed communally.[34] Or should the Divine Law have omitted [emurim] in connection with the firstling of a goat and should we then have derived this from the remaining two cases [of the firstling of an ox and the firstling of a sheep], [I might have raised the objection] that the cases [of an ox and a sheep] were different, for they have the [common] point of an increased offering upon the altar.[35] Therefore, all the three cases [to which the verse[36] refers] are necessary. And R. Jose the Galilean?[37] — [His answer is:] If so,[38] let the Divine Law write: 'But the firstling of an ox, sheep and goat'. What need is there for the words 'bekor' 'bekor'?[39] Hence you must deduce from here [the teaching also] that both [the animal] and its firstling must be an ox. And R. Jose the Galilean, what does he do with the texts 'peter hamor' 'peter hamor'?[40] — He requires this for what was taught. R. Jose the Galilean says: Because it is said in the Scriptures: Howbeit the firstborn of man shalt thou surely redeem and the firstling of unclean beasts shalt thou redeem,[41] I might infer from the text that even the first-born of horses and camels [are liable to the law of the first-born]. Therefore, there the text stated 'peter hamor'. I have only spoken to you [says Scripture] of firstlings of asses[42] but not of the firstlings of horses and camels. I can still maintain, however, that the firstlings of asses are to be redeemed with a sheep but the firstlings of horses and camels may be redeemed with any object.[43]

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(1) And a maneh has only one hundred dear or zuz, for there are twenty-five shekels to a maneh and four denar to a shekel.

(2) I.e., fifty shekels would be the maneh. This is two hundred denar and the remaining forty were added subsequently.

(3) Lit., 'from outside'. I.e., to each five portions, one is added, an addition of twenty per cent. And here, also, there was an addition to the two hundred denar which constitute the sacred maneh of twenty per cent, making a total of two hundred and forty denar. This addition of forty denar makes therefore a sixth part of the sum total, i.e., a sixth 'from the outside', although not a sixth part of the value of the sacred maneh as such, as forty denar would be a fifth part of two hundred denar.

(4) There is no special reason for this differentiation.

(5) Jer. XLVII, 3. The feebleness being due to their neglect of the Law.

(6) The word 'Shetuth' (a stupid thing, like lust) and the word 'Shittim', have a verbal resemblance.

(7) Num. XXV, 2.

(8) For lustful purposes. The word ותקראן is also derived from the word קרה to meet; they themselves, their bodies, met naked bodies in order to stimulate sexual desire.

(9) ותקראן is connected here with the word קרי meaning seminal pollution,

(10) Ex. XIII, 13.

(11) Ibid. XXXIV, 20.

(12) The animals born which do not resemble their mother.

(13) Supra 3b and infra 16b.

(14) Num. XVIII, 17.

(15) Ibid.

(16) Ibid. In connection with the words 'ox', 'sheep' and goat', Scripture prefaces in each case the word בכור (firstling) which in each case is superfluous, as it is clearly dealing with the subject of a firstling.

(17) That it is also excluded from the law of the firstling.

(18) But the firstling etc.

(19) Between total physical change in the offspring and where there is a partial resemblance to the mother, the word 'ak' having limiting qualifications.

(20) Why therefore does R. Judah bring his own Scriptural proof since what applies to a cow whose offspring changes species applies equally to a sheep whose offspring changes?

(21) Num. XVIII, 17.

(22) V. supra.

(23) V. supra.
(24) The Tanna in our Mishnah and R. Jose the Galilean.
(25) The case of an ass which is not holy in itself and is redeemed with a sheep.
(26) The case of a cow or any clean animal where it is holy as such, and is irredeemable. In such an instance, the law of the firstling should certainly only apply where the offspring resembles its mother, as since it is irredeemable, the offspring should be required all the more to resemble its mother.
(27) In the Mishnah.
(28) The threefold repetition of the word 'bekor' (firstling) in Num. XVIII, 17.
(29) The portion of the animal sacrificed on the altar. Scripture says: Thou shalt dash their blood against the altar and shalt make their fat smoke for an offering made by fire, which verse refers to all the three cases of firstlings mentioned in the text. If Scripture had written 'emurim' in connection with one of the firstlings mentioned, I could have inferred the rest.
(30) A half of a hin, whereas with reference to a goat or a sheep, the amount is only a quarter of a hin.
(31) Unlike the case of a goat or an ox.
(32) One of the references to 'emurim' would, then, be unnecessary.
(33) Whereas an ox is not brought as a passover sacrifice.
(34) A bull for a burnt offering and a goat for a sin-offering.
(35) Compared with a goat. For an ox has an increased drink-offering and a sheep has, in addition, its fat-tail offered up on the altar.
(36) Thou shalt dash their blood against the altar etc. quoted above.
(37) Since he explains the verse: 'But the firstling of an ox etc.' quoted above, as teaching that the mother and its offspring must be of the same species, how does he then explain the references to 'emurim' in connection with the three cases of firstlings mentioned above?
(38) That the verse only teaches what R. Jose b. Hanina says.
(39) The threefold repetition of the word 'bekor' ('firstling').
(40) Employed by our Mishnah as basis for its teaching.
(41) Num. XVIII, 15.
(42) As liable to redemption.
(43) And the law of the firstling will apply to these as well.

Talmud - Mas. Bechoroth 6a

The text therefore states 'peter hamor' 'peter hamor' twice, to intimate: 'I have only spoken of the firstling of asses[1] but not [at all] of the firstlings of horses and camels'. R. Ahai raised an objection. [There is need for the repetition of 'peter hamor']. For if the Divine Law had written only one ['peter hamor'], I might have said that it [the law of the firstling of an ass requiring redemption] is a thing which was included in the general proposition[2] and then made the subject of a special statement,[3] so that the specification Is not limited to itself alone but is to be applied to the whole class [of unclean animals], and so, in all cases, the redemption is indeed with a sheep. Therefore the Divine Law wrote in another text 'peter hamor' to intimate that only firstlings of asses are redeemed with a sheep but not the firstlings of horses and camels. But one might say that the limitation [with reference to horses etc,] only refers to [redemption] with a sheep, but, elsewhere, they may indeed be redeemed with any object? — If so, let the Divine Law write: 'The firstling of an ass thou shalt redeem with a sheep'; 'and an ass thou shalt redeem with a sheep'. Why [this repetition], 'The firstling of an ass thou shalt redeem with a sheep',[4] 'the firstling of an ass thou shalt redeem with a sheep'?[5] It is to intimate, 'I have only spoken to you of the firstlings of asses [as requiring redemption] but not of the firstlings of horses and camels'.[6] And our Tanna of the Mishnah, whence does he derive a limitation of horses and camels [as being altogether exempt from the law of the firstlings]? — Said R. Papa: [Scripture says:] And of all the cattle thou shalt sanctify the males,[7] this is a general proposition. 'The firstling of an ox and sheep . . . And the firstling of an ass thou shalt redeem', is a specification; and with a general proposition complemented by a specification the general proposition includes only the specification; thus teaching that an ox, sheep and an ass [are liable to the law of the firstling], but not

any other [animal]. And R. Jose the Galilean?[8] — [His answer is] that the word 'peter' interrupts the subject.[9] And the Rabbis?[10] — The letter waw[11] joins it again to the previous verse. And R. Jose the Galilean? — Let not Scripture write neither the waw [which joins it with the previous verse] nor [write the word] 'peter' [which interrupts the subject].[12] And the' Rabbis? — Since the one part[13] deals with objects consecrated in respect of their value and the other part with objects consecrated as such,[14] Scripture, therefore, at first interrupts the subject and subsequently connects it again [with the previous verse]. The question was asked: If a cow gave birth to a species of ass and it possesses some marks similar [to its mother]; what is the ruling? If a goat gave birth to a species of ewe and a ewe gave birth to a species of goat, the ruling is that when it possesses some marks [similar to its mother] it is subject to the law of the firstling, the reason being that this one [the mother] is a clean animal and this one [the offspring] is a clean animal, this one [the mother] is an object consecrated as such and this one [the offspring] is also an object consecrated as such. But here, where this one [the offspring] is an unclean animal and this one [the mother] is a clean animal, this one [the mother] is an object consecrated as such and this one [the offspring] is an object consecrated for its value, the ruling should not be [the same]. Or, perhaps, since in both cases, [even in the case where the offspring is a species of ass and the mother is a cow], they belong to a category of animals possessing the sanctity of the first-born, shall we say that it is therefore sanctified?[15] And should you maintain that since both cases mentioned above come under the law of the sanctity of the firstborn, therefore [where a cow gave birth to a species of ass which possesses some features akin to its mother] it is sanctified, what will be the ruling for an ass which gave birth to a species of horse? Here, surely, it[16] does not belong to the category of animals which have the sanctity of the firstling. Or, are we perhaps to say that since [the horse] belongs to the same class of unclean animals,[17] it is sanctified? And would you say that since it belongs to a class of unclean animals,it is sanctified, what will be the ruling regarding a cow which gave birth to a species of horse? Here, surely, this one [the cow] is a clean animal whereas this one [the offspring] is an unclean animal, this one [the cow] belongs to a category of animals which possess the sanctity of the firstling, whereas this one [the horse] does not belong to the category of animals which have the sanctity of the firstling. Or are we perhaps to say that marks [similar to the mother] are the decisive factor?[18] — Come and hear: 'A clean animal which gave birth to a species of unclean animal is exempted from he law of the firstling. If it possesses, however, some marks [similar to the parent], it is liable to the law of the firstling[19] . What [does this mean]? Does it not refer even to the case of a cow which gave birth to a species of horse?' — No, it refers to the case of a cow which gave birth to a species of ass.[20] Come and hear: 'If a cow gave birth to a species of ass or an ass gave birth to a species of horse, it is exempt from the law of the firstling. If it possesses, however, some marks [similar to the mother], it is liable to [the law of] the firstling'. What [does this mean]? Does this [the last clause] not refer to both cases mentioned?[21] — No, it refers only to the case of a cow which gave birth to a species of ass. But the case of an ass which gave birth to a species of horse-why does it state this? Is it to exempt it [from the law of the first-born]? Is this not obvious? Since, in the case of a cow which gave birth to a species of an ass, where both [the mother and its offspring] belong to a category of animals which have the sanctity of the firstling, you say if the ass has some marks [similar to its mother], it is sanctified, but if not, it is not sanctified, is there any question in the case of an ass which gave birth to a species of horse?[22] — It is necessary to state this. You might be inclined to assume that there [in the case of a cow which gave birth to a species of ass] the reason is because the cow has horns but here the ass has no horns, here [the cow] its hoofs are cloven but there [the ass] its hoofs are closed.[23] But here [in the case where an ass gave birth to a species of horse], since in both instances, they have no horns and the hoofs of both are closed, I might have said that the offspring [a species of horse] was merely a red ass.[24] We are therefore informed [that this is not so].[25] WHAT IS THE LAW WITH REFERENCE TO EATING THEM etc. What need is there [for the Mishnah] to lay down FOR THAT WHICH GOES' FORTH etc.? — It is a mere [mnemonical] sign so that you should not change the version [of the Mishnah][26] and that you should not say 'decide according to the offspring, and this is a perfectly clean animal and this is a perfectly unclean animal'.[27] But we rather say, 'Follow the mother'. Whence is this proved? — Because our Rabbis taught:

'Nevertheless these shall ye not eat of them that chew the cud or[28] of them that divide the hoof'.[29] You have the case of an animal which chews the cud and has divided hoofs which you are, nevertheless, forbidden to eat. And what is it? This is the case of a clean animal born from an unclean animal. Perhaps, it is not so but [the verse] refers to the case of an unclean animal born from a clean animal? And what is the interpretation of the verse: 'Of them that chew the cud or of them that divide the hoof'?

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(1) As requiring redemption.

(2) In the verse, 'And the firstling of unclean beasts shalt thou redeem' cited supra.

(3) That the firstling of an ass must be redeemed with a sheep.

(4) Ex. XIII, 13.

(5) The repetition of the word פטר (firstling) in Ex. XXXIV, 20.

(6) Because there is no holiness at all in regard to the firstlings of other unclean animals.

(7) Ibid. XXXIV, 19.

(8) Who infers the ruling that other animals beside the firstling of an ass, sheep and goat are not liable to the law of the firstborn from the repetition of 'peter hamor', why does he not derive this from the verse quoted by R. Papa and in the manner interpreted by the latter.

(9) We do not interpret the verse as a general proposition complemented by a specification, as the word 'peter' before the text 'ox or sheep' indicates a break in the subject.

(10) The majority of the Rabbis who dispute with him as to the derivations of the various teachings under discussion.

(11) The 'waw', a conjunction, meaning 'and' in the word ופטר which commences the following verse.

(12) If Scripture did not interrupt the theme with the word 'Peter', there would have been no need for the 'waw' to connect again.

(13) The general proposition: 'All that openeth the womb is mine etc.' which includes an ass, that is not holy as such and must be redeemed with a sheep.

(14) The firstlings of ox or sheep.

(15) A species of ass born from a cow is, therefore, holy if it has some features resembling its mother, for an ass although an unclean animal, is liable to the law of the firstling.

(16) A horse. Therefore, even if it has some marks like the mother, it should not be liable to the law of the firstling.

(17) . Like an ass, which though unclean, is liable to the law of the firstling. Therefore, if the offspring is a species of horse, and if there is a measure of resemblance between it and its mother, we do not regard the change between the ass and its offspring of such great importance, as to exempt it altogether from the law of the firstling.

(18) And although the difference between the parent and the offspring is great, since the latter resembles the mother, it is liable to the law of the firstling.

(19) We therefore deduce that signs in the offspring akin to the parent are an important matter and the other points raised above are also, incidentally, thereby solved.

(20) But where there is such a gap between the Parent and its offspring as e.g. where a cow gave birth to a species of horse, it is exempt from the law of the firstling. Therefore, only one of the above queries can be solved.

(21) Where a cow gave birth to a species of ass and an ass gave birth to a species of horse, if the offspring had some marks like its mother, it is liable to the law of the firstling.

(22) If the horse does not possess signs resembling the ass, that it should be exempt?

(23) Therefore only if the ass has signs resembling the cow, is it liable to the law of the firstling.

(24) And not a horse at all. An ordinary horse is red in color and an ordinary ass is black. Consequently, if the horse had some features like its parents, we ought perhaps to regard it as a kind of red ass, thus making it liable to the law of the firstling.

(25) Since a horse's color is generally red we regard it as a species of a horse and not as a freak ass. There is, consequently, no proof as to what is the ruling concerning an ass which gave birth to a species of horse.

(26) And say that a clean animal which gave birth to an unclean animal is forbidden to be eaten and an unclean animal which gave birth to a clean animal is permitted to be eaten. Clean animals are those which may be eaten according to the Jewish law and possess the necessary signs of a clean animal and unclean animals are those which do not possess these signs. .

(27) Therefore where a clean animal is born from an unclean animal, it should be permitted to be eaten.

(28) This can also be rendered ‘and’.
(29) Lev. XI, 4.

Talmud - Mas. Bechoroth 6b

It means this: An object which proceeds from them which chew the cud and of them that divide the hoof, ye shall not eat![1] The text therefore states: The camel . . . he is unclean,[2] intimating that he is unclean[3] but an unclean animal born from a clean animal is not Unclean, but clean. R. Simeon says: The word ‘camel’ occurs twice,[4] once referring to a camel born from a camel [as forbidden], and the other, to a camel born from a cow. And as to the Rabbis who differ from R. Simeon — what do they do with the repetition ‘camel’, ‘camel’? — One is to forbid [the camel itself] and the other to prohibit its milk. And whence does R. Simeon derive the prohibition of a camel's milk? — He derives it from the word ‘eth, [with] the camel’.[5] And the Rabbis? — They do not stress the word eth [occurring in the Scriptures]. As it was taught: Simeon the Imsonite used to expound the word eth wherever it occurred in the Law. When he reached, however, the verse, eth [with] the Lord thy God thou shalt fear,[6] he abstained.[7] His pupils, thereupon, said to him: ‘Rabbi, every eth which you have expounded, — what will become of them?’ He replied to them: ‘Just as I have received reward for interpreting every eth, so I shall receive reward for abstaining’. Finally, however, R. Akiba came and taught that the verse: ‘eth [with] the Lord thy God thou shalt fear’, intimates that we must pay reverence to scholars next to God. Said R. Aha the son of Raba to R. Ashi: According to this, the reason of the Rabbis [why milk of an unclean animal is forbidden], is because of the repetition ‘camel’, ‘camel’, and that of R. Simeon is because of the text ‘eth [with] the camel’, but were it not so, I might have said that milk from an unclean animal is permitted. Why should it be different from what was taught: [The verse] These are the unclean,[8] implies the prohibition of their brine, their soup and their jelly![9] — It is necessary [to find another basis for milk]. For I might have been inclined to assume that since even the use of milk itself of a clean animal is an anomaly, for a Master said: The blood [during the nursing period] is dis turbed [decomposed] and turns into milk; and since it is an anomaly,[10] therefore even from an unclean animal the milk should be permitted. We are accordingly informed [that this is not so]. This would indeed hold good according to him who says that the blood [during the nursing period] is disturbed [decomposed] and turns into milk. But according to him who says [that the reason why there is no menstruation period while nursing is] because her limbs become disjointed[11] and she does not become normal in herself for twenty-four months,[12] what can you reply? — It is still necessary. I might have been inclined to assume, that since there is nothing which proceeds from a living being which the Divine Law permits and yet milk which is similar to a part from a living animal [is permitted], therefore even from an unclean animal the milk should be permitted. We are accordingly informed [that this is not so]. And whence do we derive that milk itself from a clean animal is permitted? Shall I say that since the Divine Law prohibits [the boiling of] milk and meat together, this implies that separately milk is permitted? But might I not still maintain that milk by itself is forbidden to be eaten though permitted for other general use,[13] whereas in the case of boiling meat and milk together, it is also forbidden for any use. And even according to the view of R. Simeon who holds that meat and milk boiled together is permitted for general use,[14] the prohibition can be explained as necessary to inflict lashes for the boiling![15] Rather,[16] since the Divine Law states in connection with dedicated objects which became unfit, Notwithstanding thou mayest kill[17] but not to use the shearing, ‘flesh’, but not the milk,[18] this implies that milk from an unconsecrated animal is permitted. But may I not take the meaning to be that milk from an unconsecrated animal is forbidden to be eaten but may be used for other general use, whereas in the case of consecrated objects, it is forbidden even for any use? — Rather deduce [the law] from what [Scripture] has written, And thou shalt have goats’ milk enough for thy food, for the food of thy household, and for the maintenance of thy maidens.[19] Perhaps, however, this only refers to business?[20] Rather deduce this from what [Scripture] writes, And carry these ten cheeses unto the captain of their thousand.[21] Perhaps, here also, it refers to business.[22] Is it usual in war to sell [food to the enemy]?[23] If you prefer, I may deduce from here:[24] A land flowing with milk and

honey.[25] Now if milk were not permitted, would Scripture commend the country to us with something which is not fit to be eaten? Or, if you prefer, I may deduce it from here:[26] Come ye buy and eat, yea, come buy wine and milk without money and without price.[27] Now, according to this,[28] , the repetition 'Rockbadger', 'Rockbadger',[29] 'Hare', 'Hare', 'Swine', 'Swine', — are these also come for some purpose?[30] But [the object of these repetitions quoted] is really as was taught: Why is there a repetition [of the clean and unclean] ani mals?[31] On account of shesu'ah.[32] Why with reference to birds, [is there the same repetition in the Scripture]? On account of ra'ah.[33] Then, perhaps, [the repetition of] 'Camel', 'Camel' also has the same purpose?[34] — All the same, wherever we can derive a lesson from the biblical text, we interpret it.[35] Our Rabbis taught: If a ewe gave birth to a species of a goat or a goat gave birth to a species of a ewe, it is exempt from the law of the firstling. But if the offspring possesses some marks similar to its mother, it is liable to the law of the firstling. R. Simeon says [it is not liable to the law of the firstling] until the head and the greater part of the body resemble the mother. The following query was put forward. Does R. Simeon require, in order that the animal may be permitted to be eaten, the head and the greater part of the body,[36] or not? In connection with a firstling, Scripture writes: 'But the firstling of an ox'[37] indicating [that the law of the firstling does not apply] until the animal is an ox and its firstborn is an ox.[38] But as regards permission for eating, the Divine Law says that only a camel is prohibited, but

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(1) I.e., a species of an unclean animal born from a clean animal.

(2) Ibid.

(3) And usually camels are born from camels and, since Scripture emphasizes that 'he' is unclean etc., this implies that a camel, however, born from a cow, is clean.

(4) Once in Lev. XI, 4 and again in Deut. XIV, 7.

(5) את הגמל. The accusative article את can be rendered also 'with'.

(6) Deut. X, 20.

(7) Because the word eth means by implication an amplification and he felt that here he could not amplify the word so as to include fearing someone besides the Deity.

(8) Lev. XI, 31. The ה before טמאים meaning 'the'. The superfluous letter suggests the inclusion of something else as unclean.

(9) And the sediments of boiled meat.

(10) This shows that blood, which ordinarily is prohibited, after a change is permitted, and the same is the case in connection with the milk of a clean animal.

(11) On account of the labor of childbirth.

(12) The period of nursing, and not because the blood is changed into milk. Therefore, the use of milk is not an anomaly and what need is there, consequently, for a special prohibition with reference to the milk of an unclean animal?

(13) I.e., to be sold to non-Jews.

(14) V. infra 10a.

(15) But milk by itself may still be forbidden, only, in addition, there is a penalty of forty lashes for boiling the meat and milk together.

(16) From the following verse, you may derive the permission for the use of milk.

(17) Deut. XII, 15.

(18) Although the animal is no longer fit for the purpose dedicated, even after its redemption, it possesses a measure of sanctity.

(19) Prov. XXVII, 27.

(20) To sell the milk profitably to non-Jews to maintain his family. But milk may be still prohibited for food.

(21) I Sam. XVII, 18. And Jesse instructs David to bring them to the captain of their thousand in the war, which shows that milk is permitted to be eaten.

(22) That the captain of their thousand might sell to the gentile enemy.

(23) Their intention being to destroy the enemy heathen, the Hebrews would not do business with them to increase their power of resistance. Therefore the cheeses must have been intended for the Hebrews.

(24) From the following verse, we can derive that milk is permitted.

(25) Ex. III, 8.

(26) From the following verse, one can derive that milk is permitted.
(27) Isa. LV, 1.
(28) Both according to the Rabbis and R. Simeon who derive lessons from the repetition of 'Camel', 'Camel', although variously.
(29) Once in Leviticus and again in Deuteronomy, the same applying to the other repetitions quoted.
(30) What need is there for these repeated prohibitions?
(31) In Leviticus and Deuteronomy.
(32) A creature with two backs and two spinal columns, which is not mentioned in Leviticus as forbidden.
(33) The name of an unclean bird, not mentioned in Leviticus.
(34) The repetition having no object except for the inclusion of one new animal and bird left unmentioned in Leviticus.
(35) And the reason why we infer that special deductions are made from 'Camel', 'Camel', and not from the repetition of 'Rockbadger', 'Rockbadger' etc., is because the word 'Camel' occurs first in the text.
(36) In the case of an unclean animal born from a clean animal where R. Simeon forbids the eating, if the offspring has no marks similar to the mother, but permits it if there are marks similar to the mother, the question arises whether he requires that the offspring must be like the mother to the extent of its head and the greater part of the body?
(37) Num. XVIII, 17.
(38) I.e., the head and the greater part of the body to be similar to its mother.

Talmud - Mas. Bechoroth 7a

if it has changed from a camel,[1] there is no objection. Or is there perhaps no difference?[2] — Come and hear: If a clean animal gives birth to a species of unclean animal it is forbidden to be eaten, but if the head and the greater part of the body resemble its mother, it is liable to the law of the firstling. May we not deduce from here[3] that even as regards permission to eat, R. Simeon requires the head and the greater part of the body to be [similar to its mother?] — No, only as regards [the law] of the firstling.[4] I can also prove it. For he leaves [the first clause of the above passage] relating to eating [as it is] and places [the provision of the head and the greater part of the body] in conjunction with the firstling. We deduce from here, therefore, [do we not] that only in connection with the firstling does R. Simeon require the head and the greater part of the body, but not as regards permission for eating! — No. I may still tell you that also as regards eating, R. Simeon requires the head and the greater part of the body; and that it was necessary to state this with particular reference to the firstling. For I might be inclined to assume that since Scripture writes: 'But the firstling of an ox',[5] [that the law of the firstling does not apply] until the animal is an ox and its first-born is an ox, and that therefore it is not sufficient for the offspring to resemble its mother to the extent only of its head and the greater part of its body, but the whole animal must resemble its mother. He accordingly informs us [that this is not so]. Come and hear: [Scripture says]: Nevertheless these shall ye not eat of them that chew the cud or of them that divide the hoof.[6] We infer that this you must not eat,[7] but you may eat an animal which has one mark similar [to its mother]. And what is this which has one mark? This is an unclean animal which was born from a clean animal impregnated from a clean animal. I might think that this is the case even if it was impregnated from an unclean animal? The Text therefore states: 'A sheep [born from a pair] of lambs', 'a goat [born from a pair] of goats',[8] intimating that the father must be a sheep and the mother must be a female sheep. These are the words of R. Joshua. R. Eliezer says: The object of the text is not to allow what is [already] permitted[9] but to add to what is already permitted. And what is this? This is the case of an unclean animal born from a clean animal impregnated from an unclean animal. Or, shall I say that this is not the case, but its pregnancy must be from a clean animal? Scripture therefore states: 'a sheep of lambs', 'a sheep of goats' in any case.[10] Now he describes [in the above passage] the animal as unclean, therein agreeing with R. Simeon,[11] and proceeds to say, 'But you may eat an animal which possesses one [clean] mark similar to its mother'! — This Tanna [of the above passage] holds with R. Simeon in one thing[12] but he differs from him in the other.[13] Some there are who raise a question [with reference to the above Baraitha], and answer it.[14] [The question was asked]. Can impregnation take place from an unclean animal? For R. Joshua b. Levi said: There can be no impregnation either

of an unclean animal from a clean animal, or of a clean animal from an unclean animal, or of large cattle from small cattle, or of small cattle from large cattle, or of a domestic animal from a beast of chase, or a beast of chase from a domestic animal, except in the case[15] dis cussed by R. Eliezer and his disputants, where all say that a beast of chase can become pregnant from a domestic animal. And R. Jeremiah explained that the animal became pregnant from a kalut born of a cow,[16] adopting the view of R. Simeon.[17] And the Baraitha states: But you may eat an animal which has one mark like its mother?[18] — This Tanna [from the Baraitha] holds with R. Simeon in one thing but differs from him in the other.[19] Does this mean to say that R. Eliezer holds that a product of two [heterogeneous] factors is permitted[20] and that R. Joshua holds that a product of two such factors is forbidden? But have we not learnt the reverse of them? [For we have learnt]: The offspring of a trefah[21] must not be offered upon the altar. But R. Joshua says it may be offered upon the altar![22] — As a rule, R. Eliezer maintains that a product of two [heterogeneous] factors is forbidden, but the case is different here.[23] For if it were so, Scripture should write: The sheep of lambs and goats. Why is the repetition of 'sheep', 'sheep' needed? Deduce from here, therefore, 'sheep' in any circumstances.[24] And R. Joshua? — He will explain the matter to you [as follows]. In general, a product of two [heter ogeneous] factors is permitted, but here [in the Baraitha], if this were the case, let Scripture write: 'Ox', 'sheep of a lamb', 'sheep of a goat'. What need is there for the words 'lambs', 'goats'?[25] Deduce, therefore, from here that the father must be a sheep and the mother must be a sheep.[26] Come and hear: R. Simeon says: [We find] 'camel', 'camel' twice;[27] one refers to a camel born from a camel [as prohibited] and the other refers to a camel born from a cow. But if its head and the greater part of its body resemble the mother, it is permitted to be eaten. Deduce, therefore, from here that even for eating R. Simeon requires the head and the greater part of the body [to be similar to the mother]. This is proved. FOR THAT WHICH GOES FORTH FROM THE UNCLEAN, etc. A question was put to R. Shesheth. What is the ruling concerning the urine of an ass? Why should not the question be put [concerning the urine] of horses or camels? The question was not put [concerning the urine] of horses or camels, for it is not thick and, consequently, it is not similar to milk. [It is merely] water coming in,[28] and water coming out. But the question does arise [concerning the urine] of an ass, because it is thick and is similar to milk. What is the ruling? Is the urine drained from the body of the ass itself and therefore it is forbidden, or, perhaps, [it is merely] water coming in and water coming out and its thickness is due to the exudations of the body? — R. Shesheth replied to his questioners. We have learnt it: FOR THAT WHICH GOES FORTH FROM THE UNCLEAN IS UNCLEAN, AND THAT WHICH GOES FORTH FROM THE CLEAN IS CLEAN. Now, it does not say 'from what is Unclean'.[29]

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(1) But in some respects it is like its mother.

(2) Even for permission to eat, we require the head and the greater part of the body to be like the mother.

(3) For it is R. Simeon who holds that an unclean animal born from a clean animal is forbidden, and since the prohibition of eating is put in the proximity of the expression of the head and the greater part of the body, we therefore may conclude that for eating purposes, as well as for the law of the firstling, the offspring must resemble the mother as regards its head and the greater part of the body.

(4) Does R. Simeon require that the head and the greater part of the body must be similar to its mother.

(5) Num. XVIII, 17.

(6) Lev. XI, 4.

(7) E.g., a camel even born from a cow.

(8) So literally. Deut. XIV, 4.

(9) Where both parents are clean animals.

(10) From the repetition of the word 'seh', it is inferred that even if the unclean animal has only a mother which is a clean animal, the father being an unclean animal, it is still permitted.

(11) The language used, 'an unclean animal', in the Baraitha but not 'that which issues from a clean animal', is in accordance with the view of R. Simeon who forbids the offspring as definitely unclean, if it has not marks resembling its mother; and it says here that if it has one mark similar to its mother, it is permitted. Hence, we see that we do not require according to R. Simeon the head etc. to resemble its mother.

(12) That an unclean animal born from a clean animal is unclean.
(13) For R. Simeon requires the head and the greater part of the body to resemble its mother before it is permitted to be eaten.
(14) And from the answer, our query whether R. Simeon requires the head etc. to be like the mother in order to be permitted to be eaten, can be solved.
(15) A koy: (An antelope or bearded deer). The Rabbis are undecided whether it belongs to the genus of cattle or the beasts of the chase. This animal, however, comes from a he-goat, and a hind, and R. Eliezer and the majority of the Sages dispute whether the law forbidding the killing of the mother and its young on one day applies to it. But apparently they agree that impregnation is possible in such circumstances.
(16) The unclean animal referred to in the Baraitha above, does not actually mean an unclean animal but a kalu! (closed), an animal with closed and uncloven hoofs born of a cow.
(17) Since the Baraitha describes the kalut born of a cow as unclean, this indicates that its views are in accordance with R. Simeon who holds that an unclean animal born from a clean animal is unclean.
(18) Hence we can infer that for eating purposes, R. Simeon does not require the head and the greater part of its body to be like its mother.
(19) As regards requiring the head etc. to resemble its mother.
(20) R. Eliezer who permits the offspring when the impregnation is from an unclean animal, because he maintains that since it is a product of combined causes and one of these, the mother, is a clean animal, it is permitted.
(21) V. Glos.
(22) If its sire is a clean animal, although the mother is trefah. V. Hul. 58a and Tem. 30b. We have here, consequently, a product of combined causes, one of which is a clean animal.
(23) In the Baraitha quoted above.
(24) Even where the pregnancy is from an unclean animal, the offspring is permitted.
(25) Why are these words put in the plural.
(26) The father must also belong to the same class.
(27) Once in Leviticus and again in Deuteronomy.
(28) When the animal drinks.
(29) The phrase 'from what is unclean' would imply coming from the body itself, and therefore whether the substance which came forth was turgid or otherwise, it would be forbidden to be eaten.

Talmud - Mas. Bechoroth 7b

but FROM THE UNCLEAN,[1] and this too [the urine of an ass thick as milk] is from that which is unclean. Some state the argument as follows: With reference to [the urine of] horses or animals, the question was not put forward, because it is not drunk.[2] The question, however, arose concerning [the urine of an ass] which people drink and is good for jaundice. What is the ruling? — R. Shesheth replied to this. We have learnt this in the Mishnah: THAT WHICH GOES FORTH FROM THE UNCLEAN IS UNCLEAN, AND THAT WHICH GOES FORTH FROM THE CLEAN IS CLEAN, and this [urine] also comes from an unclean animal.[3] An objection was raised. Why did [the Sages] say that honey from bees is permitted? Because the bees store it[4] up in their bodies but do not drain it from their bodies.[5] — He [the Tanna of the passage quoted above] holds with R. Jacob who said: The Divine Law expressly permitted honey.[6] For it was taught: R. Jacob says: Yet these may ye eat of all the winged swarming things.'[7] This you may eat, but you are forbidden to eat an unclean winged swarming thing. But is not an unclean winged swarming thing expressly mentioned in the Scripture [as forbidden]? Rather we must explain [thus]: An unclean fowl that swarms you must not eat, but you may eat what an unclean fowl casts forth from its body. And what is this? This is bees' honey.[8] You might think that this also includes gazins'[9] honey or hornets' honey as permissible. You cannot, however, say this. And why should you include bees' honey and exclude gazins' honey or hornets' honey? I include bees' honey because it has no qualifying epithet[10] but I exclude gazins' honey or hornets' honey, since they have a qualifying epithet. Whom does this dictum that has been taught follow: Gazins' honey or hornets' honey is clean and is permitted to be eaten? Not R. Jacob. [The Baraitha says concerning gazins' or hornets' honey] that it is clean, consequently, it requires

the intention [of using it as a food].[11] We infer from this that bees' honey does not need the intention [of using it as a food].[12] It has also been taught likewise: Honey in its hive becomes unclean[13] with the uncleanness of food, even without the intention [of using it as a food]. With regard to ball-like concretions in a fallow-deer, the Rabbis in the presence of R. Safra proposed to lay down that they were real eggs and were therefore forbidden.[14] Said R. Safra: It was really the seed of a deer which sought to couple with a hind, but since the latter's womb is narrow and it is unable to copulate, the deer, therefore, seeks to couple with a fallow-deer, releasing its semen into the latter's womb.[15] Said R. Huna: The skin which is over the face of an ass at birth[16] is permitted to be eaten.[17] What is the reason? — It is a mere secretion [but no real skin]. Said R. Hisda to him. There is a [Baraitha] taught which supports you: A skin which is over the face of a man, whether alive or dead, is clean.[18] Now does not this mean whether both the offspring and its mother are alive, or whether both the offspring and its mother are dead?[19] No. It means, whether the offspring is alive and its mother is dead, or whether the offspring is dead and its mother is alive.[20] But has it not been taught: Whether the offspring and its mother are alive, or whether the offspring and its mother are dead, [the ruling is that the skin is clean]? If it has been actually taught in a Baraitha, then it has been taught.[21]

MISHNAH. IF AN UNCLEAN FISH SWALLOWED A CLEAN FISH, IT IS PERMITTED TO BE EATEN. BUT IF A CLEAN FISH HAS SWALLOWED AN UNCLEAN FISH, THE LATTER IS FORBIDDEN TO BE EATEN, BECAUSE IT IS NOT [THE CLEAN FISH'S] PRODUCT.[22]

GEMARA. The reason[23] is because we actually saw that it swallowed. But if we did not see that it swallowed, we would say that it was bred[24] [by the unclean fish]. Whence do we know this? For it has been taught: An unclean fish breeds, whereas a clean fish lays eggs.[25] If this is a fact, even if we see that it actually swallowed, we should say that the clean fish had been consumed and [the fish found inside] was bred by the unclean fish![26] — Said R. Shesheth: [It means,] if e.g., he found it in the secretory channel.[27] R. Nahman said: if e.g., he found it whole.[28] R. Ashi said:[29] The majority of fish breed their own kind and therefore [when we discover a different kind of fish inside] it is as if we had witnessed the swallowing. Our Rabbis taught: An Unclean fish breeds, but a clean fish lays eggs. Whatsoever gives birth,[30] gives suck.[31] And whatsoever lays eggs, supports its brood by picking up [food for it], except the bat, for although it lays eggs,it gives suck [to its young].

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(1) The phrase 'from the unclean' implies something which proceeds from the inside of an unclean creature, and although it does not drain from the body itself, it is yet forbidden.

(2) As a medicine. Therefore it is of little value and is not forbidden.

(3) According to this version therefore, whether it is thick or otherwise, it is forbidden (R. Gershom).

(4) From the sap of flowers and plants.

(5) There is, therefore, an objection here according to both versions. According to the first version, if the substance which proceeds from an unclean creature is thick although it does not drain from the body, it is prohibited, whereas here, in the case of honey, the reason why it is allowed is because it does not drain the body. And according to the second version, honey, since it comes from an unclean creature, should be forbidden.

(6) The Divine Law explicitly permits honey, although it may come from the body of the bee itself, and no reason is given for this.

(7) Lev. XI, 21.

(8) And is not like the embryo or offspring which is part of the creature itself.

(9) A species of wild bees or locusts.

(10) Bees' honey is known briefly as honey, without any necessity to describe it as such.

(11) Food, which is recognized as such, automatically receives the uncleanness pertaining to food when coming in contact with an unclean object such as a corpse or carcass. But, an object which is not ordinarily considered as food requires, in order to receive uncleanness, the intention that it is to be used as food.

(12) For it is regarded as ordinary food and receives uncleanness in the usual manner. This passage is to be added with Sh. Mek.

(13) For ordinary hives are used for bees, although the honey is still in the hive and the consumer has not as yet

expressed his intention of using it as food.
(14) Like a limb from a living animal, having been communicated from the male organ to the womb.
(15) The semen, however, owing to the delay in copulation, has meanwhile hardened, and although it enters the womb, owing to its congealed state, it has no effect and issues later in the animal's excrements, in the form of ball concretions.
(16) A thin skin somewhat similar to the after-birth, but not actually the same.
(17) For it is not regarded as the after-birth in any way.
(18) He who touches or carries it remains clean.
(19) And even if both are dead, nevertheless, the skin is clean. Hence, we learn that the skin is a false membrane and is not considered as the after-birth of either the mother or the offspring.
(20) For the skin comes from both the mother and its offspring and therefore it is clean until both are dead. This is one explanation. Rashi's explanation, however, is that the Baraitha in both cases supposes the mother to be alive, only In one instance the offspring is also alive, therefore the skin is clean. But where both are dead, R. Hisda cannot find support for R. Huna's ruling.
(21) And nothing further need be said.
(22) For the unclean fish was swallowed alive, but if it was actually a growth of the clean fish, it would be permitted, as is the ruling with something which proceeds from a clean being.
(23) Why the Mishnah states that if an unclean fish swallowed a clean fish, the latter is permitted to be eaten.
(24) And we should then regard it as its progeny and as part of the unclean fish.
(25) And hatches them till the young emerge.
(26) And it should therefore be forbidden to be eaten, as the progeny of any unclean fish.
(27) And if it were an embryo, it should have been found in the womb.
(28) And if it were an embryo, it would have left the womb before now.
(29) The Mishnah does not refer to the case where we actually saw the swallowing.
(30) To an embryo or offspring, a creature like itself.
(31) I.e., possesses breasts.

Talmud - Mas. Bechoroth 8a

Dolphins are fruitful and multiply by coupling with human beings. What are dolphins? — Said Rab Judah: Humans of the sea.[1] In any species which has its male balls outside,[2] [the female] give birth [to its young]. But where the male balls are inside, [the female] lay eggs. It is not so. Did not Samuel Say: The domestic and wild goose are forbidden copulation?[3] And we raised the point, what is the reason? Said Abaye: In one case, the male balls are outside, and in the other, the male balls are inside. Yet both lay eggs! — Rather say: Whatsoever has its male genital outside, gives birth, but whatsoever has its male genital inside lays eggs.[4] Whatsoever copulates in the day time, gives birth in the day time. Whatsoever copulates in the night, gives birth in the night. Whatsoever copulates in the day and night time, gives birth both in the day and in the night. 'Whatsoever copulates in the day time gives birth in the day time:' for instance, a cock. 'What soever copulates in the night, gives birth in the night': for instance, a bat. 'Whatsoever copulates in the day and night time, gives birth both in the day and in the night': for instance, man and all beings resembling him. What is the practical rule [to be derived from this statement]? — The rule of R. Mari, the son of Kahana. For R. Mari, the son of Kahana said: If one searched a nest of chickens on the eve of a Festival and did not find an egg therein and on the morrow, he rose early[5] and found there an egg, it is permitted to be eaten on the Festival.[6] [But did he not search?][7] — You presume that he did not search thoroughly. But did he not search thoroughly? — You presume that the greater part [of the egg] came forth from the intestines of the chicken but returned,[8] and this is in accordance with the ruling of R. Johanan. For R. Johanan said: An egg, the greater part of which came forth [from the intestines of a chicken] on the eve of a Festival and returned [to its intestines,] may be eaten on the Festival. All animals whose copulating and pregnancy are alike,[9] give birth from one another, and nurse each other's young. All animals copulate with their faces against the back [of the female], except three, which copulate face to face, and these are a fish, man, and a serpent. And why are these three different? — When R. Dimi came [from Palestine] he said: In the West [Palestine] it was said: Because the Divine

Presence spoke with them.[10] In a Baraitha it was taught: Camels [copulate] back to back. Our Rabbis taught: A hen lays its eggs after twenty-one days,[11] and corresponding [to a hen] is the almond-tree among trees.[12] A dog [goes with young] for fifty days, and corresponding [to a dog] is a fig-tree among trees. A cat [goes with young] for fifty-two days, and corresponding [to a cat] is a mulberry-tree among trees, [whose fruit ripens fifty-two days after its blossoming]. A pig [goes with young] for sixty days, and corresponding [to a pig] is an apple tree among trees. A fox and all kinds of reptiles [go with young] for six months, and corresponding [to a fox] etc. is wheat among trees.[13] Small clean animals [go with young] for five months, and corresponding [to small animals] is a vine among trees. Large unclean cattle [go with young] for twelve months, and corresponding [to large unclean cattle] is a palm-tree among trees.[14] Clean large cattle [go with young] for nine months, and corresponding [to clean large cattle] is an olive-tree among trees. The wolf, lion, bear, leopard, bardeles,[15] elephant, monkey, and long-tailed ape [go with young] for three years, corresponding to them are white figs among trees. A viper [or adder] goes with young for Seventy years, and corresponding to it is the carob-tree among trees. From the time of the planting of the carob-tree to the ripening of its fruit, a period of seventy years elapses; and the time of its pregnancy',[16] is three years. A serpent [goes with young] for seven years, and for that wicked animal there is no companion [among trees]. Some, however, say that [corresponding to a serpent] is a kind of white fig [among trees],[17] Whence is this proved?[18] — Said Rab Judah in the name of Rab and they trace it in tradition up to the name of R. Joshua b. Hanania: Because [Scripture] says: Cursed art thou from among all cattle and from among all the beasts of the field.[19] Now if [the serpent] was cursed [to go with young for a period] longer than an animal,[20] [how much] longer must this have been than that of a beast?[21] But [the object of the verse is] to tell you: Just as the animal is cursed [to go with young] longer than a beast in the proportion of one to seven[22] — and what is this? An ass which [goes with young longer] than a cat — so [the serpent] is cursed [to go with young] in the proportion of one to seven, which is seven years.[23] But why not say, that just as the beast has been cursed [to go with young longer] than an animal in the proportion of one to three — and what is this? A lion [which goes with young longer] than an ass[24] — so, [the serpent] has been cursed [to go with young] longer than the beast in the proportion of one to three, which is nine years?

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(1) Half fish and half human.

(2) Outside its belly, i.e. animals and beasts.

(3) The coupling together of heterogeneous animals or birds is one form of kil'ayim.

(4) And as regards the domestic and wild goose, although the latter has its male balls outside, its male genital is inside. Therefore, in both instances, they lay eggs and do not give birth to their brood.

(5) Before dawn.

(6) For since a hen does not lay eggs at night, it must have been laid on the previous day. An egg newly laid on a festival is forbidden on that day. V. Bez. 2a.

(7) Inserted with Sh. Mek.

(8) The greater part of the egg came forth from the inside of the chicken on the eve of the Festival, but it returned, and therefore he did not find it when he searched for it at first in the nest. Consequently, even if, as in this case, it laid the egg at night, it is permitted to eat it on the Festival. But it does not, usually, lay eggs in the night time.

(9) Like sheep and goats, which copulate in a similar manner, their faces against the back of the female and whose period of pregnancy is five months.

(10) The serpent in the Genesis story and the fish in that of Jonah.

(11) After pregnancy from a cock, the egg takes this period for completion. Another explanation is that the hen hatches its eggs for a period of twenty-one days before the young ones emerge. (Rabbenu Gershom.)

(12) From the time of its blossoming until the fruits are ripened, a period of twenty-one days elapse.

(13) Wheat is here described as a tree, in accordance with the authority who maintains that the tree from which. Adam partook was wheat; v. Ber. 40a.

(14) V. supra n. 1.

(15) A spotted beast, either a leopard or a hyena.

(16) The time of the blossoming of the carob-tree until the ripening of its fruit extends over the last three years of the

seventy years.

(17) A species of fig, inferior to white figs.

(18) That a serpent goes with young for seven years.

(19) Gen. III, 14.

(20) For the least of animals, i.e., a goat, takes five months to produce its young, whereas the shortest period for a beast, i.e., a cat, is fifty-two days.

(21) If Scripture had written: 'Cursed art thou from among all cattle', this would have embraced the period also for which beasts are cursed to go with young.

(22) A cat goes with young for fifty-two days and an ass for one year, i.e., three hundred and sixty-five days, the proportion therefore being one to seven.

(23) Hence we infer that a serpent goes with young for seven years.

(24) An ass goes with young for one year and a lion for three years.

Talmud - Mas. Bechoroth 8b

— Does [Scripture] write: 'From among all the beasts and from among all the cattle'?[1] It writes [in the following order:] from among all the cattle and from among all the beasts. [The serpent] is cursed from among all the animals which are cursed [in that it takes longer to produce their young] than the beasts. But why not say: Just as the animal has been cursed [to go with young longer] than the beast in the proportion of one to three — and what is this? A goat [which goes with young longer] than a cat — so the serpent has been cursed in the proportion of one to three, which is fifteen months?[2] — If you choose, I may reply that Scripture writes: 'From among all cattle'.[3] Or if you prefer [still another solution], it is a curse [which it is the object of the verse to inflict] and therefore we cast the [heaviest] curses possible [on the serpent].[4] The Emperor once asked R. Joshua b. Hanania: 'How long is the period of gestation and birth of a serpent'? — He replied to him: 'Seven years'. 'But did not the Sages of the Athenian school couple' [a male serpent with a female] and they gave birth in three years'? — 'Those had already been pregnant for four years'. 'But did they not have sexual contact'?[5] — 'Serpents have sexual intercourse in the same manner as human beings'.[6] 'But are not [the sages of Athens] wise men [and surely they must have ascertained the true facts about the serpent]'? 'We are wiser than they'. 'If you are wise' said the Emperor, 'go and defeat them [in argument], and bring them to me'. He asked him: 'How many [are the Athenian sages]'? 'Sixty persons'. Thereupon he said to him: 'Make me a ship containing sixty compartments, each compartment containing sixty cushions'.[7] He did this for him. When [R. Joshua] reached [their city], he went up to a slaughter-house. He found a certain man who was dressing an animal. He asked him: 'Is thy head for sale'? The other replied 'Yes'. Thereupon he asked him: 'For how much'? And the man answered: 'For a half a zuz'. He gave him [the money]. Eventually, he said to him: 'Give me thy head'. [He gave him an animal's head]. Thereupon [R. Joshua] exclaimed: 'Did I say the head of an animal? [I told thee, thy head']. [R. Joshua] then said to him: 'If you wish that I should leave thee alone, step in front of me and show me the door of the school of the Athenian sages'. Thereupon the man replied: 'I am afraid, for whoever points them out, they put to death'. R. Joshua then said: 'Take a bundle of reeds, and if you reach the spot, throw it down as if to rest'.[8] He went and found guards inside and guards outside the school; for when the [wise men] saw somebody enter, they used to kill the outside guards, and when they saw someone leaving, they killed the inside guards.[9] He reversed [the heel] of his shoe and they killed the inside guards. He then reversed the shoe [to its normal position] and they killed all of them.[10] He proceeded and found the young men sitting high up [in the upper chamber] and the elders below. He said: 'If l give greetings [to the elders], then [the young men] will kill me, the latter claiming "we are more important", [for we sit high up and they sit below]. [And if I give greetings to the young men, then the elders will kill me], the latter claiming "we are older and they are just youngsters"'. [R. Joshua] then said: 'Peace to you'. They asked him: 'What are you doing here'? He replied to them: 'I am a sage of the Jews, I wish to learn wisdom from you'. 'If so, we will ask you questions' [said the Athenian wise men]. He answered them: 'Very well. If you defeat me, then whatever you wish, do Unto me, but if l defeat you, eat bread with

me in the ship’. They said to him: If a person wished to marry a woman and the consent was not given, is it feasible that he should seek a woman of higher birth?[11] He took a peg and stuck it below [on the stone wall][12] and it would not join, and then he stuck it higher up,[13] and it went in. He said: ‘Here also therefore, it- may happen that the second woman is his destined one’. ‘If a man lends money and is compelled to seize his debt by force, is it to be expected that he should lend again’?[14] He replied to them: ‘A man goes into a forest, cuts the first load of wood and cannot [lift it].[15] He continues cutting, until somebody comes along and helps him to lift the bundle’.[16] They said to him: ‘Tell us some stories’. He said to them: ‘There was a mule which gave birth, and round its neck was a document in which was written, "there is a claim against my father's house of [one hundred][17] thousand zuz"’. They asked him: ‘Can a mule give birth’? He answered them: ‘This is one of these stories’. ‘When salt becomes unsavory, wherewith is it salted’? He replied: ‘With the after-birth of a mule’. ‘And is there an after-birth of a mule’? ‘And can salt become unsavory’? ‘Build as a house in the sky’. He pronounced the Name [of the Deity], [suspended himself in the air] and hung between heaven and earth. He then said to them: ‘Bring me up bricks and clay from down there’. [They asked: ‘And is it possible to do this’? He replied: ‘And is it possible to build a house between heaven and earth’].[18] ‘Where is the centre of the world’? He raised his fingers and said to them: ‘Here’. They said to him: ‘How can you prove it’? He replied: ‘Bring ropes and measure’. They said: ‘We have a pit in the field. Bring it to the town’. He replied: ‘Knot ropes of bran flour for me and I will bring it in’.[19] ‘We have a broken millstone. Mend it’. [He took a detached portion from it and threw it before them][18] saying: ‘Take out the threads for me, like a weaver, and I shall mend it’. ‘A bed of knives, wherewith can we cut it’? ‘With the horns of an ass’. They asked: ‘But has an ass horns’? ‘And is there a bed of knives’? [He replied:] They brought him two eggs. ‘Which is from the black clucking hen and which is from the white’? He himself brought them two cheeses and asked them: ‘Which is from a black goat and which from a white’? ‘A chicken dead in its shell-where has the spirit gone’? ‘From whence it came, thither it went’. ‘Show us an article whose value is not worth the loss it causes’. He brought a mat of reeds and spread it out. It could not get through the door [being too long and wide]. He then said: ‘Bring a rake [and pickaxe]’, and demolished [the door of the building].[20] ‘That is an example of an article whose value is not worth the loss it causes’. He brought them to eat in the ship, one by one to his Separate chamber. When they saw the sixty cushions, each one thought that all the companions would come to this chamber. He ordered the captain to set sail. As they were about to journey, he took some earth from their [native] soil.

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(1) That we should interpret the verse from among all beasts as meaning that the serpent was cursed in the same proportion as the beast is more cursed than the animal.

(2) Small clean cattle whose period of gestation is five months, while a cat's period is fifty-two days, the latter thus being to the former In the proportion of one to three.

(3) The animal most cursed, an unclean large animal, like an ass, going with young longer than the beast, i.e., the cat, constituting a ratio of one to seven, as stated above.

(4) We therefore multiply curses in the greatest degree, since it is the clear intention of the verse to heap curses upon the serpent.

(5) And once pregnant, an animal or beast does not take a male.

(6) Having sexual contact even after pregnancy.

(7) So Jast. Rashi and R. Gershom have here ‘chairs’, the latter adding that they were very ornamental.

(8) And thereby I shall know the place where the Athenians are located.

(9) Bran flour or dust was scattered over the threshold and the footsteps were visible of whosoever entered or departed. The outside guards were put to death when a footstep was visible indicating that someone had entered, for which they were held responsible. On the other hand, when a footstep was visible indicating that someone had left, the inside guards were held responsible and put to death. The guards did not, however, put anybody to death unless he made a forced entry or an exit.

(10) The two footsteps seen on the threshold, pointing in different directions, suggested to the Athenians that there had been two persons, one leaving and the other entering, and consequently all the guards were punished and put to death. This, of course, made it easy for R. Joshua to gain entrance unmolested.

(11) If he was unable to obtain the woman of an inferior status, how much less would he be able to secure the hand of a woman coming from a better family?

(12) In the spot where there was no opening and hole.

(13) Where there was an opening in a space between the stones.

(14) If the lender was constrained to claim his debt from the buyers of the debtor's lands, surely he would not be inclined to lend in future, for fear of meeting similar difficulties in the recovery of his money.

(15) The wood being in such quantities, he is unable to lift it.

(16) Similarly, although he had difficulties with his first debtor, he may be more fortunate with the next one.

(17) Goldschmidt reads: one thousand.

(18) Inserted from Bah.

(19) And if you are unable to carry out my wish, then I cannot perform yours.

(20) And the wall, until it was able to go in.

Talmud - Mas. Bechoroth 9a

When they reached the straits,[1] they filled a jug of water from the waters of the straits. When they arrived, they were presented to the Emperor. He observed that they were depressed, [being far from their native land]. He said: 'these are not the same [people]'. He, therefore, took a piece of the earth of their country and cast it at them. Thereupon, they grew haughty[2] towards the King. He then said to R. Joshua: 'Whatever you desire, do with them'. He fetched the water which [the Athenians] had taken from the straits and poured it into a ditch.[3] He said to them: 'Fill this and depart'. They tried to fill it by casting therein the water, one after the other, but it was absorbed. They went on filling until [the joints] of their shoulders became dislocated and they perished.MISHNAH. IF A SHE-ASS THAT HAD NEVER BEFORE GIVEN BIRTH GAVE BIRTH TO TWO MALES, [THE ISRAELITE] GIVES ONE LAMB TO THE PRIEST AS A REDEMPTION.[4] [IF IT GAVE BIRTH TO] A MALE AND A FEMALE, HE SETS ASIDE ONE LAMB [WHICH REMAINS] FOR HIMSELF.[5] IF TWO SHE-ASSES THAT HAD NEVER BEFORE GIVEN BIRTH GAVE BIRTH TO TWO MALES, HE GIVES TWO LAMBS TO THE PRIEST. [IF THEY GAVE BIRTH TO] A MALE AND A FEMALE OR TWO MALES AND A FEMALE, HE GIVES ONE LAMB TO THE PRIEST.[6] [IF THEY GAVE BIRTH TO] TWO FEMALES AND A MALE OR TO TWO MALES AND TWO FEMALES THE PRIEST RECEIVES NOTHING.[7] IF ONE SHE-ASS HAD GIVEN BIRTH BEFORE AND ONE HAD NOT GIVEN BIRTH BEFORE AND THEY GAVE BIRTH TO TWO MALES, HE GIVES ONE LAMB TO THE PRIEST. [IF THEY GAVE BIRTH TO] A MALE AND A FEMALE, HE SETS ASIDE ONE LAMB [WHICH REMAINS] FOR HIMSELF,[8] FOR [SCRIPTURE] SAYS: AND THE FIRSTLING OF AN ASS THOU SHALT REDEEM WITH A LAMB.[9] [THE LAMB CAN COME EITHER] FROM THE SHEEP OR THE GOATS MALE OR FEMALE, LARGE OR SMALL, UNBLEMISHED OR BLEMISHED. HE CAN REDEEM WITH THE SAME ONE MANY TIMES.[10] AND THE LAMB] ENTERS THE SHED TO BE TITHED.[11] IF IT DIES, THE PRIEST CAN BENEFIT FROM IT.[12] GEMARA. Who is the authority [of the first passage in the Mishnah]?[13] R. Jeremiah said: It does not follow the opinion of R. Jose, the Galilean. For if it were the opinion of R. Jose the Galilean — did he not say that it is possible to ascertain exactly [that both heads came forth simultaneously]?[14] Said Abaye: You may even assume that [the passage in the Mishnah] represents the opinion of R. Jose the Galilean, and that he makes a difference [in connection with the first-born of a clean animal], for [Scripture] writes: The males shall be the Lord's.[15] But why not infer [the case of the first-born of an unclean animal] from [the case of the firstborn of a clean animal]? — The Divine Law excludes this [by the definite article in the expression], 'The males'.[16] Some there are who say: Must we say that [the passage in the Mishnah][13] does not represent the view of R. Jose the Galilean? For if it were the opinion of R. Jose the Galilean, did he not say that it is possible to ascertain exactly [that both heads came forth simultaneously]? — Said Abaye: You may even assume that it is the opinion of R. Jose the Galilean and he makes a difference [in connection with the first-born of a clean animal], for [Scripture] writes: 'The males shall be the Lord's'. Now we can understand R. Jeremiah stating that [the passage

in the Mishnah] does not follow R. Jose the Galilean; that is the reason why the [Mishnah] does not say: 'And both their heads came forth simultaneously'.[17] But according to Abaye, let it Say: 'And both heads came forth simultaneously'?[18] Moreover, it has been taught: If his ass had never given birth before, and it gave birth to two males, and the two heads came forth simultaneously, R. Jose the Galilean says that they both belong to the priest, for Scripture Says: 'The males are the Lord's.' But is this not written in connection with [an animal] consecrated as such [which is a clean animal]? — Rather say, On account of what [Scripture] Says: 'The males are the Lord's'.[19] This is a confutation of Abaye. — It is a refutation.

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(1) Probably Scylla and Charybdis (Jast.). Rashi explains that בי בליעי refers to the ocean mostly the Mediterranean Sea which absorbs all the waters of the world which flow therein. The waters are then brought to the depths from which they are subsequently discharged. Other explanations (by R. Gershom) are that there is a particular spot in the sea that absorbs other waters or that it refers to Miriam's Well.

(2) After smelling their native earth, they imagined that they were back again in their own country.

(3) A vessel or an earthen jug (Rashi).

(4) Because, at all events, one of the offspring must be a first-birth.

(5) There is a doubt here as to whether the male ass was born before the female; so, by setting aside a lamb for redemption, he releases the animal from the prohibitions which attach to the first-birth of an ass, in case the male was born first. He is not required, however, to give the lamb to the priest, since the claim of the latter is purely that of a debt due to him as laid down in the Scripture, the lamb not possessing any sanctity, and being like the ass which it redeems. Consequently, the priest is in the position of a claimant who must produce the evidence, the evidence here being that the male was born prior to the female.

(6) One male must be a first-birth and the other, as there is a doubt whether the male was born before the female, therefore, he sets aside one lamb for redemption, which, however, remains for himself.

(7) Where two males and two females are born, the priest receives nothing, because the female might have been born prior to the males; also, where two females and a male are born, because here too there is a doubt, and the female might have been born before the male. The Israelite, however, must set aside two lambs which remain for himself.

(8) In case the she-ass which had never given birth before had given birth to the female.

(9) Ex. XIII, 13. From here we derive the general rule that the first-birth of an ass is redeemed with a sheep.

(10) If the lamb which the priest receives as a redemption for the first-birth of an ass was sold or returned to the Israelite as a present, it can exempt another first-birth of an ass. This process can be repeated in connection with many first-births of asses.

(11) The lamb which he sets aside is an absolutely unconsecrated animal and enters the shed to be tithed with the rest of his animals.

(12) As soon as the lamb is set aside, the Priest has a claim on it as belonging to him, and it is as if it were already in his possession. Therefore, if the lamb died before it was delivered to the priest, the latter benefits from its skin and carcass.

(13) That if a she-ass which had never before given birth, gave birth to two males, he only gives one lamb to the Priest.

(14) Infra 17a. If a ewe which had never given birth before gave birth to two males, R. Jose, the Galilean, says that both belong to the priest since both heads came forth at the same time.

(15) Ex. XIII, 12. The plural indicates two males, but in the case of the first-births of asses, where the singular is used throughout, even if it were possible to make sure that both heads came forth simultaneously, they are not sanctified.

(16) The superfluous ה ('the') implies that only in the case of a clean animal do we apply the said law.

(17) As in the case of a clean animal, infra 17a.

(18) According to Abaye, it is possible to ascertain exactly that both heads came forth simultaneously, as the Mishnah is in accordance with R. Jose, only in the case of an unclean animal, it is different, because of the restrictive word 'The males'. Why should not the Mishnah, therefore, state that even if both heads came forth simultaneously, only one lamb is given to the Priest?

(19) The inference from the verse is indirect. Since Scripture has indicated in this verse that it is possible to ascertain that both heads come forth simultaneously in connection with a clean animal, we apply the same to the first-birth of an ass. In any case we therefore clearly see here that R. Jose's ruling applies even to the first-birth of an ass.

And as to the Rabbis,[1] must we say that the Rabbis hold that even if a portion of the womb touches [the firstling] it consecrates? For if it consecrates only when the whole womb touches [a firstling], granted it is impossible to ascertain that both heads came forth simultaneously, nevertheless, there is here an interposition?[2] — Said R. Ashi: Objects of a homogeneous kind are not reckoned as an Interposition [with reference to each other].[3] IF IT GAVE BIRTH TO A MALE AND FEMALE, HE SETS ASIDE etc. Since it remains for himself what need is there to set it aside? — [In order] to release it from the prohibitions [attaching to the first-birth of an ass].[4] Consequently, [we infer] that until it is released, it is forbidden to be used. Whose opinion does the Mishnah represent? It is the opinion of R. Judah. For it has been taught:[5] It is forbidden to make any use of the first-birth of an ass. These are the words of R. Judah. But R. Simeon permits this. What is the reason of R. Judah? Said 'Ulla: 'Can you find an object which requires redemption and yet is permitted to be used while unredeemed'? But is there not? What of the case of the first-born of a man who requires redemption and yet [even before redemption] one may derive benefit from him? — Rather argue [thus]: Is there an object concerning which the Torah particularly enjoined that redemption must be with a sheep and which was yet permitted to be used [before redemption]? And was [the Torah] indeed so particular? Did not R. Nehemiah the son of R. Joseph redeem [an ass] with boiled herbs of its equivalent value? — As regards an object of equivalent value, this is not referred to here.[6] What we are speaking of is the redemption [of an object] not with its equivalent value. And 'Ulla means this: Can you find an object concerning which the Torah was particular to release its prohibition only with a sheep even though not Its equivalent in value and yet it is permitted to benefit therefrom [unredeemed]? — But what of the second tithing which the Torah was particular that the redemption must be with coined money, and yet we have learnt, R. Judah says: If he betrothed a woman [with second tithe] wilfully she is betrothed?[7] — Also with a first-birth of an ass is a woman betrothed, as R. Eleazar [taught]. For R. Eleazar said: A woman knows that the second tithe is not rendered unconsecrated through her,[8] and she, therefore, goes up to Jerusalem and eats it. Similarly, here also, a woman is aware that the first-birth of an ass is prohibited, she redeems it therefore with a lamb, and is betrothed with the difference [between the value of the ass and the sheep].[9] And as to R. Simeon, what is his reason? — Said 'Ulla: Can you find an object whose ransom[10] is permitted to be used while [the object itself] is forbidden? But can we not? What of [the fruit of] the Sabbatical year, whose ransom is permitted to be used and yet the fruit itself is forbidden?[11] — Also with [the fruit of] the Sabbatical year is the ransom forbidden, for a Master said: [The prohibitions attaching to the Sabbatical year] take effect on the very last thing [bought].[12] Or, if you choose, I may say that R. Judah and R. Simeon differ in the interpretation of the following verse. For it has been taught: [Scripture says]: Thou shalt do no work with the firstling of thine ox:[13] but you may do work with a firstling which belongs [both] to you and to a gentile;[14] nor shear the firstling of thy flock:[13] but you may shear what belongs [both] to you and to a gentile. These are the words of R. Judah. But R. Simeon says: 'Thou shalt do no work with the firstling of thine ox', implying, but you may work with the first-born of a man; thou shalt not shear the firstling of thy sheep; implying, but you may shear the first-birth of an ass. We understand why, according to R. Simeon's interpretations Scripture needs to write both verses. But, according to R. Judah, what need is there for two verses to exclude a firstling which belongs [both] to you and to a gentile? And furthermore, according to R. Judah, the first-born of a man also should we say is forbidden [to work with before redemption]? Rather therefore, explain that all [the authorities mentioned] hold that the words, 'thine ox', have for their object the exclusion of the first-born of a man. The dispute, however, is in the interpretation of the words, 'thy sheep', for R. Judah is in agreement with his own dictum elsewhere, where he says: A partnership with a gentile is subject to the law of the first-born, so that there is need of a verse to make it permissible for shearing and working [of a firstling]. R. Simeon, however, holds that a partnership with a gentile is not subject to the law of the first-born. And, therefore, in respect to shearing and working, there is no necessity for a verse to make it permissible. The necessity, however, arises for a verse in respect to the first-birth of an ass. This is quite right on the view of R. Judah, for it is for the reason [stated above] that Scripture writes, 'thy sheep', and the words, 'thine

ox', [Scripture adds merely] on account of the words, 'thine ass'. But according to R. Simeon, what need is there for the words, 'thine ox', and 'thy sheep'?[15] This is indeed a difficulty. Rabbah said: R. Simeon agrees, however, that after the breaking of its neck,[16] it is forbidden to use it. What is the reason? — He draws a conclusion by analogy between ''arifah' [the breaking of the neck] here and the "arifah' [mentioned] in connection with the heifer that had its neck broken.[17] Said Rabbah: On what evidence do I say this? Because it has been taught: The fruit of trees of the first three years, the mixed seeds in a vineyard, an ox that is to be put to death by stoning,[18] or the heifer that has had its neck broken,[19] the birds of the leper,[20] the first-birth of an ass,[21] and [the mixture] of meat and milk [boiled together],[22] all of them receive the uncleanness relating to food.[23] R. Simeon says: All of them do not receive the [levitical] uncleanness relating to food. R. Simeon, however, agrees with regard to the [mixture] of meat and milk, that it receives the uncleanness relating to food, since at one time, it was fit [to receive the uncleanness relating to food],[24] And R. Assi explained in the name of R. Johanan: What is the reason of R. Simeon? Scripture writes: All food therein which may be eaten.[25] [We deduce] that food which you can give gentiles to eat is called food, but food which you are unable to give gentiles to eat is not called food.[26]

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(1) Of the Mishnah, who say that he gives one lamb to the priest, for we have explained that the Mishnah is not according to R. Jose and therefore it is the opinion of the majority of the Rabbis. Or the reference may be to the Rabbis who differ with R. Jose in the case of a clean animal that gave birth to two males, the Rabbis holding that one lamb must be given to the priest and one remains for himself.

(2) For before one male came forth entirely, the other was on its way out. Therefore, although one came forth prior to the other and was sacred, it did not have the whole womb to consecrate it, owing to the other male, which was coming out at the same time. There was, consequently, an interposition between the first male and the womb.

(3) And the two males are of the same kind.

(4) Of working with it and the restriction on its shearing.

(5) Kid. 57b.

(6) For it is not more restricted in respect of the manner of its redemption than other consecrated objects.

(7) v. Kid. 2b. Therefore, we see here that it is permitted to benefit from an object even before its appropriate redemption. Hence we conclude that according to R. Judah, it is permitted to use it.

(8) I.e., by giving her second tithe as kiddushin (token of betrothal).

(9) The ass being of greater value than the sheep. Therefore, no objection can be cited to 'Ulla's interpretation of R. Judah's views from the case of second tithe.

(10) Here the lamb wherewith the ass is redeemed is permitted for all use.

(11) If one sold fruit of the Sabbatical year, the object purchased may be used, but the fruit itself is forbidden and must be removed from the house when the beasts in the field have consumed the fruit there.

(12) If one purchased flesh in exchange for the fruit of the Sabbatical year, both are liable to the law of removal pertaining to the Sabbatical year. If he then bought wine for the flesh, then the flesh may be used but not the wine. And if again he bought oil for the wine, the last thing purchased is forbidden to be used as well as the fruit itself of the Sabbatical year.

(13) Deut. XV, 19.

(14) In the case e.g., of a firstling of an animal in which a gentile has a share, although R. Judah requires the Israelite to give a half of its value to the priest, nevertheless working with the animal and the shearing thereof are permitted. Since the verse, however, does not exclude the first-birth of an ass, we do not permit its use prior to its redemption and it is on a par with a firstling of a clean animal.

(15) If Scripture had merely written: The firstling of an ox and The firstling of a sheep, R. Simeon could still have expounded the verse in the manner he does.

(16) If the law of redeeming the first.birth of an ass with a lamb is not carried out, the law prescribes that its neck must be broken with a hatchet.

(17) In the case where an unknown man is found dead, the law requires the bringing of a heifer whose neck must be broken as an atonement, and here also for failing to redeem the ass with the lamb, the neck of the ass was broken. As in the former case, it is forbidden to be used, so here also by analogy, it is forbidden to be used.

(18) If it had been ritually killed after it was sentenced to death for killing a man.

(19) Which was ritually slaughtered, after being brought down into the rough valley.
(20) The two clean birds, one of which was killed, which the leper brought after his recovery.
(21) Which was ritually slaughtered for a gentile, and as it was still struggling and not dead, it did not posses the uncleanness of nebelah (a carcass). Therefore, if a dead reptile came in contact with it, it received the uncleanness relating to food, so that if it touched other food, it causes levitical uncleanness. The ritual slaughtering, however, helped at least to make it fit to receive the uncleanness of food. Another interpretation is that even if the ass had its neck broken and it was, therefore, nebelah, we can still apply here the principle of the uncleanness of food, if e.g., there was less of the carcass in size than an olive which, although it did not become unclean as nebelah, may yet be supplemented with other food to the required size of an egg to make it receive the uncleanness of food.
(22) And consequently forbidden for any use.
(23) For although they are forbidden to be used, the uncleanness has the effect that should they come in contact with other food, the latter becomes unclean.
(24) I.e., before its boiling.
(25) Lev. XI, 34.
(26) I.e., when it is forbidden to be used and therefore it does not receive the uncleanness relating to food.

Talmud - Mas. Bechoroth 10a

But if this is so, then in the case of [the mixture] of meat and milk, why should it be said that the reason that it receives levitical uncleanness is because, at one time, it was fit for the uncleanness relating to food? Why not derive this from the fact that it is a food which you can give to gentiles? For it has been taught: R. Simeon, the son of R. Judah says in the name of R. Simeon: [The mixture of] meat and milk is forbidden to be eaten but it is permitted for general use since [Scripture says]: For thou art a holy people unto the Lord thy God.[1] And, in another place, Scripture says: And ye shall be holy men unto Me.[2] As in that case,[3] it is forbidden to be eaten but it may be used generally, so here [in connection with the mixture of meat and milk] it is forbidden to be eaten but it may be used generally! — R. Simeon gives one [reason] and still another [reason]. One [reason why it should receive the uncleanness of food is because it is a food] which can be given to gentiles. And still another [reason], because for [the Israelite] himself, too, there was a time [before its boiling] when it was fit to receive uncleanness.[4] Now,[5] if there is any substance in the opinion that after the ass's neck is broken it is permitted according to R. Simeon to be used, let the above [Baraitha] state: But R. Simeon agrees in connection with the first-birth of an ass[6] and [the mixture of] meat and milk that they receive the levitical uncleanness relating to food? — [No]. If one had formed the intention [of using the ass as food], it would be so [as you argue][7] We are dealing here, however, in a case where he had not formed such an intention.[8] And what is then the reason that [the majority of] the Rabbis, [R. Simeon's disputants], make it receive uncleanness? — Rabbis said the following in the presence of R. Shesheth: [The reason is that] its prohibition [by Scripture] renders it important [to be regarded as food].[9] But, do we say according to the Rabbis that the reason Is, since its prohibition renders it important? Have we not learnt [in a Mishnah]: Thirteen things were said with reference to the carcass of a clean bird, and this is one of them: it requires the intention [to be used as food],[10] but it does not need to be rendered fit [to receive uncleanness].[11] Now, if its prohibition signalizes it [as food] [to receive uncleanness], what need is there for the intention of using it as food? — [The Mishnah just quoted] represents the opinion of R. Simeon. Come and hear: 'The carcass of an unclean animal in all places, and the carcass of a clean bird and the fat [of the carcass of a clean animal] in the villages,[12] require the intention [of being used as food in order to receive uncleanness], but they do not need to be rendered fit [to receive uncleanness].[13] Now, if you say that its prohibition renders it important [to receive uncleanness], what need is there for the intention [of using it as food]? — This, [too], represents the opinion of R. Simeon. Come and hear: The carcass of a clean animal[14] in all places,[15] or the carcass of a clean bird, or the fat [of a ritually slaughtered animal] in market places,[16] do not require the intention [of being used as food]. Nor do they need to be rendered fit [to receive uncleanness of food].[17] This implies that an unclean animal does require the intention [of using it as food in order to receive uncleanness].[18] And should you say that this too

represents the opinion of R. Simeon; surely since the second part [quoted below] is the opinion of R. Simeon, then the first part cannot be according to the opinion of R. Simeon. For the second part states: R. Simeon says: Also a camel, hare, rockbadger and swine, do not require the intention [of using them as food in order to receive uncleanness], nor need they be rendered fit [to receive uncleanness]. And R. Simeon [further] explained. What is the reason? Since [these animals mentioned] have marks of a clean animal![19] — No, said Rabbah: All [the authorities mentioned] agree that we do not say that its prohibition [by the Scriptures] renders it important [to receive the uncleanness relating to food]. And [as to your question, what is the reason of the Rabbis]? If the ass's neck has been broken, it would really be so.[20]

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(1) Deut. XIV, 21, which is followed by the prohibition of seething a kid in its mother's milk.

(2) Ex. XXII, 30, in connection with the prohibition of trefah (ritually forbidden food).

(3) In the Scriptural verse: And ye shall be holy, etc., referring to trefah which may be used for general purposes as stated in the context: Ye shall cast it to the dogs.

(4) Unlike the case of the ox and heifer mentioned above, since they have a forbidden status when alive.

(5) Rabbah continued his argument.

(6) Since it can be given to gentiles for food. Hence Rabbah concludes that even R. Simeon admits that an ass whose neck was broken because its owner failed to redeem it, is forbidden to be used.

(7) That the ass with a broken neck would have received the uncleanness relating to food.

(8) And that is the reason why the Baraitha does not include the case of an ass in the statement of R. Simeon as receiving the uncleanness of food, for ordinarily, without expressing the intention of regarding it as food, it is not considered as such.

(9) The very prohibition which Scripture imposes upon it indicates that it is food fit for gentiles to eat, otherwise, Scripture would not have considered it of sufficient importance to forbid it and, therefore, it receives the uncleanness relating to food even without the express Intention of using it as such.

(10) And if a dead reptile touched it and, in turn, it touched other food, it renders the latter unclean. This intention of using it as food is necessary, as the carcass of a clean bird has no uncleanness of touch, for it conveys uncleanness only in the gullet in the process of eating. Or, in the case where it is less in size than an olive and consequently there is no uncleanness as regards nebelah, it combines with other foods to make up the required size of an egg, in order to receive food uncleanness when it comes In contact with a dead reptile.

(11) Like seeds, by having water poured on it, since it already possesses a more stringent uncleanness by causing uncleanness to man and garments by eating it; v. Nid. 50b, Zeb. 105b.

(12) In the villages, where the inhabitants are poor and are not accustomed to eat birds or fat, the intention of using these as food to be given to gentiles is necessary before it can receive the uncleanness relating to food. With reference also to the carcass of a forbidden animal, the intention of using it as food is also necessary, for the reason that it is loathsome and, ordinarily, is not considered food even for gentiles.

(13) ‘Uk. III, 3.

(14) I.e., one which had not been ritually slaughtered.

(15) It is usually given to gentiles as food, for it is not loathsome and therefore it does not require the intention of using it as food.

(16) I.e., the towns, containing many people of means who are accustomed to eat birds or fat so that these are usually considered food.

(17) The carcass of a clean animal, because its uncleanness is of a more stringent character, and the fat, because the very act of ritual slaughter has made it fit to receive uncleanness, since the intention of using it as food is not required, v. ibid.

(18) And we do not maintain that its prohibition renders it important to receive food uncleanness, without the intention being expressed using it as food.

(19) Therefore the first passage with reference to the carcass of an unclean animal etc. requiring the intention of being used as food, must be in accordance with the view of the Rabbis., Hence we infer that the Rabbis do not hold that its prohibition marks it out as fit to receive food uncleanness and therefore the Baraitha quoted above by Rabbah, where the Rabbis say that the first-birth of an ass receives the uncleanness relating to food, must deal with a case where he expressed the intention of Using it as food. And R. Simeon maintains that it does not receive uncleanness, because it is food which cannot be given to a gentile to eat, I.e., It is forbidden to be used. Rabbah consequently is able to deduce

from this that an ass which had its neck broken because it was not redeemed is forbidden to be used.

(20) That the Rabbis would agree that it does not receive the uncleanness relating to food, since he had not intended to use it as food.

Talmud - Mas. Bechoroth 10b

But here we are dealing with a case where e.g., he ritually killed [the ass] to practice therewith [to kill ritually],[1] and the difference here corresponds to the difference of opinion of Nimos and R. Eleazar. For it has been taught: R. Jose said: Nimos the brother of Joshua the grist-maker told me that if one killed a raven ritually in order to practice therewith, its blood renders food fit [to receive uncleanness].[2] [R. Eleazar] says: The blood of shechitah[3] always renders fit [to receive uncleanness]. Now is not [R. Eleazar's] opinion identical with the first Tanna? We must suppose then that the difference between them is whether its prohibition[4] renders it important [as fit to receive uncleanness]? The first Tanna holds: Its blood renders it fit [for conveying uncleanness] to other [food], but as regards [the raven itself], it requires the intention [of being used as food].[5] Upon which [R. Eleazar] remarks: The blood of shechitah always renders it fit [to convey or receive uncleanness] and as regards the [raven] itself too, it does not require the intention [of using it as food] in order to receive [levitical uncleanness]. But how do you know [this]? Perhaps the reason of R. Eleazar there,[6] is because the case of a raven is different, since it has marks of cleanness.[7] And how do we know that marks of cleanness are of importance? — Because it says in connection with the Baraitha above,[8] R. Simeon said: What is the reason? Since it has marks of cleanness. And should you object that if the reason is because of the marks of cleanness, why should it say [according to R. Eleazar] [that he killed the raven] in order to practice, since even if he unintentionally ritually killed it, the case should also be identical; the answer is, Yes, it is so, but it is on account of Nimos [that it does not state this].[9] Abaye[10] raised the following objection.[11] If he did not wish to redeem [the ass], he breaks its neck with a hatchet from the back and buries it, and it must not be used. These are the teachings of R. Judah. But R. Simeon permits it [to be used]?[12] — Explain [in the following manner]: When alive it is forbidden to use [the first-birth of an ass], but R. Simeon permits this. But since the second part [of the above passage] refers to it when alive, then the first part must refer to it when it is not alive? For the second part states: 'He must not kill [the ass] with a cane, nor with a sickle, nor with a spade, nor with a saw. Nor may he let it enter an enclosure and lock the door on it, in order that it may die. And it is forbidden to shear it or to work with it. These are the teachings of R. Judah. But R. Simeon permits this'! — The first and the second parts [we may explain] both refer to an ass when alive. The first part, however, refers to monetary benefit,[13] and the second part refers to the benefit derived from its body.[14] [And both parts] require [to be stated]. For if we had only the part referring to monetary benefit,I might have assumed that in that peculiar case R. Simeon permits, whereas with regard to the benefit derived from its body, I might have said that he agrees with R. Judah. And if we had only the part referring to the benefit derived from its body, I might have supposed that R. Judah forbids in that particular case, whereas in the case of monetary benefit, I might have said that he agrees with R. Simeon. [Therefore both parts] are necessary. And so R. Nahman reported in the name of Rabbah, the son of Abbuha: R. Simeon agrees that after the neck has been broken it is forbidden to be used. And R. Nahman said: On what evidence do I say this? Because it has been taught, [Scripture says]: Then thou shalt break its neck.[15] Here [the word] "arifah'[16] is used and above[17] [the word] "arifah' is used; just as above it is forbidden to be used, so here also it is forbidden to be used. Whose opinion does this represent? Shall I say it is according to the opinion of R. Judah? Surely he prohibits it even when alive, Must you not therefore admit that it is the opinion. of R. Simeon?[18] — Said R. Shesheth to him: Safra our fellow-student interpreted it as follows: [The above Baraitha] can still be the opinion of R. Judah, and yet there is need [for stating it]. I might have assumed that since 'arifah' stands in the place of redemption, as redemption makes it permissible [to be used], so "arifah' is permitted. He consequently informs us [that it is not so]. Said R. Nahman: On what evidence do I say this?[19] From what R. Levi taught, The Israelite causes a monetary loss to the priest;[20] therefore he should suffer a monetary loss.[21] Whose opinion does this

represent? Shall I say that it is the opinion of R. Judah? Surely his loss is of long standing![22] [Must we not therefore admit] that it is the opinion of R. Simeon? — If you choose I may say it is the opinion of R. Judah, and, if you choose, I may say that it is the opinion of R. Simeon. If you choose I may say that it is the opinion of R. Judah, and he speaks of the loss entailed in the difference.[23] And if you choose I may say that it is the opinion of R. Simeon, and he speaks of the loss incurred by its death.[24] And so did Resh Lakish say: R. Simeon agrees that the ass after its neck has been broken is forbidden to be used. But R. Johanan, (or as some say, R. Eleazar) says: The difference between the Rabbis and R. Simeon still prevails even in such circumstances.[25] Some report this, R. Nahman's ruling,[26] in connection with the following: If one betrothed a woman with the first-birth of an ass, she is not betrothed.[27] Are we to say that the Mishnah is not according to the opinion of R. Simeon? — R. Nahman reported in the name of Rabbah the son of Abbuha: [The Mishnah refers to a case] where the neck had been broken and therefore agrees with all the authorities concerned. Some there are who Say: Whose opinion does this represent? Neither the opinion of R. Judah nor that of R. Simeon. For if it is the opinion of R. Simeon, let her become betrothed with the whole value of the ass.[28] And if it is the opinion of R. Judah, let her become betrothed with the difference![29] — Said Rabbah b. Abbuha in the name of Rab: [The Mishnah] can still be the opinion of R. Judah, e.g., where the ass was of the value only of a shekel;[30] and he holds according to the view of R. Jose b. Judah. For it has been taught, [Scripture says]: 'Thou shalt redeem' . . . 'Thou shalt redeem'.[31] [One text] 'Thou shalt redeem' intimates immediately,[32] [and the other text] 'Thou shalt redeem' intimates with whatever value.[33] But R. Jose b. Judah says: There can be no redemption with less than the value of a shekel.[34] The Master said. '[Scripture says]: "Thou shalt redeem, . . Thou shalt redeem". [The one text] "Thou shalt redeem" intimates immediately [and the other text] "Thou shalt redeem" intimates with whatever value'. Is not this obvious?[35] — It is necessary [to state it]. I might have assumed that since an unclean animal is compared with the first-born of a man,[36] just as in the case of a first. born of a man the redemption takes place after a period of thirty days and with the sum of five sela's,[37] so here also the redemption should take place after a period of thirty days and with the sum of five sela's. [Therefore Scripture states]: 'Thou shalt redeem, viz, immediately, 'Thou shalt redeem', viz., with whatever value. 'R. Jose b. Judah says: There is no redemption with less than the value of one shekel'. But which way do you take it; if R. Jose compares an unclean animal with the first-born of a man, then the sum of five sela's is required for redemptions and if he does not compare [an unclean animal with the first-born of a man], whence does he derive that the redemption is with a shekel? — In fact he does not compare [an unclean animal with the first-born of a man]; [yet] said Rabba: Scripture says: And all thy valuations shall be according to the shekel of the Sanctuary,[38] intimating that any valuations which you assess shall be no less in value than a shekel. And the Rabbis [who differ with R. Jose], what say they? —

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(1) But not for the purpose of eating therefrom.

(2) If the blood fell on food or vegetables. And certainly this would be the case if he killed it ritually in order to eat therefrom; its blood would render itself and other food fit to receive levitical uncleanness.

(3) The act of ritual slaughter of an animal or bird.

(4) The prohibition referred to here in the context must be understood to mean the fact that it was not a proper schechitah, in the sense that it was not being killed for eating purposes but merely in order to practice.

(5) For its prohibition does not render it fit to receive uncleanness and its shechitah here is of no importance to cause it to be considered as food. R. Simeon, therefore, holds as regards the first-birth of an ass which was ritually killed, according to the view of Nimos that it does not receive the uncleanness of food, and the Rabbis agree with the opinion of R. Eleazar that the ritual killing, in itself, causes it to be regarded as food, without the express intention of regarding it as such.

(6) In the passage quoted above where R. Eleazar differs with Nimos in connection with a raven ritually killed for practice.

(7) A raven has a crop, which is one of the signs of a clean bird, and, therefore, it is considered as food as regards levitical uncleanness. But in the case of the first-birth of an ass, which does not possess any marks of cleanness, unless he intended to use it as food, the Rabbis would not hold that it receives the uncleanness pertaining to food, and R.

Simeon would maintain that even if he had thought of it as food, it receives no uncleanness, owing to the fact that it is forbidden to be used after its neck has been broken.

(8) A carcass of a clean animal in all places etc.

(9) To inform us that according to Nimos, although there was a deliberate ritual killing for practice purposes, nevertheless the raven itself does not receive the uncleanness relating to food. But as regards R. Eleazar, it is true that even if the raven was killed unintentionally, (the intention having been to cut some other object), the blood renders other food fit to receive uncleanness, and the raven itself also receives uncleanness. Consequently, you cannot explain the difference between the Rabbis and R. Simeon on the basis of the difference of Nimos and R. Eleazar. Therefore, the difference of the former disputants refers to the case where the ass's neck was broken, and the reason why R. Simeon maintains that it is not clean is because, as Rabbah explains, it is forbidden to be used.

(10) Inserted from Sh. Mek.

(11) Referring to the ruling of Rabbah concerning the ass which had its neck broken and which is forbidden to be used, for any purpose.

(12) Therefore we derive from here the reverse of the ruling of Rabbah.

(13) If he hired or sold it to others.

(14) I.e., the shearing and the working with it.

(15) Ex. XIII, 13.

(16) Indicating the broken neck of the first-birth of an ass.

(17) In connection with the ceremony of the heifer, whose neck was broken when an unknown man's body was found dead.

(18) We therefore see here that R. Simeon agrees that it is prohibited after its neck is broken.

(19) That R. Simeon agrees that it is forbidden for all use after its neck is broken.

(20) By not redeeming the ass with a lamb and giving it to the priest.

(21) The Beth din should therefore compel him to have its neck broken after thirty days.

(22) Even when the ass was alive it was forbidden to be used according to R. Judah.

(23) Between its value when alive and dead. For whereas when it was alive, although forbidden to be used, it could be redeemed, now he loses everything.

(24) For being dead it can only be given to dogs to eat and therefore, there has been a considerable loss.

(25) Where the neck of a first-born of an ass was broken.

(26) That after the ass's neck had been broken it was forbidden to use it and this was expressed not as separate and independent ruling but with reference to the following Mishnah.

(27) Kid. 56b.

(28) For the whole of it may be used.

(29) The difference between the ass of the value of a shekel and a sheep even of the value of a danka i.e., a sixth of a denar.

(30) And the sheep being not less in value than a shekel as stated below, there is no difference in value between it and the ass in order that a woman may be betrothed thereby.

(31) Ex. XIII, 13. There is a repetition of the text.

(32) Before the period of thirty days has elapsed.

(33) There is no fixed sum and redemption may therefore be carried out even for less than a shekel or sela'.

(34) The sheep must therefore posses at least the value of a shekel, so that there is no surplus left to effect a betrothal.

(35) For Scripture does not mention that redemption commences when the ass is a month old nor does it say that the lamb must be of some specific value.

(36) Howbeit the first-born of man shalt thou surely redeem and the firstling of unclean beasts shalt thou redeem. Num. XVIII, 15.

(37) A sela' is a coin equal to two common shekels.

(38) Lev. XXVII, 25.

Talmud - Mas. Bechoroth 11a

That [verse] refers to the amount of one's means.[1] Said R. Nahman: The halachah is according to the teachings of the Sages.[2] And how much [must be the value of the lamb]? — Said R. Joseph: Even a

puny lamb worth no more than a dank,a.[3] Said Raba: We have learnt this too: [The lamb for redemption can either be] large or small, without a blemish or blemished. Is this not evident?[4] — You might have assumed that to that extent [i.e., that of a puny lamb etc.] it is not an adequate redemptions or indeed [which would be better], a puny lamb is not [an adequate redemption at all].[5] [R. Joseph consequently] informs us [that it is an adequate redemption]. R. Judah the Prince had a first-birth of an ass. He sent it to R. Tarfon.[6] He asked him, 'How much am I required to give the Priest'? He replied to him 'Behold the Rabbis said: The liberal person redeems with a sela' [four zuz], the stingy person redeems with a shekel [two zuz], an average person redeems with a rigia. Said Raba: The law [requires redemption] with a rigia. And how much is this? Three zuz, less than one and more than the other.[7] Does not this ruling contradict the above?[8] There is no difficulty.[9] [We are dealing] here with the case when one comes to seek advice and the case there is where he redeems of his own accord.[10] R. Isaac reported in the name of Resh Lakish: If one possesses a first-birth of an ass and he has not a lamb with which to redeem it, he redeems it for its equivalent value. According to whose opinion is this? Shall I say it is according to R. Judah?[11] Did he not say that the Torah was particular that the redemption must be with a sheep? You must then say it is according to the view of R. Simeon.[12] R. Ahah stated it thus. Rabina found a difficulty: [In a difference between] R. Judah and R. Simeon, the law is according to R. Judah; moreover, the Tanna [of our Mishnah][13] states the law anonymously in the sense of R. Judah; and still you declare the halachah is according to R. Simeon? But [rather say] that [R. Isaac's statement] accords even with the opinion of R. Judah. For let not [the redemption of the first-birth of an ass] be more stringent than other consecrated objects.[14] Moreover the Torah did not propose [by the law of redeeming] with a lamb to make it severe for him,[15] but, on the contrary, to make it easier for him.[16] R. Nehemiah the son of R. Joseph redeemed the first-birth of an ass with boiled herbs of its equivalent value. R. Shizbi reported in the name of R. Huna: If one redeems the ass of his neighbor, it is a valid redemption. The question was raised: Is it a valid redemption as regards the person who redeems it,[17] or does it mean that it is a valid redemption as regards the owner?[18] According to the opinion of R. Simeon, there is no need to inquire, for, since he says that it is permitted to use the first-birth of an ass, it is the owner's money.[19] The question does arise, however, according to the opinion of R. Judah who says that it is forbidden to use it. Does he compare it with a consecrated object concerning which the Divine Law says: And he shall give money and it shall be assured to him?[20] Or, perhaps since the owner possesses the difference [between the value of the ass and a sheep], it is not compared with a consecrated object?[21] — Said R. Nahman: Come and hear: 'If one stole the first-birth of an ass belonging to his neighbor, he pays double to the owner, for although he does not possess [the rights of ownership] now, he will possess subsequently.'[22] Now, whose opinion does this represent? Shall I say that it is the opinion of R. Simeon? Why has he no rights of ownership now? Then obviously, it must be the opinion of R. Judah. Now if you were to assume that we compare it with a consecrated object, does not the Divine Law say: And it be stolen out of a man's house,[23] implying, but not from the possession of the sanctuary?[24] And there is nothing more to be said. IF ONE SHE-ASS HAD GIVEN BIRTH BEFORE AND ONE HAD NOT GIVEN BIRTH BEFORE etc. Our Rabbis taught. Under what circumstances did the Sages rule that IT ENTERS THE SHED TO BE TITHED? You cannot say that it means where the lamb came into the possession of the priest, [and then it was returned to the Israelite],[25] for we have learnt: An animal purchased, or which is given to him as a gift, is exempted from the law of the tithes of animals.[26] This must refer then to the case of an Israelite who had ten uncertain first births of asses[27] in his house. He sets aside on their behalf ten lambs, [makes them enter the shed],[28] tithes them, and they are his. [This] supports the opinion of R. Nahman. For R. Nahman reported in the name of Rabbah the son of Abbuha: If an Israelite had ten uncertain first-births of asses, he sets aside on their behalf ten lambs, tithes them and they are his. R. Nahman further reported in the name of Rabbah the son of Abbuha: If an Israelite has ten asses, distinctly first-births, in his house, which fell to him [as an inheritance] from his maternal grandfather, a priest, to whom this inheritance had fallen from his maternal grandfather, an Israelite,[29] he sets aside[30] ten lambs, tithes them and they are his.[31]

R. Nahman [further] reported in the name of Rabbah the son of Abbuha: If an Israelite who possessed tebel[32] evenly piled up; in his house, which fell to him [as an inheritance] from his maternal grandfathers a priest, to whom it had fallen from his maternal grandfather[33] an Israelite, he tithes it and it is his.[34] And it was necessary [to teach both cases]. For had R. Nahman taught only the first case, [I might have assumed that the reason was] because it was already set aside.[35] But, here, in the second case, since gifts for the priest, which have not yet been taken [by the priest] are not considered as having been given, I might have said it is not so.[36] And if he had only taught the second case, [I might have assumed that the reason why the tithes are his] is because it is possible to tithe tebel as it is, for it lies [in one place],[37] but in the other case, since the lamb comes from another place, we do not say that it is as if it were already set aside,[38] and therefore I might have said that it was not [as stated]. It was therefore necessary [to state both cases]. R. Samuel b. Nathan reported in the name of R. Hanina: If one who buys untithed grain

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(1) A man who says 'I vow my own value' or according to Rabbenu Gershom, the value of a specified persona Scripture informs us here that we do not accept the valuation if his means are less than one shekel. But as regards the redemption of the first-born of an ass, redemption may be with whatever value, however small.

(2) That its redemption with a sheep may be of any value no matter how insignificant.

(3) A small Persian coin, the value of a sixth of a denar (Rashi), or, a sixth of a shekel (R. Gershom).

(4) That a puny lamb is adequate for redemption, since the Rabbis state above that it can be of any value whatever.

(5) For although a small lamb may be an adequate redemption, a lean lamb is not.

(6) Who was a priest.

(7) One zuz less than a sela' which is the redemption of a liberal person and one more zuz than that of a stingy person, i.e., three zuz. Lit., 'running this way and running that way'.

(8) The above ruling that the law is according to the Sages who hold that even the worth of a danka is sufficient for redemption.

(9) How much should be given to the priest. We accordingly advise him to give three zuz.

(10) When he redeems the first-birth of an ass even with a lamb worth a danka, we do not compel him to give something of greater value.

(11) This questioner quotes the view of R. Judah, which was mentioned above in the first instance, although it is not the final conclusion, namely, that only with a lamb can it be redeemed but not with any other object.

(12) Who does not mention when giving his reason for the view he holds that the Torah was particular that the redemption must be with a sheep, thus implying that the first-birth of an ass may also be redeemed with its equivalent value.

(13) Stated above, that the Israelite sets aside a lamb in order to release the first-birth of an ass from the prohibitions attaching to it, which is the opinion of R. Judah.

(14) Which are redeemed with their equivalent value.

(15) I.e., that only with a lamb is he allowed to redeem the ass.

(16) If he wished to redeem it with a lamb, even a puny one, it is an adequate redemption. But he need not necessarily redeem with a lamb.

(17) The person who redeems acquires the first-birth of the ass in virtue of the redemption.

(18) The ass is redeemed, but the first-birth belongs to the owner. The person who redeems, consequently, is unable to dispose of it.

(19) And the person who redeemed it cannot sell it and is not reimbursed.

(20) Lev. XXVII, 19. The verse is given here in an abbreviated form, the full verse being Then he shall add a fifth part of the money and it shall be assured to him. V. Tosaf. on Shab. 128a, ונתן.

(21) And since a portion of it is the owner's money, if he redeems it, we account the whole of it as belonging to him.

(22) After its redemption it will be his money.

(23) Ex. XXII, 6.

(24) Since, therefore, he pays double for the stolen first birth of an ass, we infer that it is not compared with a consecrated object.

(25) Either in the form of a gift or it was sold to him.

(26) V. infra 55b.

(27) E.g., where he had ten she-asses and each gave birth to a male and a female and there was a doubt whether the males were born before the females. Ten sheep are therefore set aside on their behalf to release them from the prohibitions attaching to the first-birth of asses and these are unconsecrated animals, to be tithed in the ordinary manner. The same principle also applies to two or three uncertain first-births, but the reason why it mentions ten uncertain first-births is to inform us that although in the latter case they are entitled to be tithed on their own account, we still set aside the ten lambs to be tithed among the others in the shed.
(28) Supplemented from R. Gershom.
(29) These are certainly subject to the law of redemption, since they were born in the Israelite's possession.
(30) To redeem them from their prohibition as first-births.
(31) The present Israelite does exactly what the priest would have been required to do. As the priest who inherited from the Israelite would have been required to set aside the lambs on behalf of the first-births of the asses, since they were born in the possession of the Israelite, the present Israelite does the same. And just as the priest would have kept the lambs for himself, being a priest, so the Israelite who inherited from the priest retains these for himself, for it is as if the priest had bequeathed the lambs to him.
(32) Fruits or grain before the separation of the priestly and levitical dues.
(33) The even piling up or storing of the grain is the finishing touch which prepares it for tithing.
(34) He must give the tithe because it belonged to an Israelite and still belongs to an Israelite. But it is retained by him, since it came to him from a priest and therefore he sells the priestly gift to a priest and the tithes to a Levite.
(35) The lambs and the asses belong to different species and nothing special is required to be done; therefore it is as if the asses and the lambs had fallen to him from his maternal grandfather, a priest, already separated.
(36) And the tithes must be given to the priest. He therefore teaches us that the tithes belong to him and that he need not give the tithes to the priest.
(37) With the parts to be separated, and therefore it is considered as if it had been already separated and tithed and in the priest's possession, before it fell to the Israelite.
(38) For it requires a special action to bring the lamb in order to redeem whereas in the case of tebel, no effort Is necessary.

Talmud - Mas. Bechoroth 11b

evenly piled up from a gentile, he tithes it and it is his.[1] Who piled it up? Shall I say that a gentile piled it up? Surely the text says, ‘thy corn’ implying, but not the corn of a gentile?[2] Rather we are dealing here with a case where the Israelites piled it up in the domain of a gentile.[3] ‘He tithes it’, because a gentile has not the right of possession in Palestine to release [produce] from the obligation of tithing. ‘And it is his’, because he says to the priest, ‘I have acquired my rights from a man with whom you cannot go to law’. We have learnt elsewhere: If a man deposits his fruits with a Cuthean,[4] or with an ‘am ha-arez,[5] it may be presumed that they retain their former condition in respect of tithes and the sabbatical year,[6] but if with a gentile, they are like [the gentile's] fruits.[7] R. Simeon says: They are dem'ai.[8] Said R. Eleazar: That [the priest's share] should be set aside all the authorities mentioned agree. Where they differ is on the question whether to give it[9] to the priest. The first Tanna [mentioned] holds that he has certainly changed them and therefore he must give the priestly share to the priest, whereas R. Simeon maintains that they have the law of dem'ai. R. Dimi was once sitting and repeating this teaching. Said Abaye to him: The reason is because we are in doubt whether he changed them or not. But if he certainly changed the fruits, all the authorities [mentioned] would agree that he is required to give the priestly share to the priest, would they not? But surely did not R. Samuel report in the name of R. Hanina: If one bought untithed grain from a gentile piled up [in proper shape], he gives tithes and it is his? — Perhaps [he replied], the one[10] refers to great terumah, and R. Samuel's report refers to the terumah of the tithe![11] [Said Abaye], This indeed reminds me of something [which supports your very explanation]. For R. Joshua the son of Levi said: Whence do we derive that a purchaser of untithed grain from a gentile piled up in proper shape is exempt from the terumah of the tithe? Because Scripture says: Moreover thou shalt speak unto the Levites and say unto them, when ye take of the children of Israel.[12] [We infer that] from the untithed grain which you buy from the children of Israel, you separate the terumah of the

tithe and give it to the priest. But from untithed grain which you buy from a gentile you do not separate terumah of the tithe and give it to the priest. AND IF IT DIED, HE BENEFITS THEREFROM. In what circumstances are we to suppose it to have died?[13] Shall I say that it died in the possession of the priest and that he is permitted to benefit therefrom? This is obvious, since it is his own money. Again, if it means that it died in the possession of the owner and that he [the priest] is permitted to benefit therefrom, this too is obvious! — I might have assumed that as long as the animal has not reached the priest's hands, the latter does not really possess it. [The Mishnah] accordingly informs us that from the time that [the Israelite] has set it aside, it stands in the domain of the priest.

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(1) And the priest's share of the crop he sells to a priest.

(2) What the Israelite stores and evenly piles up becomes subject to the priestly contribution, but not what is stored by a gentile. The text is in Deut. XIV, 23 and also in Deut. XVIII, 4.

(3) Where the Israelite is a tenant in a gentile's field, for which he takes a share of the produce, and the Israelite stored up the grain, R. Hanina therefore means by the words: 'One who buys untithed grain etc.', that the Israelite acquired it by virtue of his labour for him. Another explanation is that the Israelite bought the corn in the ear, and afterwards stored it up in the gentile's domain. (Tosaf.).

(4) Samaritan.

(5) V. Glos. A person suspected of not observing certain customs regarding tithes.

(6) We do not fear lest the fruits are not the same as those deposited and therefore are untithed. And, with reference to the sabbatical year, if he deposited with them the fruits of the sixth year and they are returned in the sabbatical year, we do not fear that the fruits returned have been exchanged and that, actually fruits of the sabbatical year are being restored, which fruit must not be sold and which require removal from the house after the fruits of the field have been consumed by the beasts.

(7) They are considered gentile's fruits, for we say that they have been undoubtedly exchanged.

(8) Fruits concerning which there is a suspicion as to the tithes being properly taken therefrom and, owing to this doubt, must be tithed, v. Dem'ai III, 4.

(9) The share of the priest from the fruits and grain. It is called 'great terumah', since it is the first sacred gift to be set aside and, also, to distinguish it from the terumah of the tithe, mentioned below.

(10) The teaching reported by R. Dimi from which Abaye made his deduction.

(11) The tithe of the tithe, which the Levite owes to the priest.

(12) Num. XVIII, 26.

(13) A physical disability of the animal, which renders it forbidden to be eaten.

Talmud - Mas. Bechoroth 12a

MISHNAH. WE DO NOT REDEEM A FIRST-BIRTH OF AN ASS EITHER WITH A CALF, A BEAST OF CHASE, AN ANIMAL RITUALLY KILLED,[1] A TREFAH, KIL'AYIM[2] OR A KOY.[3] R. ELIEZER PERMITS HOWEVER [REDEMPTION] WITH KIL'AYIM BECAUSE IT IS ALSO DESCRIBED AS A LAMB. BUT HE FORBIDS WITH A KOY, BECAUSE ITS NATURE IS DOUBTFUL. IF HE GAVE [THE FIRST-BIRTH OF AN ASS] ITSELF TO THE PRIEST, THE LATTER MUST NOT RETAIN IT, UNLESS HE SETS ASIDE A LAMB IN ITS PLACE. GEMARA. Whose opinion does the Mishnah represent? It is that of Ben Bag Bag. For it has been taught: We read here, [in connection with the redemption of a first-birth], the word, lamb,[4] and we read elsewhere, [with reference to the Paschal-offering] the word, lamb,[5] just as there [Scripture] excludes all those named [in the Mishnah above as unsuitable for the Paschal-offering],[6] so here also, it excludes all those named [as unsuitable for the object of redeeming]. [Now you might assume that] just as the Paschal-offering must be a male, without a blemish, and a year old, similarly here, [in connection with the redemption of the first-birth of an ass] it must be a male, without a blemish, and a year old. The text therefore states: 'Thou shalt redeem', [and repeats], 'Thou shalt redeem' to include [even other than a male etc.]. Now if the repetition: 'Thou shalt redeem', 'Thou shalt redeem', has for its purpose to include, then why not include also all those [animals named in the

Mishnah, as being unsuitable to redeem]? — If this were so, what is the use of [the analogy above between the words], 'lamb', 'lamb'? The question was raised: What is the ruling as regards redeeming a first-birth with a ben peku'ah?[7] According to the opinion of R. Meir, there is no need for you to ask, for since R. Meir said: 'A ben peku'ah requires ritual slaughter', it is a perfect lamb. But the question does arise according to the opinion of the Rabbis, who hold that its mother's slaughtering makes it permitted to be eaten [without slaughtering] 'so that it is like flesh in the pot.[8] Or are we to say that since at the moment it runs and walks, we can describe it as a lamb?[9] — Mar Zutra said: We do not redeem [with it]. Said R. Ashi to Mar Zutra: What is your reason? Is it because you infer this from the Paschal-offering, [which cannot be a hen peku'ah]? Then why not say also, that as in the case of the Paschal-offering it must be a male, without a blemish, and a year old, so here [the animal for redeeming] must be a male, without a blemish and a year old? — [The text]: 'Thou shalt redeem' [and its repetition], 'Thou shalt redeem', includes [even other than a male etc.]. But if the repetition: 'Thou shalt redeem', 'Thou shalt redeem', has for its object to include, then why not include also ben peku'ah? If so, what need is there [for the analogy above derived from the words], 'lamb', 'lamb'?[10] The question was raised. What is the ruling as regards redeeming the first-birth of an ass with a nidmeh?[11] You cannot ask according to R. Eliezer, for since according to him we may redeem with kil'ayim, how much more so with a nidmeh?[12] The question does arise, however, according to the opinion of the Rabbis: Do we say that we are forbidden to redeem with kil'ayim, but we may redeem with a nidmeh? Or perhaps, there is no difference, [and in both cases we are forbidden to redeem with them]? Come and hear. 'If a cow gave birth to something looking like a kid, we do not redeem [with it].[13] From this we infer that if a ewe gave birth to what looks like a kid, we do redeem [with it]. Now whose opinion does this represent? Shall I assume it is the opinion of R. Eliezer? But do we not also redeem with kil'ayim [according to him]?[14] You must then say that it is the opinion of the Rabbis![15] — No. You can still maintain that it is the opinion of R. Eliezer; and he teaches us this very thing,[16] that if a cow gave birth to what looked like a kid, we do not redeem with it, and that you should not say, 'decide according to the offspring itself', and this is a genuine kid, but we rather say, 'decide according to its mother', and therefore it is a calf. Come and hear: For Rabbah b. Samuel learnt: What is kil'ayim? A ewe which gave birth to something that looked like a kid, though its father was a sheep. If the father was a sheep, is it kil'ayim? Is it not nidmeh? — Rather then put it in this way: What is that which is like kil'ayim, so that the Rabbis have placed it on a par with kil'ayim? A ewe which gave birth to what looked like a kid, though its father was a sheep. Now, for what purpose [does the Baraitha say that we liken nidmeh to kil'ayim]? If in respect of dedicating it as a sacrifice,[17] surely [this is not necessary, since] from the text from which we derive the exclusion of kil'ayim [as unsuitable for a sacrifice on the altar], we also derive the exclusion of nidmeh. For it has been taught [Scripture says]: When a bullock or a sheep,[18] intimating the exclusion of kil'ayim; 'or a goat'[18] intimates the exclusion of nidmeh. Is it then in order [to exclude nidmeh] from the rule of the firstling? Surely the Divine Law says: But the firstling of an ox[19] implying [that it is not subject to the law of the firstling] until the father is an ox and the offspring is an ox, [obviously excluding nidmeh]. Is it then from the rule of tithing [of animals]? The rule for [both nidmeh and kil'ayim] is expressly derived from the analogy of the words, 'under', 'under' [mentioned In both cases].[20] [You must say that it is] with regard to the first-birth of an ass![21] — No.[22] [The comparison of nidmeh with kil'ayim] can still refer to tithing, and we suppose to a case where the nidmeh possesses certain marks [similar to its mother]. I might in this case assume that we draw an analogy between the 'passing' mentioned [in connection with tithing] and the 'passing' [mentioned] in connection with a firstling.[23] Therefore, we are told[24] that we rather draw the analogy between 'under' mentioned here and 'under' mentioned in connection with consecrated sacrifices.[25] The question was raised: What is the ruling as regards [redeeming the first-birth of an ass] with dedicated sacrifices which became unfit [for the altar]?[26] This question does not arise if we accept the opinion of R. Simeon, for since he holds that it is permitted to be used [before its redemption], it is unconsecrated.[27] The question does arise, however, according to the opinion of R. Judah, who says that it is forbidden to be used [before its redemption]. What is the ruling? Since it is forbidden to be used, [do we apply the principle that] one prohibition does not take effect where

another prohibition already exists;[28] or perhaps, since [the lamb] does not assume any sanctity,[29] do we say that the redemption has the purpose only of releasing the ass from a mere prohibition?[30] — Said R. Mari the son of Kahana, And is this which is written in connection with these, As the gaze lie and the hart'!,[31] a small matter? [Consequently] just as we do not redeem [the first-birth of an ass] with the gazelle or the hart,[32] [being beasts], similarly, we do not redeem with dedicated sacrifices which became unfit for the altar! Now that you have arrived at this conclusion,

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(1) Even a lamb.

(2) A lamb born from the coupling of a he-goat and a ewe.

(3) The offspring of a he.goat and. a hind. There is, therefore, a doubt whether it is to be considered an animal or a beast.

(4) Thou shalt redeem with a lamb. (Ex. XIII, 13).

(5) Your lamb shall be without a blemish, a male of the first year. (Ex. XII, 5).

(6) A calf and a beast are excluded, because the text says: From the sheep and goats. A ritually slaughtered animal is excluded, because the killing must be specifically for the Passover, and kil'ayim is forbidden because a Paschal lamb must be suitable for offering on the altar.

(7) An animal taken alive out of the slaughtered mother's womb.

(8) It is on a par with a ritually slaughtered animal, and, like the latter, we are not permitted to redeem with it a first-birth of an ass.

(9) And all those cases enumerated in the Mishnah do not possess the equivalent value of the ass, for otherwise it would be permissible, as mentioned above, to redeem even with boiled herbs.

(10) And since something must be excluded, we rather include ben peku'ah as unsuitable to redeem with, than the case of a female etc., since, after all, the latter are lambs, whereas hen peku'ah is like a ritually slaughtered animal.

(11) An animal suspected to be a hybrid or looking like one. And in this case, although its sire is a ram and its mother a ewe, the offspring looks like some other species.

(12) If the offspring born from two different kinds of animals is permitted, how much more so this one.

(13) For we say it is a calf, with which, as the Mishnah states above, it is forbidden to redeem.

(14) As stated in the Mishnah above.

(15) Therefore we see that according to the Rabbis it is forbidden to redeem with a nidmeh.

(16) But not to deduce therefrom the ruling as regards redemption with offspring which looked like a kid given birth to by a ewe.

(17) That nidmeh may not be offered up on the altar as kil'ayim.

(18) Lev. XXII, 27.

(19) Num. XVIII, 17.

(20) It says in connection with dedicated sacrifices: Then it shall be seven days under its dam (Lev. XXII, 27). And in connection with the tithing of animals the text says: Even of whatsoever passeth under the rod (Lev. XXVII, 32). Just as nidmeh and kil'ayim are invalid to be brought as offerings in the case of consecrated sacrifices, they are similarly unsuitable in connection with the tithing of animals.

(21) And that nidmeh is unsuitable to redeem with, as is the case of kil'ayim, which answers the above query.

(22) There is no proof from here that the first-birth of an ass can be redeemed with a nidmeh.

(23) 'Even whatsoever passeth under the rod', the text in connection with tithing and the text in connection with the firstling, 'That thou shalt cause to pass (set apart)'. As in the latter case, if it possesses some marks similar to its mother it is liable to the law of the firstling, so too with reference to its tithing.

(24) In the teaching reported by Rabbah b. Samuel.

(25) That we exclude nidmeh from animal tithing, comparing it with kil'ayim, even in such circumstance.

(26) And had been redeemed. Such an animal even after redemption retains some sanctity in that it may not be used for work and shearing.

(27) I.e., the first-birth of the ass. It can therefore be redeemed, for we apply here the principle that one prohibition cannot take legal hold where another already exists, as there exists no prohibition in the case of a first-birth.

(28) The prohibition attaching to the first-birth of an ass cannot be transferred to a dedicated animal unfit for the altar which is liable to the prohibitions regarding its shearing and working with it.

(29) As a result of the redemption of the first-birth of an ass.

(30) In order to render it permissible to be used, but not that its sanctity shall fall upon the object with which it is

redeemed.

(31) Deut. XII, 22 with reference to sacrifices which became unfit for the altar.

(32) Being beasts of chase, v. Mishnah.

Talmud - Mas. Bechoroth 12b

it may be that even according to the opinion of R. Simeon,[1] [it is forbidden to redeem with it], since the text says in connection with them: 'As the gazelle and the hart'. The question was raised: What is the ruling as regards redeeming with an animal bought with the fruits of the sabbatical year? With reference to an ass, distinctly a first-birth, there is no need for you to ask, since the Divine Law says [that the fruits of the sab batical year are]: For food,[2] implying, but not to trade therewith.[3] The question does arise regarding the uncertain [first-birth of an ass]. And according to the opinion of R. Simeon you need not ask, because he holds there is no uncertain [first-birth of an ass which requires redemption].[4] The question does arise, however, according to the opinion of R. Judah. What is the ruling? Since he sets aside a lamb and it remains for himself, we can apply to it [the designation]: 'For food'? Or perhaps, since as long as the ass's prohibition is not canceled it is not permitted,[5] it is like trading [with the fruits of the sabbatical year]? — Come and hear: For R. Hisda said: If an animal has been purchased with the fruits of the sabbatical year, we are not permitted to redeem with it an ass, distinctly a first-birth, but it is permitted to redeem therewith an uncertain first-birth. R. Hisda further said: An animal bought with the fruits of the sabbatical year is not liable to the law of the firstling. It is subject, however, to the law of the gifts [which are the prerogative of the priest].[6] It is not liable to the law of the firstling, because the Divine Law says: 'For food', implying, but not for burning.[7] And it is subject to the law of gifts, for we can apply to it[8] [the designation], 'For food'. An objection was raised from the following: If one eats from the dough of the sabbatical year before the hallah[9] has been taken, he incurs the guilt of death [at the hands of Heaven]. But why?[10] Since, if it became levitically unclean, it is fit for burning, and the Divine Law says: 'For food', implying, but not for burning? — The case is different here, for it says: Throughout your generations.[11] It has been taught to the same effect: Whence do we derive that if one eats from the dough of the sabbatical year before its hallah is taken, he incurs the guilt of death? Because it is said: 'Throughout your generations'. But why not derive [that the firstling bought with the fruits of the sabbatical year is liable to the law of the firstling],from the case [of hallah]?[12] — In the case of hallah [its separation] is mainly 'for the eating [of the priests], [except when it receives uncleanness], but in the case of the firstling, [the portion for the altar] is mainly for burning.[13] IF HE GAVE IT TO THE PRIEST etc. We have learnt here that which our Rabbis have taught: 'If an Israelite had a first- birth of an ass in his house and the priest said to him, "Give it to me and I will redeem it", he should not give it to him, except [the priest] redeem it in his presence'. R. Nahman reported in the name of Rabbah the son of Abbuha: 'This proves[14] that the priests are suspected of neglecting the redemption of the first-births of asses'. Surely [this deduction] is evident? — You might have assumed that this is the case only where he is known to be suspected,[15] but generally we do not suspect the priest. He therefore informs us that he usually decides that it is a legitimate act.[16] MISHNAH.

IF ONE SETS ASIDE [A LAMB] FOR THE REDEMPTION OF THE FIRST-BIRTH OF AN ASS AND IT DIED, R. ELIEZER SAYS: HE IS RESPONSIBLE AS IS THE CASE WITH THE FIVE SELA'S IN CONNECTION WITH THE REDEMPTION OF THE FIRST-BORN. BUT THE SAGES SAY: HE IS NOT RESPONSIBLE, AS IS THE CASE WITH THE REDEMPTION OF THE SECOND [YEAR'S] TITHING.[17] R. JOSHUA AND R. ZADOK TESTIFIED CONCERNING THE REDEMPTION OF THE FIRST-BIRTH OF AN ASS WHICH DIED THAT THE PRIEST RECEIVES NOTHING [IN SUCH CIRCUMSTANCES] — IF THE FIRST-BIRTH OF AN ASS DIED [AFTER THE LAMB FOR REDEMPTION HAD BEEN SET ASIDE], R. ELIEZER SAYS: IT SHALL BE BURIED, BUT THE LAMB MAY BE USED,[18] WHEREAS THE SAGES SAY: IT IS NOT REQUIRED TO BE BURIED AND THE LAMB BELONGS TO THE PRIEST.

GEMARA. Said R. Joseph: What is the reason of R. Eliezer? — Because Scripture writes: Nevertheless the first-born of man shalt thou surely redeem [and the firstling of unclean beasts shalt thou redeem].[19] Just as in the case of the first-born of a man, he is responsible [if the redemption money is lost], similarly, in the case of the first-birth of an unclean animal, he is responsible [if the redemption lamb dies] — Said Abaye to him: [If the comparison be correct, then] as in the case of the first-born of a man, it is permitted to benefit [from his work before redemption], so in the case of an unclean animal, it should be permitted to benefit from it. And should you assume that this is so, have we not learnt in a Mishnah: IF THE FIRST-BIRTH OF AN ASS DIES, R. ELIEZER SAYS: IT SHALL BE BURIED? What does he mean by the phrase IT SHALL BE BURIED? Does he not mean that it is forbidden to use it? — No, It means,it shall be buried as in the case of the first-born of a man.[20] But [am I to infer that on]y] a first-born of a man requires burial, but that a plain Israelite does not require burial? And moreover, it has been taught: R. Eliezer agrees that if an Israelite has an uncertain first-birth of an ass in his house, he sets aside a lamb on its behalf and it is his?[21] — Rather, said Raba; [the following is the reason of R. Eliezer]. Scripture says: Nevertheless the first-born of man shalt thou surely redeem. Scripture implies, 'I have compared [an unclean animal with the first-birth of a man] in connection with [the responsibility for] redemption, but not as regards any other matter.[22] We have learnt elsewhere [in a Mishnah]:[23] Valuations are according to their period;[24] the redemption of the first-born takes place after thirty days and the redemption of the first-birth of an ass takes place immediately. But does the redemption of the first-birth of an ass take place immediately? Against this I quote the following in contradiction: The period of valuation or redemption of the first-born, or Naziriteship,[25] or redemption of the first-birth of an ass, is in no case less than thirty days. But we can extend the time in each of these cases indefinitely![26] — Said R. from it, but owing to the fact that an unclean animal is compared with the first-born of man; and usually a dead first-born receives burial. Nahman: [The statement above, that the redemption of a first-birth takes place immediately means] to inform us that if he redeemed it, it is redeemed.[27] This would imply that in the case of his first-born son, if he redeemed him within the thirty days he is not redeemed? Has it not been stated: If one redeems his son within the thirty days, Rab holds: his son is redeemed? — But surely has it not been stated in this connection: Raba said: All authorities agree [that if he said that the first-born should be redeemed] from now [before the expiry of the thirty days], then his son is not redeemed?[28]

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(1) For although it is permitted according to his view to benefit from the first-birth of an ass, we are, nevertheless, not allowed to redeem it with a dedicated animal which became unfit for the altar.

(2) Lev. XXV, 6.

(3) Redeeming the first-birth with an animal bought with the fruits of the sabbatical year is like trading with sabbatical fruits, and, moreover, while the fruits of the sabbatical year may be eaten by means of this redemption, he acquires an ass which cannot be eaten.

(4) An uncertain birth, e.g. where its mother gave birth to a male and a female and there was a doubt as to whether the male was born first. The Mishnah states above that in such a case, a lamb is set aside and it remains for himself. And according to R. Simeon, since he permits a first-birth of an ass to be used, (v. supra p. 9b), there is no need to set aside a lamb to release the first. birth from any prohibition attaching to it.

(5) Unless he sets aside a lamb for redemption.

(6) The priestly share consisting of the shoulder, jaw and the maw. V. Deut. XVIII, 3.

(7) And if it be liable to the law of the firstling, certain portions are burnt on the altar.

(8) Sc. the animal.

(9) The priestly share of the dough; v. Num. XV, 18ff.

(10) Should the dough be liable to hallah on the sabbatical year?

(11) Num. XV, 21, implying that even on the sabbatical year, hallah must be given.

(12) I.e., why do we not make an exception in the application of the text 'For food', implying, 'but not for burning', with reference to a firstling, as we do in the case of hallah.

(13) And since it is burnt, we apply the text: 'For food', with its implication, 'but not for burning'; whereas it is otherwise In connection with hallah.

(14) Since the Mishnah says that he should not give the first-birth to the 'priest unless the latter redeems it before him.
(15) Where we have reason to suspect him. Or, where we actually saw him working the firstling of an ass prior to its redemption, either wilfully or through ignorance of the law on the matter.
(16) Not to set aside a lamb to redeem it, as he argues that in any case the lamb remains with him.
(17) Where if the redemption money is lost, it is not replaced.
(18) For as R. Eliezer maintains that the Israelite is responsible, it is as if the lamb had not yet been set aside and the Israelite may therefore benefit from it. But the first-birth must be buried, since it is forbidden to use it, as is the case when alive.
(19) Num. XVIII, 15.
(20) Not because it is forbidden to benefit
(21) And although with reference to an ass, distinctly a first-birth, he maintains that so long as the lamb is not in the possession of the priest it is not redeemed, he agrees with regard to an uncertain first-birth that he need not give its redemption to the priest but sets aside a lamb, thus implying that the first-birth of an ass is forbidden to be used otherwise. And since we do not compare an unclean animal with the first-born of man in this respect, the same should apply in respect of his responsibility for it. The question therefore remains, what is the reason of R. Eliezer in the opening passage of our Mishnah?
(22) The limiting word 'nevertheless', indicates that only with regard to the responsibility for redemption is an unclean animal compared with the firstborn of a man.
(23) Var. lec.: It has been taught, as the statement which follows is not a Mishnah but a Baraitha.
(24) Between the ages of one month and five years, if one said, 'I vow my valuation' and he delayed till the age of six, when there is an increased valuation, he still only gives the original valuation, as laid down in Scripture. Some maintain that since a child of that age is not legally permitted to dedicate its valuation to the sanctuary, therefore it means hare that somebody else said, 'I vow the child's valuation upon myself'.
(25) The unspecified vow of a Nazirite, i.e., one bound by a vow to abstain from wine etc., is at least for thirty days.
(26) With reference to valuations, as the ages increase the valuation will correspondingly increase, as mentioned in Scripture. A Nazirite also can vow for a period of years and the first-birth of an ass may be redeemed even after the lapse of years and it is not necessary to give more because of the delay.
(27) Although he has not carried out properly the religious command of redemption, the animal is redeemed.
(28) And the difference of opinion only arises when he said, 'I give the money now but its redemption shall only take effect after thirty days'.

Talmud - Mas. Bechoroth 13a

R. Shesheth said: [The above Baraitha means] to inform us that he does not transgress on account of the first-birth.[1] Rami the son of Hama raised an objection from the following: The duty of redemption is for the entire period of thirty days. After that, either he redeems it, or breaks its neck. What [does it mean]? Does it not mean that it is a religious duty to retain it for the whole period of thirty days?[2] No, it means that it is a religious duty to redeem it all the thirty days. If this is the case, what it should say is: After that, either he redeems it[3] or he transgresses [the command to redeem]![4] Rather, said Raba:[5] There is no contradiction: the one statement [that redemption is after thirty days] gives the opinion of R. Eliezer who compares [an unclean animal with the first-born of a man], and the other statement [that redemption takes place immediately] gives the opinion of the Rabbis who do not make this comparison. MISHNAH. IF HE DOES NOT WISH TO REDEEM IT [THE FIRST-BIRTH OF AN ASS], HE BREAKS ITS NECK FROM BEHIND AND BURIES IT. THE MIZWAH[6] OF REDEMPTION IS PRIOR TO[7] THE MIZWAH OF BREAKING ITS NECK, FOR IT SAYS: AND IF THOU WILT NOT REDEEM IT, THEN THOU SHALT BREAK ITS NECK.[8] THE MIZWAH OF YI'UD[9] IS PRIOR TO THE MIZWAH OF REDEMPTION, FOR IT SAYS: WHO HATH BETROTHED HER TO HIMSELF.[10] THE MIZWAH OF YIBBUM[11] IS PRIOR TO THE MIZWAH OF HALIZAH.[12] THIS WAS THE CASE AT FIRST WHEN THE PARTIES CONCERNED USED TO CARRY OUT THE LAW WITH RELIGIOUS INTENTIONS.[13] BUT NOW THAT THEY DO NOT CARRY OUT THE LAW RELIGIOUSLY,[14] THE [RABBIS] HAVE SAID: THE MIZWAH OF HALIZAH IS PRIOR TO THE MIZWAH OF YIBBUM. THE

MIZWAH OF REDEMPTION [OF AN UNCLEAN ANIMAL WHOSE VALUE IS DEDICATED TO THE SANCTUARY] RESTS WITH THE OWNER. HE IS FIRST, BEFORE ANY OTHER MAN, FOR IT SAYS: OR IF IT BE NOT REDEEMED, THEN IT SHALL BE SOLD ACCORDING TO THY VALUATION.[15]

C H A P T E R I I

MISHNAH. [AN ISRAELITE] WHO BUYS AN EMBRYO[16] OF A COW BELONGING TO A HEATHEN, OR WHO SELLS ONE TO HIM, ALTHOUGH THIS IS NOT PERMITTED,[17] OR WHO FORMS A PARTNERSHIP WITH HIM,[18] OR WHO RECEIVES AN ANIMAL FROM HIM TO LOOK AFTER,[19] OR WHO GIVES [HIS COW] TO HIM TO LOOK AFTER,[20] IS EXEMPT FROM THE LAW OF THE FIRSTLING, FOR IT SAYS: [I HALLOWED UNTO ME ALL THE FIRST-BORN] IN ISRAEL,[21] BUT NOT IN GENTILES. PRIESTS AND LEVITES ARE SUBJECT [TO THE LAW OF THE FIRSTLING]. THEY ARE NOT EXEMPT FROM [THE LAW OF] THE FIRSTLING OF A CLEAN ANIMAL, BUT ONLY OF A FIRST-BORN SON AND THE FIRST-BORN OF AN ASS.

GEMARA. Why does [the redactor of the Mishnah] state the case of the embryo of an ass in the first [chapter],[22] and subsequently [in the second chapter], the case of an embryo of a cow? Why not state in the first [chapter] the case of an embryo of a cow, since it is a case of an animal consecrated as such, and, subsequently. in the case of an embryo of an ass, as it is a case of an animal consecrated only for its value? — It was explained in the West [Palestine]:[23] If you choose, I may say the reason is because he dwelt with peculiar pleasure on this case, in the manner of R. Hanina [explained above].[24] Or if you prefer, I can say it is because the regulations concerning an unclean animal are relatively few;[25] [the redactor of the Mishnah] therefore cleared them out of the way first.

R. Isaac b. Nahmani reported in the name of Resh Lakish on behalf of R. Oshiah: If an Israelite gave money to a heathen for his animal, [we judge the transaction] according to their laws and even though he did not pull the animal,[26] he acquires possession and is subject to the law of the firstling. If a heathen gives money to an Israelite for his animal, [we also judge the transaction] according to their laws, and although he did not pull [the animal], he acquires possession and is exempt from the law of the firstling. The Master says: 'If an Israelite gave money to a heathen, [we judge the transaction] according to their laws, and although he did not pull [the animal], he acquires possession and is subject to the law of the firstling'. What does 'their laws' mean? Shall we say that 'according to their laws' means, as regards the person [of the heathen], and we conclude a fortiori, that if the person [of a heathen] is acquired by the Israelite for money, as Scripture writes: To hold for possession[27] — [Scripture] compares a Canaanitish slave with a possession: as a possession is acquired by handing over the money to the seller, by a bill of sale, and taking possession,[28] so a Canaanitish slave is acquired with money — how much more so, therefore, is this the case with reference to a heathen's property?[29] If this were the case, then a heathen's property should also be acquired even by means of a bill of sale and taking possession? And, moreover, this idea can be confuted by the case of an Israelite [having a transaction] with an Israelite. For though the person [of an Israelite] is acquired with money. yet his property is acquired by means of meshikah![30] Rather said Abaye: The expression 'according to their laws' means, those which the Torah laid down for them. [For Scripture says]: Or buy of thy neighbour's hand,[31] [and we deduce from this that] from 'the hand of thy neighbour' the way of acquiring possession is meshikah,[32] but from the hand of a heathen the way of acquiring possession is with money. But why not deduce that from the hand of a heathen there is no way of acquiring possession at all?[33] — It was explained: You cannot assume this a fortiori: If [the heathen's] person can be acquired, how much more so his property! But perhaps say that in the case of a heathen, two ways of effecting possession are required?[34] — The answer was given: Have we not here an a fortiori [argument]? If his person is acquired only in one way. shall his property be acquired in two ways? But why not say that [a heathen acquires an object]

either by means of one or the other?[35] — [The method of his acquiring] must resemble [the form of acquiring mentioned In connection with the text] 'thy neighbour'. Just as in the case of 'thy neighbour', [i.e., an Israelite], possession [can be acquired] only in one way, so in the case of a heathen only in one way.

The Master said: 'But if a heathen gave money to an Israelite for his animal, [we judge the transaction according to their laws, and even though he did not pull [the animal], he acquires possession and is exempt from the law of the firstling'. What does 'according to their laws' mean? If the expression 'according to their laws' refers to the person [of the Israelite] who is acquired with money by a heathen and we infer a fortiori: If the person [of an Israelite] is acquired with money — for Scripture writes: Out of the money that he was bought for,[36] — how much more so is [the Israelite's] property [acquired by means of money by a gentile]? This can be refuted by the case of a transaction between Israelites, for his person is acquired with money and yet his property is acquired by meshikah! Rather, said Abaye: 'According to their laws' means those which the Torah laid down for them. [Scripture says]: 'And if thou sell aught to thy neighbour';[37] [we infer from this] that 'to thy neighbour' the way of acquiring possession is by meshikah, but in the case of a gentile, possession is acquired with money. But why not say that for a heathen there is no way [for acquiring possession] at all?[38] — I can answer, No. Have we not an a fortiori [argument]? If a heathen can acquire the person [of an Israelite] with money, how much more so is this the case with the property [of an Israelite]? But why not say that for a heathen there must be two ways of acquiring possession? — But is there not the a fortiori argument [to the contrary]? If a heathen acquires possession of the person [of an Israelite] by one act only, should the Israelite's property be acquired only by two acts? But why not say that [a heathen acquires possession of an Israelite's property] either by means of one or the other! — [The way of acquiring possession] must resemble [what is mentioned in connection with the text] 'thy neighbour'.

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(1) The duty to redeem the first-birth of an ass is indeed immediately after its birth, and the Baraitha which says that redemption does not take place for thirty days means that he does not transgress the command to redeem until the period of thirty days has elapsed.

(2) In accordance with the opinion of R. Nahman, who maintains that redemption does not take place before thirty days have elapsed. This seems to contradict the opinion of R. Shesheth.

(3) Var. lec.: He either breaks its neck. V. R. Gershom.

(4) And since it says: 'Either he redeems it or breaks its neck', we infer that redemption only commences after the thirty days and that during the thirty days it is a duty to retain it.

(5) We may indeed say that it is a religious duty to retain the first-birth for thirty days and still we do not ex plain the Baraitha cited by Rami b. Hama as being in accordance with R. Nahman's view (Rashi). Sh. Mek.: Raba's reply can be explained as being entirely independent of the opinions of R. Shesheth and R. Nahman and that it merely explains the conflicting statements regarding when redemption should take place.

(6) A religious act and duty.

(7) I.e., has precedence over.

(8) Ex. XIII, 13. The verse implies that redemption comes first.

(9) Designation, especially the betrothal of a Hebrew handmaid.

(10) Ex. XXI, 8. The verse implies that the first duty is to betroth her.

(11) To marry the wife of a brother who died without issue.

(12) The ceremony of taking off the brother-in-law's shoe after refusing to marry his brother's widow. Deut. XXV, (5-11).

(13) In order to preserve the name of the dead brother.

(14) But merely for sexual pleasure, and, since this is the case, it is sexual intercourse with a brother's wife, which is one of the forbidden relations.

(15) Lev. XXVII, 27. The verse therefore implies that redemption is a prior duty. Also redemption takes precedence, because where the owner redeems he has to add a fifth part, but in the case of another redeeming, there is no addition of a fifth for the benefit of the sanctuary, as Scripture says in the first part of the verse quoted in this connection: 'And If it

be of an unclean beast, then he shall ransom it according to thy valuation and shall add unto it the fifth part thereof'.
(16) A firstling.
(17) It is forbidden to sell large cattle to a heathen, because the animal is worked on the Sabbath.
(18) Both purchasing an animal between them.
(19) The Israelite in return for attending to the animal receives in payment half of the offspring, but the animal itself belongs to the heathen.
(20) The Israelite sharing a half or a third of the offspring.
(21) Num. III, 13. The text implies that where a gentile has a share in the mother or an offspring, the firstling is not holy.
(22) The first Mishnah in the first chapter of the tractate.
(23) Palestine is designated as the West, being so situated geographically relative to Babylon, where the Talmud Babli was evolved.
(24) Supra 5b.
(25) For only one chapter is devoted to the rules and regulations appertaining to an unclean animal, whereas the remainder of the tractate of Bekoroth deals with the firstling of a clean animal.
(26) Into his possession, which is one of the ways of effecting transference between Israelites, whereas with reference to a gentile, the handing over of the money effects transference; v. Glos. s.v. Meshikah.
(27) Lev. XXV, 46.
(28) Performing some kind of work on the estate. V. Kid, 26a.
(29) That it is acquired from him by handing over the purchase money.
(30) V. p. 90, n. 3 and Kid, 26a. Similarly, although the person of the heathen is acquired with money, his property may require another form of acquiring possession.
(31) Lev. XXV, 14.
(32) The expression 'of thy neighbour's hand' implies that the object has to be filled from the hands of the seller into the hands of the buyer.
(33) Short of actually bringing the object completely into the domain of the Israelite.
(34) Possession by means of money and meshikah, but not with money alone.
(35) Money or Meshikah.
(36) Lev. XXV, 51. And the verse deals with a gentile who purchases a Hebrew slave.
(37) Lev. XXV, 14.
(38) And that in order to secure possession of an Israelite's chattels, he must transfer them completely to his domain.

Talmud - Mas. Bechoroth 13b

As 'thy neighbour' [i.e., an Israelite] acquires possession only in one way,[1] so the heathen acquires possession only in one way.[2] It was argued: Now according to Amemar who said that meshikah effects possession in the case of a heathen, this might be right if he holds according to the opinion of R. Johanan who maintains that according to the Biblical law, money effects possession between Israelites, whereas meshikah does not effect possession;[3] the text 'to thy neighbour' serves then the purpose of allowing us to deduce that 'to thy neighbour' [i.e., an Israelite] money effects possession, but for a heathen to effect possession meshikah is required. But if he holds according to the opinion of Resh Lakish, who maintains that meshikah is expressly mentioned in the Torah, [with the indicating result that] 'to thy neighbour' [an Israelite] with meshikah and for a heathen with meshikah, what need then is there for the text 'to thy neighbour'? — It can be explained thus: The text means: 'to thy neighbour' you return an overcharge,[4] but you do not return an overcharge to a Canaanite [a heathen] — But do we not derive [the exclusion of the law of overcharging in connection with] the Canaanite from the following text: Ye shall not oppress one another?[5] — One text refers to a Canaanite and the other refers to sacred property.[6] And it was necessary [to teach both cases]. For if the Divine Law had written only one text, I might have assumed that, as regards the Canaanite there is no law concerning overreaching, but in regard to sacred property[7] the law of overreaching is enforced. Therefore Scripture teaches us [that this is not so]. This would hold good according to him who says that the robbed object of a Canaanite is forbidden [to be retained]; therefore a scriptural text is necessary to permit [the retention of] overreaching. But[8] if be holds with

him who says that the robbed object of a Canaanite is allowed [to be retained], can there be any question about permitting [to retain] overreaching? I can answer: If [Amemar] holds according to him who says that the robbed object of a Canaanite is allowed [to be retained], then perforce he will hold according to the view of R. Johanan.[9] An objection was raised. If one buys broken pieces [of silver] from a heathen and finds among them an idol, if he made meshikah before he had given the purchase money, he should withdraw [from the transaction]. But if he made meshikah after he had given the money, he should carry the benefit derived therefrom to the Dead Sea.[10] Now, if you hold that money effects possession, what need is there for meshikah? — We are dealing here with the case where [the heathen] undertook to act in the matter in accordance with Israelite law. If so, what need is there for money [as a means of effecting possession]? — This is what [the Baraitha] intends to say: Although he had given the money, if he made meshikah, [then he can withdraw], but if not, [he] cannot [do so]. If this is the case, there is a difficulty in the first part [of the Baraitha]?[11] — Said Abaye: The reason of the first part [of the Baraitha] is because it was made in error.[12] Raba said to him: '[You say that the reason of] the first part [of the Baraitha] is because it was made in error. But is the last part [of the Baraitha] also not a case of a purchase in error'? Rather, said Raba: Both the first and the last parts deal with the case of a purchase in error;[13] but in [the case stated in] the first part where he had not yet given the money, the idol does not appear to have been in the possession of an Israelite, whereas in the last part [of the Baraitha], where he had given the money, the idol appears to have been in the possession of an Israelite.[14] And Abaye? — He will explain thus. The first part is a case of a purchase made in error, for he did not know of the idol, since he had not yet paid the money.[15] But the last part is a case of a purchase made in error, for since he had given the money, when he was [about] to make meshikah he should have examined the purchase and then made meshikah.[16] R. Ashi said:[17] Since in the first part [of the Baraitha], meshikah does not effect possession, in the last part also, meshikah does not effect possession. But as he mentions meshikah in the first part, he also states meshikah in the last part. Rabina said: Since in the last part meshikah effects possession, in the first part too meshikah effects possession.[18] And what the first part says in effect is this: If he had not given the money, nor made meshikah, he withdraws. What is [then] meant by 'he withdraws'?[19] — That he can retract his words, for he [the Tanna of the Baraitha] maintains: To retract one's words indicates a want of honesty, but this is the case only with an Israelite dealing with an Israelite, because they stand by their word, whereas in the case of an Israelite dealing with gentiles, since the latter do not stand by their word, it is not so.

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(1) I.e., meshikah.

(2) I.e., with money and not meshikah, for the verse implies 'thy neighbour' with meshikah but not a heathen, and by analogy we assume that the same limitation applies in the case of the form of acquisition which exists for gentiles. i.e., money.

(3) B.M. 46b, Kid. 26a.

(4) The law of overcharging and overreaching being mentioned later in the same chapter of the Bible.

(5) Lev. XXV, 14. The text implies that for a heathen this law does not apply, as the words 'one another' refer to Israelites.

(6) To which also the law does not apply.

(7) An object dedicated for the Temple, or for some other sacred purpose, and I might have said that secular property should not have an advantage over sacred property in this respect.

(8) v. Sanh., Sonc. ed., p. 388, n. 6 and B.M., Sonc. ed., p. 506, n. 9.

(9) For since the robbed object of Canaanite may be retained, therefore there is no need to deduce the retention of the overreaching from the text, 'Thy neighbour'. Consequently the text will imply that although money effects possession in a transaction between Israelites, in the case of heathens meshikah is required. Hence we see that Amemar must necessarily hold according to the opinion of R. Johanan.

(10) For an idol in the possession of an Israelite can never be freed from its prohibition, and it is therefore forbidden to derive any profit therefrom.

(11) Why should his withdrawal cancel the sale? Since he made meshikah, he should be required to carry the benefit to the Dead Sea!

(12) For he did not know there was an idol and therefore the withdrawal cancels the sale.
(13) And legally the withdrawal cancels the sale even under the circumstances mentioned in, the last part of the Baraitha, and meshikah is the form here of effecting possession, this having been agreed upon by the parties concerned.
(14) On withdrawal he receives back his money from the heathen.
(15) And before the purchase is handed over, the buyer does not usually trouble to examine the contents of a purchase.
(16) And as he omitted to make the examination, the transaction was valid and, consequently, the meshikah was a genuine one.
(17) On R. Ashi's view we are dealing here with a case where the parties did not agree to act according to Jewish law, and therefore money payment is the method of effecting possession of an object bought. And no difficulty can be raised from the last part of the Baraitha, by arguing that, if this be a fact what need is there for meshikah, for meshikah is mentioned here only because it is mentioned in the first part, and there it had to be mentioned to inform us, that it has no effect, since the purchase money was not handed over.
(18) When e.g., the parties agree to act according to Jewish law, i.e., use meshikah as a form of transference.
(19) Since neither meshikah nor money did take place.

Talmud - Mas. Bechoroth 14a

MISHNAH. ALL DEDICATED SACRIFICES WHICH HAD A PERMANENT BLEMISH BEFORE THEIR DEDICATION[1] AND WERE REDEEMED, ARE LIABLE [TO THE LAW] OF THE FIRSTLING AND THE [PRIESTLY] GIFTS;[2] THEY BECOME UNCONSECRATED ANIMALS AS REGARDS SHEARING AND WORKING;[3] THEIR OFFSPRING AND MILK ARE PERMITTED TO BE USED AFTER THEIR REDEMPTION;[4] HE WHO SLAUGHTERS THEM WITHOUT[5] [THE TEMPLE COURT] DOES NOT INCUR [THE PUNISHMENT OF EXCISION]; AND THE LAW OF SUBSTITUTE DOES NOT APPLY TO THEM;[6] AND IF THEY DIED [BEFORE REDEMPTION]. THEY MAY BE REDEEMED,[7] EXCEPT IN THE CASE OF A FIRSTLING AND AN ANIMAL SET ASIDE FOR TITHE [OF CATTLE].[8] ALL ANIMALS HOWEVER WHICH WERE DEDICATED BEFORE THEY BECAME BLEMISHED OR HAD ONLY SUFFERED A TRANSITORY BLEMISH BEFORE THEIR DEDICATION AND AFTER THAT DEVELOPED A PERMANENT BLEMISH, AND WERE REDEEMED, ARE EXEMPT [FROM THE LAW] OF THE FIRSTLING AND FROM THE [PRIESTLY] GIFTS; THEY DO NOT BECOME UNCONSECRATED AS REGARDS SHEARING AND WORKING; THEIR OFFSPRING AND MILK ARE FORBIDDEN TO BE USED AFTER THEIR REDEMPTION; HE WHO SLAUGHTERS THEM WITHOUT [THE TEMPLE COURT] IS PUNISHABLE [WITH EXCISION]; THE LAW OF SUBSTITUTE APPLIES TO THEM; AND IF THEY DIE, THEY ARE TO BE BURIED.

GEMARA. The reason[9] is because they were redeemed, but if they were not redeemed, they would have been exempt from [the law of] the firstling and from the [priestly] gifts, for [the Mishnah] holds that the consecration of an object consecrated for its value sets aside [the law of] the firstling and the duty of the [priestly] gifts.

AND THEY BECOME UNCONSECRATED etc. The reason[10] is because they were redeemed, but if they were not redeemed, they would have been forbidden as regards shearing and working. This would confirm the opinion of R. Eleazar who said: Animals dedicated for keeping the Temple in repair,[11] are forbidden as regards shearing and working! — [No]. It can he maintained that this is no proof. For an object consecrated for its value, eventually to be used for the altar,[12] might be confused with an object which is itself consecrated for the altar, therefore the Rabbis enacted a prohibition.[13] But in the case of an object dedicated for keeping the Temple in repair, the Rabbis did not enact a prohibition.[14]

THEIR OFFSPRING AND MILK ARE PERMITTED etc. How is this to be understood? Shall I say that [we speak of where] they became pregnant and gave birth after their redemption? Surely this

is obvious? They are unconsecrated animals! Rather what is meant is that they were pregnant before their redemption and gave birth after their redemption. This implies that before their redemption, [the offspring] are forbidden!?[15]

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(1) And the object of the dedication, since they possessed already a permanent blemish, was to sell them and purchase with the money sacrifices for the altar.

(2) The shoulder, jaw and maw, as is the case with genuine hullin (unconsecrated animals).

(3) For they are considered hullin, as they were blemished before dedication, and the law of dedicated sacrifices which had become unfit for the altar, where shearing and working are prohibited, does not apply to them.

(4) Even if they were pregnant before their redemption, for since they gave birth after their redemption. their offspring are permitted. V. Gemara.

(5) Even before their redemption. since the animals did not receive any sanctity from the outset, owing to their blemishes before dedication.

(6) V. Lev. XXVII, 10.

(7) In order to give the carcases to dogs to eat. Moreover, we are taught here also that they hold an inferior status compared with other dedicated sacrifices, which can only be redeemed when alive.

(8) A firstling, even with a permanent blemish. is sanctified as the passing through the womb consecrates it. And with reference also to tithing. Scripture ordains that whether it be good, i.e., without a blemish, or bad (blemished), the animal passes under the rod to be tithed.

(9) Why the first clause of the Mishnah says that they are liable to the law of the firstling.

(10) Why the Mishnah says that shearing and working are permissible.

(11) The dedicated animals are sold and the money is devoted to the repair of the Sanctuary.

(12) The money realized from its sale is used to purchase sacrifices for the altar, and we therefore prohibit its shearing and working.

(13) Because if in the former case we permit the shearing and working, we might be led to permit in the latter case.

(14) For there is little fear here that because in the one case we permit the shearing and working. we might be led to permit in connection with the object consecrated as such, as there is an obvious distinction between the two.

(15) To be used for any purpose without redemption, nor could they be offered up on the altar, since even their own mother is not fit for the altar.

Talmud - Mas. Bechoroth 14b

[The point then arises], can they be redeemed even when they are without a blemish, or, can they not be redeemed so long as they are without a blemish?[1] — Come and hear: If one consecrated animals having a permanent blemish for the altar and they gave birth, they are to be sold and [the offspring] do not need a blemish, because they receive no sanctity. For we cannot be more stringent with the subsidiary than with the principal object.[2]

Now the reason [why the offspring do not require a blemish before redemption], is because we should not be more stringent with the subsidiary than with the principal, but if he consecrated a male[3] animal for its value, it receives the sanctity of an animal consecrated as such. This would support Raba's teaching. For Raba said: If one consecrated a male animal for its value,[4] it receives the sanctity of an animal which has been consecrated in itself.

HE WHO SLAUGHTERS THEM WITHOUT [THE TEMPLE COURT], DOES NOT INCUR [THE PUNISHMENT OF EXCISION]. R. Eleazar quoted [with reference to this passage of the Mishnah]: He is culpable.[5] and he explains [the word 'WITHOUT' in the Mishnah] as meaning that he slaughters them on a private altar.[6] For R. Eleazar said: Whence do we deduce that he who slaughters a blemished animal on a private altar at a period when high places are used legitimately, is guilty of transgressing a negative precept? Scripture says: Thou shalt not sacrifice unto the Lord thy God an ox or a sheep wherein is a blemish.[7] If this text has no bearing on a national altar,[8] since Scripture has already stated: Blind or broken, ye shall not offer these unto the Lord,[9] apply it to a

private altar. Why not say that if the text has no bearing on dedicated sacrifices, apply it to a firstling?[10] For I might have been inclined to assume that since it is holy even when blemished, [the shearing and working being forbidden], it should therefore be offered up even if blemished. Therefore Scripture teaches us that it is not so! — I might argue against this that in connection with a firstling. Scripture expressly states: Lame or blind thou shalt not sacrifice it.[11] But why not say: If the above text has no bearing on dedicated sacrifices,[12] let us apply it to animal tithes?[13] For I might have been inclined to assume that since a tithed animal is holy even blemished, as Scripture writes, He shall not inquire whether it be good or bad,[14] therefore we should offer it up even blemished, and Scripture consequently informs us that this is not so? — [In connection with] a tithed animal, too, we draw an analogy between 'passing'[15] and 'passing' used in connection with a firstling. But why not then say: Let us apply the text above to an animal exchanged for a dedicated sacrifice? For I might have been inclined to assume that since it is sacred, even if blemished, since Scripture writes: Neither shall he alter it or change it etc.[16] Therefore it should be offered up even blemished; and consequently Scripture teaches us that it is not so! Scripture says: Then it and that for which it is changed, shall be holy.[17] It thus compares the exchanged animal with the animal itself; as the animal itself is unfit [for the altar] if blemished, so the exchanged animal with a blemish is unfit [for the altar]. R. Zera demurred: Why not say, apply the text[18] to the blemished offspring [born of unblemished sacrifices]?[19] For I might have been inclined to assume they are holy even blemished. through their mother, therefore they may be offered up even blemished, and Scripture therefore informs us that it is not so? — Said Raba: A Tanna of the school of R. Ishmael has already pronounced on the matter.[20] For a Tanna of the School of R. Ishmael taught: Scripture says: Only thy holy things which thou hast and thy vows:[21] 'Only thy holy things'; this refers to exchanged animals,[22] 'which thou hast': these are the offspring of dedicated sacrifices; 'and thy vows': Scripture here compares them with an animal vowed for a sacrifice: as an animal vowed for a sacrifice is unfit for the altar with a blemish, so these too are unfit with a blemish.[23]

THE LAW OF SUBSTITUTE DOES NOT APPLY TO THEM etc. What is the reason? Because Scripture Says: He shall not alter it nor change it, a good for a bad or a bad for a good. Now, if a bad [i.e., a blemished consecrated animal] must not be exchanged for a good [an unblemished and unconsecrated animal], is it necessary to inform us concerning the prohibition of exchanging a good [an unblemished consecrated animal] for a bad [a blemished animal]? What is meant then is, that to an animal good [i.e., unblemished] from the start [before dedication] [but which became blemished afterwards] the law of substitute applies, but to one bad [i.e., blemished] from the start [before dedication] the law of substitute does not apply.

AND IF THEY DIED, THEY MAY BE REDEEMED. Rab Judah reported in the name of Rab: This[24] is the teaching of R. Simeon who said: Objects consecrated for the altar were [at first] included [in the law of] presentation[25] and valuation, whereas objects consecrated for keeping the Temple in repair were not included in [the law of] presentation and valuation. For we have learnt: R. Simeon says: Objects consecrated for keeping the Temple in repair, if they die, are redeemed. R. Simeon agrees, however, that an animal blemished from the start [before dedication] may be redeemed.[26] What is the reason? Because Scripture says: And [the priest shall value] it;[27] the word 'it' excludes[28] the case of an animal with a blemish from the start [before dedication]. But the Sages say: If they die they are to be buried. Who are the Sages referred to here?[29] It is a Tanna of the School of Levi. For a Tanna of the School of Levi taught: All objects were [at first] included in [the law of] presentation and valuation, even an animal blemished from the start [before dedication]. And thus did the School of Levi teach in his Mishnah:[30] Even a beast and even a bird.[31] But does not Scripture say, 'It'? — The word 'It', according to the opinion of the Tanna of the School of Levi, is a difficulty. But the Rabbis who differ from R. Simeon[32] — what is the position? Is it a fact that they hold that if [the blemished dedicated animal] died, it is redeemed? If so,

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(1) Must we delay until the offspring are blemished and then we can proceed to redeem them or, can they be redeemed

as they are, without waiting?
(2) I.e., we cannot be more stringent with the offspring than with the mother, seeing that the offspring is holy only in virtue of its mother. And as the mother can be redeemed at all times, the same rule should apply to its offspring. which solves the question.
(3) I.e., a ram which was dedicated for its value and which has the sanctity of an animal consecrated as such, insofar that is does not become hullin without a blemish appearing on it. The same ruling applies to a female animal, but as later on he wishes to support Raba's opinion and Raba mentions a male, he speaks here of a male.
(4) And for its money, a burnt-offering is purchased. The reason why Raba mentions a male animal is because the majority of people who bring a sacrifice offer up a burnt-offering, which is a male.
(5) l.e, he is liable to forty lashes.
(6) Lit., 'high place'. A temporary altar. Private altars were e.g., like those made by Manoah, Gideon and Samuel, in times when any individual could build an improvised altar for himself; v. Meg. 9b.
(7) Deut. XVII. 1.
(8) Lit., 'great high place'. As the high places of Nob and Gibeon, which were national and public ones.
(9) Lev. XXII, 22.
(10) Therefore there is no proof that the text, Thou shalt not sacrifice etc., refers to a private altar.
(11) Deut. XV, 21.
(12) Since this is already provided for in Lev. XXII, 22.
(13) The text, therefore, may still refer to a national altar and not to a private altar,
(14) Lev. XXVII, 33. 'Bad', i.e., blemished, and even so, if it is the tenth, it is holy.
(15) Mentioned in regard to the tithing of animals, Even of whatsoever passeth and the text, Then thou shalt cause to pass (set apart), referring to a firstling.
(16) Ibid. XXVII,10.
(17) Ibid.
(18) Quoted by R. Eleazar.
(19) As unfit to be sacrificed on the altar.
(20) That the instances mentioned above as unfit for the altar if blemished, are derived from another verse. Therefore there is no need to deduce them from the above text, Thou shalt not sacrifice.
(21) Deut. XII, 26.
(22) Which Scripture informs us are sacrificed on the altar.
(23) Consequently, the verse 'Thou shalt not sacrifice' refers, as R. Eleazar explains, to a private altar.
(24) The statement of the Tanna of the Mishnah, that if they died, they may be redeemed.
(25) Before the priest of the object whose value is dedicated, as Scripture says: Then he shall present the beast before the priest. (Lev. XXVII, 11.)
(26) For although objects consecrated for the altar require presentation and valuation, and therefore, cannot be redeemed when dead, in the case here of a sacrifice blemished from the start, he agrees that it can be redeemed when dead, although there can be no presentation and valuation here; for it is like an object consecrated for Temple repairs. which was not included in the law of presentation and valuation.
(27) Lev. XXVII, 12.
(28) From the requirements of presentation and valuation.
(29) For they are not the same Sages who differ with R. Simeon in Tem. 32b.
(30) Levi compiled a collection of teachings.
(31) Whose value he dedicated for the keeping of the Temple in repair, as they are not suitable for the altar, require presentation and valuation.
(32) The Rabbis who dispute with R. Simeon in Tem. 32b, holding that both objects consecrated for the altar and objects consecrated for Temple repairs are included in the law of presentation and valuation, though they agree that an animal blemished from the start may be redeemed after its death.

Talmud - Mas. Bechoroth 15a

[in connection with Rab's observation above], what should be said is: This is the teaching of R. Simeon and those who dispute with him? — I can answer: Rab holds with R. Simeon the son of

Lakish, who explained that according to the Rabbis [who differ with R. Simeon] objects dedicated for the keeping of the Temple in repair were [at first] included in [the law of] presentation and valuation, whereas objects dedicated for the altar were not included in [the law of] presentation and valuation. Therefore the Mishnah can not be explained [to agree completely] with the views of the Rabbis. For it states in the later clause: AND IF THEY DIED, THEY SHALL BE BURIED.[1] But whence can we prove that the reason [of the Mishnah] why they shall be buried is because they are subject to the law of presentation and valuation? Perhaps the reason is because we may not redeem dedicated sacrifices in order to give food to dogs?[2] — We can answer: If this is so, then, let the [Mishnah] state: If they become trefah,[3] they shall be buried.[4] Or if you choose [another solution]. I can say that Rab in fact holds with R. Johanan,[5] and read [in the passage above]. This is the teaching both of R. Simeon and of those who dispute with him.

BUT IF THEIR DEDICATION PRECEDED etc. Whence is this proved? — Our Rabbis have taught: [Scripture says]: Howbeit as the gazelle[6] [and as a hart]; as a gazelle is exempt from [the law of] the firstling,[7] so dedicated sacrifices which have become unfit for the altar are also exempt from [the law of] the firstling. I would then exclude the firstling and not the priestly gifts! The text [therefore] states, 'A hart'; as a hart is exempt from [the law of] a firstling and from [the duty of priestly] gifts, so blemished dedicated sacrifices are exempt from the law of the firstling and of [the priestly] gifts. Am I to say that just as the fat of the gazelle and a hart is permitted to be used, so the fat of [blemished dedicated sacrifices] is also permitted to be used? [For this reason] the text states 'ak' ['howbeit'], which intimates a distinction.[8]

The Master said: 'I would then exclude the firstling but not [the priestly] gifts'! Now, what is the difference?[9] — I exclude the firstling, because its law does not equally apply in all cases, whereas I do not exclude [the priestly] gifts, as their law applies equally in all cases.[10] Hence Scripture states 'A hart'. Said R. Papa to Abaye: Why not [say that] just as the law concerning the killing of the young[11] with its mother on the same day does not apply to a gazelle and a hart so the law concerning the killing of the mother on the same day does not apply to dedicated sacrifices which have become unfit for the altar? — He replied to him: With what will you compare [blemished dedicated sacrifices, to render them exempt from the law regarding the killing of the young with its mother on the same day]? If you compare them with unconsecrated animals, then the law concerning the killing of the young with its mother on the same day should apply to them! And if you compare them with dedicated sacrifices, here [also] the law regarding the killing of the young with its mother on the same day should apply to them.[12] — He replied to him: If so, then in regard to the fat [of blemished dedicated animals], why not say likewise, as follows: With what will you compare them? If with unconsecrated animals, their fat is forbidden, and if with dedicated sacrifices, their fat is forbidden? — But[13] did you not say that the [word] 'ak' implies 'but not their fat'?[14] Then similarly adduce the word 'ak' as implying, 'but the law regarding the killing of the young with its mother on the same day, is not [included in the analogy]'. Raba said: The word 'ak' serves [to exclude from the analogy] the law concerning the killing of the young with its mother on the same day, while as regards the fat of blemished dedicated sacrifices, we derive [the prohibition] from the words 'the blood thereof', for it is written: 'Only thou shalt not eat the blood thereof'.[15] What do the words 'The blood thereof' mean? You can hardly say that it actually means 'the blood thereof'. For granting that it is only as the blood of the gazelle and a hart — is then the blood of a gazelle and a hart permitted? The words 'The blood thereof' then refer to its fat. And why does not Scripture expressly write 'Its fat'? — If the Divine Law had written the word 'fat', I might have assumed that both the analogy and the scriptural verse helped [to define the nature of the prohibition of the fat]. The analogy [between the word 'fat' and the words 'as a gazelle and a hart'], helped to exclude it from [the punishment of] excision, for Scripture imposes the punishment of excision only on one who eats the fat of an animal, as it says: For whosoever eateth the fat of the animal.[16] And the scriptural verse also helped to make [the eating of the fat of blemished sacrifices equivalent to the breaking of] a mere prohibition. Therefore the Divine Law used the expression 'the blood thereof', to teach you that as the eating of

its blood is punishable with excision, so the eating of its fat is punishable with excision.

But does not the Tanna [above in the Baraitha] say that the word 'ak' implies 'but not its fat'?[17] — This is what [the Tanna] intends to say: If there were not a text 'The blood thereof'. I might have said that [the word] 'ak' implies 'but not its fat'. Now, however, that Scripture says 'The blood thereof', the word 'ak' serves [to exclude from the analogy] the law regarding the killing of the young with its mother [on the same day].

AND THEY DO NOT BECOME UNCONSECRATED. Whence is this derived — Our Rabbis taught. Scripture says: Notwithstanding thou mayest kill,[18] implying, but not shear. [The text continues further], 'flesh', implying. 'but not milk'. 'And eat', implying, 'but not for dogs'. Hence we infer that we do not redeem dedicated sacrifices to give food to the dogs.

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(1) From which we may infer that objects consecrated for the altar are included in the law of presentation and valuation, whereas the Rabbis hold the reverse view, according to the interpretation of R. Simeon b. Lakish.

(2) And not because the Mishnah holds that objects dedicated for the altar are included in the law of presentation and valuation.

(3) V. Glos.

(4) From which I could infer that, although it was possible to make presentation and valuation here, nevertheless since they were only fit for dogs, they must be buried. But since the Mishnah states, 'IF THEY DIED etc.', I deduce that the reason is because presentation and valuation cannot be carried out.

(5) Who says in Tem. 32b that according to the Rabbis, both objects dedicated for the altar and objects dedicated for keeping the Temple in repair were included in the law of presentation and valuation, and that an animal blemished from the start may be redeemed.

(6) Deut. XII, 22. And Scripture is dealing here with dedicated sacrifices which received their blemish after dedication, as the text says: The unclean and the clean shall eat of them alike, and they still retain some measure of holiness.

(7) For Scripture says: All the firstling males that come of thy herd and of thy flock, thou shalt sanctify. (Deut. XV, 19.)

(8) I.e., it warns us that the analogy is not complete and therefore the fat is forbidden.

(9) Deriving the limitation of a firstling from the first text, and requiring another text to exclude the priestly gifts.

(10) For the law of the firstling only applies to a male, whereas the duty of the priestly gifts applies to females as well.

(11) Lev XXII, 28.

(12) v. Hul. 78a.

(13) [This appears to be Abaye's reply].

(14) V. supra n. 1.

(15) Deut. XV, 23. The verse deals here with the case of a firstling with a blemish.

(16) Lev. VII, 25. It is also understandable that excision should be incurred only for eating the fat of an animal, as it is suitable for sacrifice on the altar.

(17) I.e., it excludes its fat from the analogy. How can Rab, therefore, maintain that the text 'ak' excludes from the analogy the law of killing the young with its mother on the same day, seeing that the Baraitha above says that 'ak' excludes the eating of the fat?

(18) Deut. XII, 15.

Talmud - Mas. Bechoroth 15b

Some there are who say: 'Thou mayest kill and eat': The permission of eating of blemished dedicated sacrifices is only from the time of their killing and thenceforward.[1] We may, however, redeem dedicated sacrifices to give food to dogs.[2]

THEIR OFFSPRING AND THEIR MILK ARE FORBIDDEN AFTER THEIR REDEMPTION. How is this to be understood? Shall I say that they became pregnant and gave birth after their redemption? Why [in that case should they be forbidden]? [The offspring] are [as] the gazelle and a hart![3] Rather what is meant is that they became pregnant before their redemption and give birth after

their redemption. But if [they were born] before their redemption, they would indeed become holy. Whence is this proved? For our Rabbis taught: [Scripture says]: 'Whether male':[4] this includes the offspring [of a peace-offering].[5] [It goes on] 'or a female'; this includes an animal [exchanged for a peace-offering].[6] Now I can only infer from these unblemished offspring and unblemished exchanged animals. Whence, however, can I derive blemished offspring[7] and blemished exchanged animals? When Scripture says: 'Whether a male', it includes even blemished offspring and the text 'or a female', includes an exchanged blemished animal. Those young [which were In embryo before their redemption] and were born after their redemption — what shall become of them? Concerning those born before their redemption there is a difference of opinion. There is one authority who says they are so far holy as to be offered up, and there is another authority who says they are only so far holy as to be left to graze.[8] But what is to be done with [the offspring] born after their redemption. — Said R. Huna: We put them in a vault and they die [of hunger]. For what are we to do? Shall we offer them up on the altar? They derive their status from a holiness which has been cancelled.[9] Shall we redeem them? They are not qualified to receive redemption.[10] In the West [Palestine] it was stated in the name of R. Hanina: Before their redemption he consecrates them for that particular sacrifice.[11] 'Before their redemption'? Does this mean to say that they are capable of redemption? Explain rather [as follows]: Before the redemption of their mother,[12] he consecrated them for that particular sacrifice. And what is the reason?[13] — Said R. Levi: It is a preventive measure, lest he should rear of them flocks.[14] Rabina asked of R. Shesheth: May he consecrate [the offspring][15] for any sacrifice that he chose? — He replied: He may not consecrate them, [except for the particular sacrifice of the mother]. What is the reason? — He said to him: There is an analogy between the words 'within thy gates'[16] [used in connection with blemished dedicated sacrifices] and the words 'within thy gates'[17] [used in connection with the firstling]: just as a firstling does not become consecrated after birth for any sacrifice which he chooses, because Scripture writes: Howbeit the firstling among the beasts which is born a firstling to the Lord, no man shall sanctify it,[18] so these young ones do not become consecrated for any sacrifice he chooses. It has been taught in accordance with the opinion of R. Shesheth: Dedicated sacrifices which became permanently blemished before their dedication and were redeemed are subject to the law of the firstling and of the [priestly] gifts; whether before their redemption or after their redemption. one who shears them and works with them does not receive forty lashes; whether before their redemption or after their redemption, the law of substitute does not apply to them; before their redemption. the law of Sacrilege[19] applies to them, but after their redemption it does not; their offspring are unconsecrated [even if in embryo before redemption and born after redemption]; they are redeemed unblemished[20] and become consecrated for any sacrifice he chooses. The general rule in this matter is: They are like unconsecrated animals in all particulars. The only religious duty which applies to them is that of valuing them [for redemption].[21] But if their dedication preceded their blemish, or if a transitory blemish [preceded] their dedication and after that there appeared on them a permanent blemish, and they were redeemed, they are exempt from the law of the firstling and from the [priestly] gifts; whether before their redemption or after their redemption, one who shears and works them receives forty lashes; whether before their redemption or after their redemption, the law of substitute applies to them; before their redemption. Sacrilege applies to them, but not after their redemption;[22] their offspring are holy [if in embryo before redemption]; they are not redeemed unblemished; and they do not become consecrated for any sacrifice that he chooses.[23] The general rule in the matter is that they are like consecrated animals in all particulars. You have only the permission to eat them. Now the general rule of the first part [of the Baraitha above] is stated in order to include the rule that one who slaughters them without [the Temple Court] is exempt [from the punishment of excision]. The general rule of the second part [of the Baraitha]

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(1) This excludes milking and shearing, and is deduced from the proximity of the texts referring to killing and eating. The word 'flesh' is on this view not expounded.

(2) As there is no special text to prohibit this.

(3) I.e. they are hullin (unconsecrated animals).

(4) Lev. III, 1, with reference to peace.offerings. The whole verse is superfluous, for unless it expressly stated that a peace-offering must be a male, as is the case with a burnt-offering. I should have known that there was no restriction as regards the sex of the animal.
(5) That it is offered as a peace-offering.
(6) V. n. 6.
(7) Whose dedication preceded their blemish.
(8) Until they become blemished. Then they are sold and their money is devoted for a freewill-offering. The reason for delaying until a blemish appears is because unblemished animals are not redeemed.
(9) The offspring possess two disqualifications. First, they are born from a mother which though once fit for the altar, has now lost its sanctity, owing to its blemish. Secondly, since the offspring were born after the mother's redemption, they cannot be invested with any sanctity so as to be sacrificed on the altar.
(10) For since they are redeemed through their mother, they retain no sanctity to enable redemption to render them hullin.
(11) That of the mother, and this holiness helps to make them capable of redemption.
(12) While she was still pregnant and before their birth, the offspring received the holiness of their mother's dedication, and in this way redemption, after a blemish appears on them, is required, as their mother's redemption did not cancel their sanctity.
(13) Of. R. Huna above, that they are condemned to die. Why not devise a method of redemption as R. Hanina suggests.
(14) If there were a remedy for the offspring of blemished dedicated offerings, we might raise flocks of these blemished animals, delay the redemption of their mothers, and even be led to eat them without the required redemption. Another explanation (quoted by Rashi) is: What is the reason of the authority who says that we condemn the offspring to die, and also, what is the reason of the other authority who maintains that we consecrate them for a sacrifice? Why did the Rabbis trouble in the matter at all? Could not the offspring be left in their forbidden state? The answer is that we fear lest one might raise flocks, that these offspring will in turn give birth to others and we might be led to commit an offence, whereas after redemption, we do not entertain any fears, as the offspring then are hullin. Still another explanation (quoted by Rashi) is: Why does the Mishnah say that the offspring are forbidden after redemption, seeing that their mother's holiness has been cancelled? And the reply given is because, if we permit the offspring to be used, we might raise flocks of blemished dedicated sacrifices for the sake of the offspring born after redemption and, thus might be led to transgress the law concerning shearing and working.
(15) Of blemished dedicated sacrifices.
(16) Deut. XII, 21.
(17) Ibid. XV, 22.
(18) Lev. XXVII, 26. The text continuing, No man shall sanctify it, indicates that no other holiness except that of a firstling attaches to it.
(19) To make an inappropriate use of a sacred object is Sacrilege (v. Lev. X, 15) and since he benefits therefrom, it is no worse a case than using an object dedicated to the keeping of the Temple in repair.
(20) If they were pregnant and gave birth before their redemption.
(21) The only restrictive enactment is that of redeeming the animal with money.
(22) For they are compared with ‘a gazelle and a hart’, but the shearing of them is forbidden.
(23) Which is the view of R. Shesheth.

Talmud - Mas. Bechoroth 16a

is adduced to include its milk.[1]

The Master said: They are not redeemed unblemished and they do not become consecrated for any sacrifice he chooses. The unblemished are not redeemed; we infer from this that the blemished[2] are redeemed. Also for any sacrifice he chooses they are not consecrated; we infer from this that for that particular sacrifice they are consecrated. Now what do we find here? That they are consecrated for that particular sacrifice and are redeemed when blemished. Shall we say that this confutes R. Huna?[3] — R. Huna can answer thus: The rule really is that blemished animals also are not redeemed, but, since the first part [of the Baraitha] states: ‘They are redeemed unblemished’,[4] therefore the second

part [of the Baraitha] also states: ‘they are not redeemed unblemished’. And also, since it states in the first part [of the Baraitha]: For any sacrifice he chooses, the second part [in the Baraitha] also states: For any sacrifice he chooses. ‘And he who slaughters them without [the Temple Court] is not culpable’.[5] R. Huna read [as in the Mishnah]:[6] He is culpable, and he explains it, of a case where the blemished animal had a withered spot in the eye, [a cataract] and in accordance with the opinion of R. Akiba, who maintains: If they have been put on the altar, they must not be taken down again.[7]

‘Both before its redemption and after its redemption, the law of substitute applies’. R. Nahman reported in the name of Rabba the son of Abbuha: And the exchanged animal after its redemption is left to die. What is the reason? — How are we to do? Shall we offer it up? The animal exchanged derives its status from cancelled holiness.[8] Shall we redeem it? It is not qualified to receive redemp tion; therefore we leave it to die. R. Amram demurred. And why should the exchanged animal not be eaten by the owners when blemished? In what way is this different from an animal exchanged for a firstling and a tithed animal? For we have learnt: Animals exchanged for a firstling and a tithed animal, and also their offspring and their offspring's offspring until the end of time are like a firstling and a tithed animal and are eaten by their owners when blemished![9] Said Abaye to him: In this case it bears the name of its mother, and, in the other case, it bears the name of its mother. In this case it bears the name of its mother,[10] for it is called the animal substituted for a firstling and a tithed animal; and, therefore, as a firstling and a tithed animal are eaten by their owners when blemished, so the exchanged animal is eaten under similar circumstances. And in the other case, it bears the name of its mother. It is called the animal exchanged for the dedicated sacrifice; and, as a dedicated sacrifice which became blemished may not be eaten unless redeemed, so also an animal exchanged for a dedicated sacrifice is not eaten unless redeemed. But in this present case, it is not qualified to receive redemption and, therefore, [it is left to die]. It has been taught in accordance with the opinion of R. Nahman: Whence do we derive that an animal exchanged for a blemished dedicated sacrifice is left to die? Because it says: ‘nevertheless these shall ye not eat of them that chew the cud, he is unclean to you’.[11] But is this text not required to teach that there are five sin-offerings that are left to die?[12] — The latter teaching we learn from [the continuation of the text]: ‘Of them that divide the hoof, he is unclean to you’. It has also been taught to the same effect: Whence do we derive that the five sin-offerings are left to die? Because it says: ‘All of them that divide the hoof, he is unclean’. But is not the rule of the five sin-offerings that are left to die learnt purely from tradition? — Rather the text comes to teach us concerning the animal exchanged for a guilt-offering that it pastures [until blemished]. But is not the rule of a guilt-offering also learnt purely from tradition, for wherever a sin-offering is left to die, in a corresponding case, a guilt-offering pastures?[13] — The fact is that the text still refers to the rule of the five sin-offerings left to die, and both the text and the traditional law are necessary. For had I the text alone, I might have said that they are condemned to pasture. Therefore, the traditional law teaches us that they are to die. And had I the traditional law alone I might have said that if by chance he ate of these five sin-offerings, he performed a forbidden action, but he did not transgress a negative precept. Therefore a scriptural text teaches us that he transgresses a negative precept, [ye shall not eat]. Or if you wish, I may say that it is in order to compare an object the rule of which is derived from the text of them that chew the cud, with an object the rule of which is derived from the text of them that divide the hoof, so as to teach that, just as there, they are condemned to die, so here also they are condemned to die.[14]

MISHNAH. IF ONE RECEIVES FLOCK FROM A HEATHEN ON ‘IRON TERMS’,[15]

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(1) As forbidden to be used, as the text says, And eat, implying, ‘but not milk’. There is no need to make the general rule of the first part of the Baraitha include milk as permissible, for since the offspring are permitted, all the more so is the milk. Again, the general rule in the second part of the Baraitha could not include the case of one who slaughters without the Temple Court as punishable with excision, for here, too, he may be exempt, for since the sacrifice cannot be offered up in the Temple, there is no prohibition of killing them outside the Temple Court.

(2) Those in embryo before redemption and born after redemption and consecrated for a sacrifice, i.e., for the particular

sacrifice of the mother.

(3) For R. Huna holds that they are not subject to redemption at all and that they are condemned to die whereas from the Baraitha we deduce that they are subject to redemption and are consecrated for a particular sacrifice.

(4) Which is an anomaly, that an unblemished animal should be redeemed.

(5) Where the dedication preceded the blemish. This is the continuation of the latter part of the Baraitha above. V. Rashi and R. Gershom.

(6) So (Rashi), v. Sh. Mek.

(7) An animal with a cataract, if offered up in the Temple, is not disqualified as a sacrifice according to the view of R. Akiba, because, in the first place, a cataract is not considered a blemish in birds and, moreover, it is not a blemish of a prominent nature. But an animal with a prominent and permanent blemish, since it is invalid as a sacrifice in the Temple, is not forbidden to be slaughtered outside the Temple precincts.

(8) Of the blemished animal for which it was exchanged, the exchange having taken place after redemption.

(9) Tem. 21a.

(10) The expression ‘its mother’ used in this connection means, in virtue of the animal from which it derives its status. The expression also ‘eaten by their owners’ mentioned in connection with the firstling, means that if blemished it is eaten by the priests, whereas in connection with a tithed animal, ‘the owners’ refers to the Israelites.

(11) Lev. XI, 4. And we infer this that there is an animal possessing marks of cleanness and yet forbidden to be eaten, viz., an animal exchanged for a blemished sacrifice.

(12) V. Tem. 21b.

(13) V. Nazir 25b.

(14) There is no need for a scriptural text, for the rule of the five sin-offerings is a traditional law. The reason, however, why the Baraitha refers it to the text ‘of them that divide the hoof’ is because it wishes to draw an analogy between the animal exchanged for a blemished sacrifice after redemption, which is inferred from the text ‘of them that chew the cud’ and the rule of the five sin-offerings, inferring that just as the latter are condemned to die, so the former is condemned to die, thus confirming the view of R. Nahman.

(15) Lit., ‘flock of iron’. The terms are that the flock or their equivalent value should be restored to the heathen owner at the end of a stipulated period and that meanwhile the owner shares the offspring. The interests of the owner are consequently well protected against loss and the security is like barzel (iron). V. B.M.. Sonc. ed., p. 405. n. 3.

Talmud - Mas. Bechoroth 16b

THEIR OFFSPRING ARE EXEMPT [FROM THE LAW OF] THE FIRSTLING.[1] BUT THE OFFSPRING OF THEIR OFFSPRING ARE LIABLE [TO THE LAW OF THE FIRSTLING].[2] IF [THE ISRAELITE] PUT THE OFFSPRING IN THE PLACE OF THEIR MOTHERS,[3] THEN THE OFFSPRING OF THE OFFSPRING ARE EXEMPT,[4] BUT THE OFFSPRING OF THE OFFSPRING OF THE OFFSPRING ARE LIABLE [TO THE LAW OF THE FIRSTLING]. RABBAN SIMEON B. GAMALIEL SAYS: EVEN UNTO TEN GENERATIONS THE OFFSPRING ARE EXEMPT [FROM THE LAW OF THE FIRSTLING]. SINCE THEY ARE PLEDGED TO THE HEATHEN.[5] IF A EWE GAVE BIRTH TO WHAT LOOKED LIKE A KID, OR A KID WHICH GAVE BIRTH TO WHAT LOOKED LIKE A EWE, IT IS EXEMPT FROM [THE LAW OF] THE FIRSTLING BUT IF IT POSSESSES CERTAIN CLEAR MARKS [RESEMBLING THE MOTHER] IT IS LIABLE [TO THE LAW OF THE FIRSTLING].

GEMARA. Does this mean to say that since the owner does not take money, therefore it is still the property of the owner? Against this I quote: One must not receive a flock from an Israelite on ‘iron terms’, because It is usury. This shows that it is in the ownership of the receiver?[6] — Said Abaye: This is no difficulty. In the one case [our Mishnah] he [the heathen owner] took the risks of accidents and a fall in value while in the other he [the owner] did not take the risks of accidents and a fall in value. Raba said to him: If he took the risks of accidents and a fall in value, do you call this receiving a flock on ‘iron terms’,[7] and, moreover, where is this distinction implied [in the context]? And, moreover, why does the second part [of the passage quoted above] state: ‘One may receive from a heathen a flock on "iron terms"’? Why not draw a distinction in the first part [itself, as follows]:

When does this apply? Where he [the owner] did not undertake the risks of accidents and a fall in value, but where he undertook the risks of accidents and a fall in value, it is permitted! — Rather said Raba, In both cases he [the owner] did not take the risks of accidents and a fall in value. But here, in connection with the firstling,[8] this is the reason. If the heathen came and wanted money and the Israelite did not give it to him, he would seize the animal, and if he did not find the animal, he would seize its offspring. Therefore the heathen has a share in it,[9] and wherever the heathen has a share [in an animal], it is exempt from [the law of] the firstling.

(IF THE ISRAELITE PUT THE OFFSPRING IN THE PLACE OF THEIR MOTHERS, THE OFFSPRING OF THE OFFSPRING ARE EXEMPT:)[10] Said R. Huna:[11] Their offspring are exempt from the law of the firstling, but the offspring of the offspring are liable to the law of the firstling. Rab Judah. however, said: The offspring of the offspring are also exempt, but the offspring of the offspring of the offspring are liable [to the law of the firstling]. We have learnt in a Mishnah: IF THE ISRAELITE PUT THE OFFSPRING IN THE PLACE OF THEIR MOTHERS, THE OFFSPRING OF THE OFFSPRING ARE EXEMPT.[12] The reason for exemption is because he put them in place of their mothers. But if he did not do so, they would not be exempt. Now, is this not an argument against Rab Judah? — Rab Judah can answer: The same applies even if he did not put the offspring [in the place of the mothers];[13] but the Mishnah, however, teaches us this, that even if he put [the offspring in the place of their mothers],[14] since it is the custom of the heathen to seize the offspring [failing the mother], it is as if he had not put the offspring [in place of their mothers].[15] We are therefore informed [that even so] the offspring of the offspring are exempt, but the offspring of the offspring of the offspring are liable [to the law of the firstling].

We have learnt in the Mishnah: RABBAN SIMEON B. GAMALIEL SAYS: EVEN UNTO TEN GENERATIONS THE OFFSPRING ARE EXEMPT, SINCE THEY ARE PLEDGED TO THE HEATHEN.[16] Now there is no difficulty on the view of Rab Judah who said that the first Tanna [in the Mishnah] goes up to [two] generations,

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(1) For, in the first place, a half of the offspring belongs to the heathen and secondly the latter will seize the offspring if he cannot have the flock (v. infra). The heathen therefore having an interest in the offspring, the Israelite is legally exempt from the law of the firstling.

(2) For the heathen will not go as far as to seize the third generation in place of the mother.

(3) The Israelite has expressly stipulated that if the flock died, the heathen could have the offspring.

(4) Since the owner has a hold on the succeeding generation of animals.

(5) For every time the heathen would lay hands on whatever he found.

(6) And therefore it is as if the giver in return for waiting for his money receives a share of the offspring, which is usury, whereas if the money remained in the possession of the giver, it would not be usury.

(7) For then there would be no security like ‘iron’ for the giver of the animal.

(8) The reason is not because it is in the possession of the heathen, but because it is a pledge with the Israelite.

(9) Lit., ‘the hand (finger) of the heathen is between’.

(10) [The bracketed passage is best left out. V. Marginal Gloss Z.K.].

(11) Referring to the first passage in the Mishnah.

(12) [No objection is raised from the first clause of our Mishnah, as the phrase ‘OFFSPRING OF THE OFFSPRING there may be of a more general connotation meaning simply that with certain later generations the liability begins. V. Sh. Mek. and p. 115. n. 1.]

(13) That the second generation of offspring are exempt from the law of the firstling.

(14) And thus mortgaged the first generation for the heathen, so that the latter ought not to have any further claim on successive generations of offspring.

(15) And therefore I might have said that successive generations of offspring should always be exempted.

(16) It is assumed that R. Simeon b. Gamaliel refers to the first clause.

[of offspring in exempting] that is why Rabban Simeon b. Gamaliel said to him: EVEN UNTO TEN GENERATIONS THE OFFSPRING ARE EXEMPT.[1] But according to R. Huna who said that the first Tanna does not go up to [two] generations [of offspring in exempting], what does Rabban Simeon b. Gamaliel mean by 'unto ten generations'?[2] R. Huna can reply: R. Simeon b. Gamaliel refers to [the second clause] where the Israelite put [the offspring in the place of their mothers], and where the Tanna In question goes up to [two] generations [of offspring].[3]

Come and hear: If one received a flock from a heathen on 'iron terms', their offspring are exempt. but the offspring of the offspring are liable [to the law of the firstling].[4] Now, is this not an argument against R. Judah? — R. Judah can reply: Read: They and their offspring.[5] Some there are who say: 'They and their offspring are exempt'. Now is this not an argument against R. Huna? — R. Huna can reply: Read: They,[6] the offspring, are exempt, whereas the offspring of the offspring are liable to the law of the firstling.

IF A EWE GAve BIRTH TO WHAT LOOKED LIKE A GOAT etc. R. Oshaia of Nehardea[7] came bringing a Baraitha with him: A ewe born of a goat or a goat born of a ewe, is declared liable by R. Meir, whereas the Sages exempt it. Said R. Oshaia to Rabbah: When you go up into the presence of R. Huna, inquire from him: R. Meir makes it liable for what? Shall I say for [the law of] the firstling? Does not R. Meir hold that [when Scripture says]: But the firstling of an ox,[8] it intimates that the law of the firstling does not apply until the sire is an ox and its firstling is an ox? [Shall I say] then, he means liable to the rule of [giving] the first shorn wool to the priest? [Hardly so], for does he not hold with the Tanna of the School of Ishmael who taught: Lambs whose wool is hard, are exempt from the rule of the first shorn wool, for it says: And if he were not warmed with the fleece of my sheep?[9] He replied to him: Let us see, we are dealing here with a case where a ewe gave birth to what looked like a goat and its sire was a he-goat[10] and the difference of opinion is whether we take into consideration the nature[11] of the sire in connection with the prohibition of killing the mother with its young on the same day.[12] For R. Meir holds that we take into consideration the nature of the sire, whereas the Rabbis hold that we do not take into consideration the nature of the sire.[13] If so, let them also differ as to whether we take into consideration the nature of the sire in other cases, as in the dispute between Hanania and the Rabbis?[14] Rather, the reference is indeed to the law of the firstling, and what we are dealing here with is the case of a ewe born of a ewe which, in turn, was born of a goat. One authority [R. Meir] maintains that we follow the mother and this is not a nidmeh,[15] while the other authority maintains that we follow the mother's mother, and therefore this is a nidmeh. Or if you prefer I may say: It is a case of a ewe born of a goat which, in turn, was born of a ewe. One authority maintains that the sheep goes back to its former status[16] whereas the other authority maintains that the sheep does not go back to its former status. R. Ahi said: We suppose it possesses certain marks [resembling the mother].[17] And who are the Sages [who exempt]? — R. Simeon, who holds [that the law of the firstling does not apply] until its head and the greater part of the body resemble its mother. Said R. Johanan: R. Meir agrees however[18] that in the case of the goat for the New Moon, we require it to be the offspring of a she-goat. What is the reason? Because Scripture says: And one [he-goat],[19] — the singled out since the six days of the Creation. And do we derive it from this text? Do we not derive it from another text as follows: [Scripture says]: a bullock or a sheep;[20] this excludes kil'ayim;[21] [the words] 'or a goat' exclude nidmeh? — Both texts are necessary. For, from the latter text alone, I might have inferred that this is the case only when it has not returned to its original status,[22] but where it has returned to its original status[23] I might have thought it is not a case of nidmeh. And from the former text alone I might have inferred that this is only the case with an obligatory sacrifice, but in the case of a freewill-offering there is no prohibition as regards nidmeh.[24] There is therefore a need [for both texts]. Said R. Aha b. Jacob: All [the authorities concerned, even R. Meir] agree that by using its wool one does not become liable to lashes for kil'ayim.[25] For Scripture says: Thou shalt not wear a mingled stuff wool and linen

together;[26] just as the linen must be proper linen,[27] so the wool must be proper wool. Said R. Papa: All [the authorities concerned] agree that its wool is disqualified for purple blue.[28] For Scripture says: Thou shalt not wear mingled stuff. Thou shalt make thee twisted cords; just as the flax must be proper flax, so the wool must be proper wool. Said R. Nahman b. Isaac: All [the authorities concerned] agree that its wool is not liable to the uncleanness of plagues. For Scripture says: Whether it be a woollen garment or a linen garment;[29] just as the flax must be proper flax, similarly the wool must be proper wool. Said R. Ashi: We will also say something [on similar lines]. If one trains a vine over a fig-tree, its wine is unfit for libations. What is the reason? Scripture says: A sacrifice and drink-offerings;[30] just as the sacrifice must be a normal animal, similarly the drink-offerings must be a normal liquid. Rabina demurred to this.[31] If one trains flax over a shrub does it cease to be proper flax? If this is so, then you cannot say that 'just as flax must be proper flax', since flax can also be transformed! — He replied to him: In the one case, the smell had altered,[32] in the other, its smell has not altered.[33]

MISHNAH. IF A EWE WHICH NEVER BEFORE HAD GIVEN BIRTH BORE TWO MALES AND BOTH HEADS CAME FORTH SIMULTANEOUSLY, R. JOSE THE GALILEAN SAYS: BOTH BELONG TO THE PRIEST FOR SCRIPTURE SAYS: THE MALES SHALL BE THE LORD'S[34] WHEREAS THE SAGES SAY: IT IS IMPOSSIBLE TO ASCERTAIN EXACTLY [IF BOTH HEADS CAME FORTH SIMULTANEOUSLY]. ONE THEREFORE REMAINS [WITH THE ISRAELITE] AND THE OTHER IS FOR THE PRIEST. R. TARFON SAYS: THE PRIEST CHOOSES THE BETTER ONE.[35] R. AKIBA SAYS: WE COMPROMISE BETWEEN THEM,[36] AND THE SECOND ONE [IN THE ISRAELITE'S POSSESSION] IS LEFT TO PASTURE UNTIL IT BECOMES BLEMISHED.[37]

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(1) For not only are two generations of offspring exempted but even ten are exempted and even more.

(2) Since the first Tanna quoted in the Mishnah only exempts the offspring of the original flock, why does Rabban Simeon say, unto the tenth generation? Let him say that even the offspring of the offspring are exempt and I should have inferred that just as the offspring of the offspring are exempt, although they ware not born of the flock, the same applies to successive generations, even unto ten.

(3) In order to exempt.

(4) [This is apparently the first clause of our Mishnah, cf. supra p. 113, n. 4. Var. lec.: 'If one . . . they, their offspring etc.' quoting a Baraitha. 'Their offspring' is taken to be in apposition to 'they', thus implying that the offspring's offspring are liable contra Rab Judah. V. Sh. Mek.].

(5) Which indicates two generations as being exempt.

(6) The word 'offspring' being in apposition to the word 'they'.

(7) A town in Babylonia, famous as the seat of a college founded by Samuel.

(8) Num. XVIII, 17.

(9) Job. XXXI, 20. Therefore only fleece that warms is called fleece, and the fleece of a goat born of a ewe is hard, goat's wool being hard; v. Hul. 137a.

(10) And he killed the sire with its offspring on the same day.

(11) Lit., 'seed'.

(12) V. Lev. XXII, 28.

(13) And he is consequently exempt since we follow the mother and here it bears no resemblance to the mother.

(14) V. Hul. 78b, where Hanania says he transgresses the prohibition and the Sages absolve him.

(15) An animal suspected of looking like a hybrid.

(16) R. Meir holds that it must be given to the priest and that it is not a nidmeh. The ewe from a goat referred to here does not actually mean a ewe, for a female animal is not consecrated as a firstling, but it means an animal looking like a ewe.

(17) R. Meir holding that it is liable to the law of the firstling as the Mishnah states anonymously, whereas the Rabbis maintain that he is not liable.

(18) Although in respect of the law of the firstling R. Meir holds that the sheep goes back to its former status.

(19) Num. XXVIII, 15. We infer from this that the goat must belong to the family of goats all time.

(20) Lev. XXII, 27.
(21) An animal born from heterogeneous parents which exempted from the law of the firstling.
(22) Lit., 'it did not go back to its generation (species)'. A ewe born of a goat, which was in turn born of a goat and therefore a nidmeh.
(23) I.e., if its grandmother was a ewe.
(24) For the words, 'a bullock or sheep', refer to a freewill-offering. The obligatory sacrifice mentioned here includes not only a goat for the New Moon but also Festival goats as the word 'One' is used of those offerings as well.
(25) The wearing of a garment containing a mixture of wool and linen.
(26) Deut. XXII, 11.
(27) Lit. 'must not have been transformed'.
(28) The purple-blue thread used for the fringes.
(29) Lev. XIII, 47.
(30) Ibid. XXIII, 37.
(31) If by overhanging and training over the other, a transformation is effected, then the same might be said concerning flax.
(32) The wine of that vine.
(33) The training flax over a shrub does not alter its smell and, moreover, in the latter case a change in its smell is immaterial.
(34) Ex. XIII, 12. The word 'males' implying two.
(35) For the stronger one came forth first.
(36) Whoever takes the fatter animal must give the other a half of its excess value, v. Gemara.
(37) And after that he eats it, the reason being that it is a doubtful first-born and cannot therefore, be eaten unblemished. The same ruling applies also to the priest's animal, as we are dealing with firstlings in our day, after the destruction of the Temple. Or, indeed, it may, even deal with a firstling in Temple times; seeing that there is uncertainty as to whether the animal is a firstling, it cannot be killed in the Temple court.

Talmud - Mas. Bechoroth 17b

THE OWNER IS LIABLE FOR THE [PRIEST'S] GIFTS,[1] WHEREAS R. JOSE EXEMPTS HIM.[2] IF ONE OF THEM DIED, R. TARFON SAYS: THEY DIVIDE [THE LIVING ONE]. R. AKIBA SAYS: THE CLAIMANT MUST PRODUCE THE EVIDENCE. IF IT GAVE BIRTH TO A MALE AND A FEMALE, THE PRIEST RECEIVES NOTHING [IN SUCH CIRCUMSTANCES].[3] GEMARA. The School of Jannai said: Of R. Jose the Galilean we have heard that he said: It is possible to ascertain [simultaneity] in natural processes,[4] and, therefore, how much more so is it possible to ascertain exactly in human actions. The Rabbis [we know] hold that it is impossible to ascertain simultaneity in natural processes. What is their view with reference to human actions? — Come and hear: A red line went round the altar in order to divide between the blood to be sprinkled above and the blood to be sprinkled below.[5] Now if you say that it is impossible to be exact in human actions, sometimes the priest might put the blood which should be above, below the [middle of] the altar?[6] — The line is made somewhat wide.[7] Come and hear. [Proof can be adduced] from the measurements of the furniture [of the Sanctuary] and from the measurements of the altar![8] — It is different there, since the Divine Law said: Do it, and in whatever manner you are able to do it, it will be satisfactory, as David said: All this the Lord made me understand in writing by His hand upon me.[9] Said R. Kattina: Come and hear: [If an unclean oven] is divided into two and the parts are equal, both are unclean, for it is impossible to be exact![10] — R. Kahana replied: An earthen vessel is different because it has holes.[11] Come and hear: If [a slain body is] found at exactly the same distance between two cities, both bring two heifers.[12] These are the words of R. Eliezer. What is the reason? Is it not because he holds that it is possible to be exact in human actions[13] and the words [the city] which is nearest[14] imply [even the cities] which are nearest? — No. R. Eliezer

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(1) For if it is a firstling, then the entire animal is the priest's and if not, then it is hullin and is liable for the priest's gifts.
(2) For it is as if the priest had taken possession of the animal and when blemished had returned it to the Israelite, in

which circumstances the latter is exempt.
(3) Even R. Tarfon agrees to this for here if the female came forth first, there is no firstling at all. Therefore, the priest receives nothing and the animals pasture until blemished and are then eaten. Tosaf. adds that even if the two heads came forth simultaneously, since there is a female, the priest cannot make any claim.
(4) I.e., birth as in the example of our Mishnah and this would certainly be the case in human actions in regard to which we are intent on ascertaining the exact measurement or size of any object.
(5) V. Mid. III, 1.
(6) If it is impossible to be exact, then it is likely that the line is marked below the middle of the altar and therefore when the blood for the upper half of the altar is sprinkled above the line, it may still be really in the lower half. Again. if the line is marked higher than the middle of the altar, then when the blood to be sprinkled below is sprinkled lower than the line, it may still be in the upper half.
(7) The line encircling the altar was not a thin line but was fairly wide extending both below and above the exact middle and therefore there could be no fear of the blood for the upper part being sprinkled below and vice trio, as above the line was certainly the upper portion of the altar, and below the line was certainly the lower part.
(8) Since Scripture lays down these specific measurements apparently it is possible to be precise in human actions.
(9) I Chron. XXVIII, 19. Rashi deletes this quotation.
(10) Since it is im possible to be exact, one can say that each portion is the greater and the law is that if the greater part of the oven remains it is unclean; v. Hul. 28b.
(11) In the place where it is broken it is not level and one cannot therefore be sure of the measurement.
(12) V. Deut. XXI, 1f.
(13) For we can measure the distance accurately and we have Scriptural authority that where a slain body is the same distance from two cities, then two heifers can be brought.
(14) Ibid. XXI, 3.

Talmud - Mas. Bechoroth 18a

holds with R. Jose the Galilean who said: It is possible to ascertain simultaneity in natural processes, and how much more so in human actions.[1]

May we say that Tannaim differ in this matter? If [a slain body was] found at the same distance between two cities, we do not perform the ceremony of breaking the heifer's neck.[2] R. Eliezer says: Both cities bring two heifers. Is not the difference of opinion based on this very point? For the first Tanna holds: that it is impossible to be exact,[3] whereas R. Eliezer holds that it is possible to be exact! — But can you really say this? If the first Tanna holds that it is impossible to be exact, why did they not have the ceremony of breaking the heifer's neck? Let the two cities bring one heifer between them and make a stipulation?[4] Rather, according to these Tannaim quoted above, they all hold that it is possible to be exact.[5] The point at issue, however, is whether we hold that the words '[the city] which is nearest', imply 'but not [the cities] which are nearest': The first Tanna holds: The words, 'Which is nearest' imply 'but not [the cities] which are nearest', whereas R. Eliezer holds: '[The city] which is nearest', implies even [the cities] which are nearest. What do we decide?[6] R. Hiyya b. Abin reported in the name of R. Amram: A Tanna taught: If a slain body is found at exactly the same distance between two cities, R. Eliezer says: Both cities bring two heifers, whereas the Sages say: They shall bring one heifer between them and make a stipulation. Now what is the reasoning of the Rabbis [Sages]? If the Rabbis hold that it is possible to be exact and the words '[The city] which is nearest', imply also '[the cities] which are nearest', then let them bring two heifers. And if the words '[The city] which is nearest' imply 'but not [the cities] which are nearest, then they should not bring even one heifer? You can, therefore, deduce from this that the Rabbis hold that it is impossible to be exact even in human actions. This is proved.

R. TARFON SAYS: THE PRIEST CHOOSES FOR HIMSELF THE BETTER ONE. What is the reason of R. Tarfon? — He holds that the animal which is stronger came forth first.

R. AKIBA SAYS: WE COMPROMISE BETWEEN THEM, etc. R. Hiyya b. Abba reported in the name of R. Johanan: The priest takes the lean one. Said R. Hiyya b. Abba to R. Johanan: But do we not read meshammenin?[7] — He replied to him: While you were not yet eating date-berries[8] in Babylonia, we expounded R. Akiba's statement from the latter part of the Mishnah. For the latter part of the Mishnah says: IF ONE OF THEM DIES, R. TARFON SAYS THEY DIVIDE IT. R. AKIBA SAYS: THE CLAIMANT MUST PRODUCE THE EVIDENCE. Now, if we were to assume that the word meshammenin etc. means that they are divided equally, here also let them divide the live animal equally! Rather what is meant by meshammenin is that the fat animal [remains to be divided] between them,[9] for [the Israelite] says to the priest: Bring a proof that it is a firstling and take it.[10] AND THE SECOND ONE [IN THE POSSESSION OF THE ISRAELITE] IS LEFT TO PASTURE UNTIL IT IS BLEMISHED

What is the reason of R. Meir?[11] — Said R. Johanan: Because the priest can make a claim upon him from two sides. For he can say to him: If it is a firstling then it belongs to me entirely. And if it is not a firstling, give me the priest's gifts therefrom. And R. Jose — what is his reason? Said Raba: [The Rabbis] put one who had not taken possession, in the position of one who had taken possession. So although it had not reached the priest's hands, it is as if it had reached his hands and he had sold it to the Israelite when blemished.[12] Said R. Eleazar: All [the authorities concerned] agree that an animal which is a doubtful first-born, since the priest has [a beast] in its stead,[13] is liable for the priest's gifts. [You say] all the authorities concerned. Now, whose view does this represent? R. Jose's! But is not this obvious? For R. Jose exempts only where the priest has [a beast] in its stead, in which case [the Sages] put one who has not taken possession, in the position of one who had taken possession. But where the priest has nothing In its stead, it is not so? — You might have thought that the reason of R. Jose was because he held that if you make him liable for the priest's gifts he may come to shear and work [the animal], even where the priest has nothing in its stead. He consequently informs us [that we do not fear this]. But how can you say this?[14] Have we not learnt [in the subsequent Mishnah]: For R. Jose used to say:

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(1) Whereas our enquiry is with reference to the view of the Rabbis.

(2) For each city can maintain that it is not the nearest.

(3) And therefore there is no ceremony of breaking the heifer's neck at all.

(4) 'If', let each city say, 'I am the nearest then the heifer shall atone for me, and if my neighbour is the nearest, it shall atone for her'.

(5) For they concur with R. Jose.

(6) According to the Rabbis, is it possible to be precise in human actions or not?

(7) This is taken to be connected with rt. meaning 'fat', indicating that the difference in the value of the fat one is shared between the Israelite and the priest.

(8) I.e., while yet young.

(9) And the priest takes the lean one, failing the evidence that the fat one was a first-born.

(10) In the same way as in the latter part of the Mishnah according to R. Akiba, for we apply here the principle of money of doubtful ownership.

(11) I.e., the anonymous Mishnah which always represents the view of R. Meir.

(12) And then the priest received something in return, i.e the other animal, and a priest who sold a firstling to an Israelite is, according to the ruling (supra 12b) exempt from the priest's gifts.

(13) Where for example a female and a male are born and there is a doubt as to the first-birth, since the priest received nothing in its place, the animal grazes until it is blemished and is therefore liable for the priest's gifts, for in such a case you cannot argue that it is as if it had been acquired by the priest and subsequently sold to the Israelite, as the priest received nothing in return.

(14) That the reason of R. Jose was because of the fear of shearing and working the animal.

Wherever the priest has [a beast] in its stead, he is exempt from the priest's gifts, whereas R. Meir makes him liable? The reason therefore is because the priest has [a beast] in its stead, but if the priest has nothing in its stead, it would be other wise![1] — You might have assumed that R. Jose was arguing according to the view of R. Meir [as follows]: My own view is that even if the priest has nothing in its stead [he is not liable for the gifts]. For if you render him liable for the priest's gifts, he may come to shear and work [the animal]. But according to your view, at least admit that where the priest has [a beast] in its stead, [the Sages] put one who had not taken possession in the position of one who had taken possession. To this R. Meir replied to him: It is not so.

Said R. Papa: All [the authorities concerned] agree with reference to a doubtfully tithed animal[2] that it is exempted from the priest's gifts. You say 'all [the authorities concerned]'? Whose opinion is that? It is R. Meir's. But is not this obvious? For R. Meir only makes him liable for the priest's gifts in connection with an animal which is a doubtful first-born, since the priest can make claim upon him from two sides,[3] but in the case of a doubtfully tithed animal, it is not so![4] — You might have assumed that the reason of R. Meir was that the law of the priest's gifts should not be forgotten and consequently even in the case of a doubtfully tithed animal, the ruling is the same. He therefore informs us [that it is not so]. But how can you say this?[5] Have we not learnt: For R. Jose used to say that wherever the priest has [a beast] in its stead it is exempt, whereas R. Meir makes him liable?[6] — You might have assumed that R. Meir, even in the case of a doubtfully tithed animal, makes him liable, and the reason why they differ [in the matter where the priest has a beast] in its stead, is to show how far R. Jose is prepared to go, since he exempts even where the priest can make a claim upon him from two sides. He therefore informs us [that this is not so].

IF ONE DIES, R. TARFON SAYS: THEY DIVIDE THE LIVING ONE. Why should they divide [the living one]? Let us see. If the fat one died, it is the priest's [which has died],[7] and the one remaining is the owner's. And if the lean one died, it is the owner's [which has died] and the one remaining is the priest's! — Said R. Ammi: R. Tarfon retracted.[8]

R. AKIBA SAYS: THE CLAIMANT MUST PRODUCE THE EVIDENCE. Said R. Hiyya: On R. Tarfon's view, what does the position resemble? That of two men who gave [two animals] in charge of a shepherd and [one died], where the shepherd leaves the living one between them and departs.[9] On the view of R. Akiba, to what can the position be compared? To that of a man who gave an animal in charge of an owner [of animals],[10] where the claimant must produce the evidence. Then what is the point at issue?[11] Will R. Akiba deny where two give [two animals] in charge of a shepherd, that the shepherd leaves [the living one] and departs?[12] And will R. Tarfon differ in the case where one gave an animal in charge of an owner [of animals]? — Said Raba, or some say. R. Papa: All the authorities concerned agree that where two men gave [two animals] in charge of a shepherd, the shepherd leaves [the living one] between them and departs. Also in the case where one gave an animal in charge of an owner [of animals], that the claimant must produce the evidence. The point at issue, however, is where the ground is the owner's and the priest is the shepherd.[13] R. Tarfon holds: The owner gives possession to the priest in his ground[14] since he is desirous that a mizwah[15] should be performed through his property and therefore the position is that of two who gave [animals] in charge of a shepherd where the shepherd leaves [the living one] between them and departs. But R. Akiba says: Since he would suffer loss,[16] he does not give him any possession,[17] and it is therefore similar to the case of one who gave an animal in charge of the owner [of animals], where the claimant must produce the evidence.

MISHNAH. IF TWO EWES WHICH HAD NEVER PREVIOUSLY GIVEN BIRTH BORE TWO MALES, BOTH BELONG TO THE PRIEST. [IF THEY GAVE BIRTH] TO A MALE AND A FEMALE, THE MALE BELONGS TO THE PRIEST. [IF THEY GAVE BIRTH] TO TWO MALES AND A FEMALE, ONE REMAINS WITH HIM,[18] AND THE OTHER BELONGS TO THE PRIEST. R. TARFON SAYS: THE PRIEST CHOOSES THE STRONGER ONE. R. AKIBA

SAYS: THE FAT ONE REMAINS BETWEEN THEM[19] AND THE SECOND PASTURES UNTIL BLEMISHED, AND HE IS ALSO LIABLE FOR THE PRIESTS GIFTS; R. JOSE HOWEVER EXEMPTS HIM. IF ONE OF THEM DIES, R. TARFON SAYS: THEY DIVIDE [THE LIVING ONE]. R. AKIBA SAYS: THE CLAIMANT MUST PRODUCE THE EVIDENCE. [IF THEY GAVE BIRTH TO] TWO FEMALES AND A MALE OR TWO MALES AND TWO FEMALES, THE PRIEST RECEIVES NOTHING IN SUCH CIRCUMSTANCES.[20] IF ONE [OF THE EWES] HAD GIVEN BIRTH AND THE OTHER HAD NEVER PREVIOUSLY GIVEN BIRTH. AND THEY BORE TWO MALES, ONE REMAINS WITH HIM AND THE OTHER BELONGS TO THE PRIEST. R. TARFON SAYS: THE PRIEST CHOOSES THE STRONG ONE. R. AKIBA SAYS: THE FAT ONE REMAINS BETWEEN THEM[19] AND THE SECOND PASTURES UNTIL BLEMISHED, AND HE IS ALSO LIABLE FOR THE PRIESTS' GIFTS; R. JOSE HOWEVER EXEMPTS HIM. FOR R. JOSE SAYS: WHEREVER THE PRIEST RECEIVES [AN ANIMAL] IN ITS STEAD,[21] HE IS EXEMPT FROM THE PRIESTS GIFTS.[22] R. MEIR HOWEVER MAKES HIM LIABLE. IF ONE OF THEM DIES. R. TARFON SAYS THEY DIVIDE [THE LIVING ONE]. R. AKIBA SAYS: THE CLAIMANT MUST PRODUCE THE EVIDENCE. [IF THEY GAVE BIRTH] TO A MALE AND A FEMALE, THE PRIEST RECEIVES NOTHING IN SUCH CIRCUMSTANCES.[23]

GEMARA. [All these cases where R. Tarfon and R. Akiba differ] are necessary [to be stated]. For if we had been informed of the first case above,[24] [I might have assumed] that in that case R. Akiba held that the claimant must produce the evidence, because two males came from one ewe,[25] but in the case of two ewes which had never previously given birth, and where two animals [a male and a female] were born from one, and one [male] from the other, I might have said that he agrees with R. Tarfon that the animal which came forth singly is much the better one.[26] And if he had stated only the latter case, I might have assumed that in this case R. Akiba [held that the claimant must produce the evidence], for neither had previously given birth, but where one ewe had given birth and the other had not given birth and they begot two males, I might have said that he agrees with R. Tarfon,

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(1) Thus we see It explicitly stated that the reason is because the priest has a beast in its stead.

(2) An animal numbered tenth in tithing, which jumped back among the untithed ones. There is in the case of each animal a doubt whether it is the tithed one and therefore the animals pasture until blemished, when they are eaten by the owners. (Infra 58b.)

(3) If it is a firstling, then it is entirely his, and if not, then it is hullin and subject to the priest's gifts.

(4) For the priest can only claim on the ground that it is hullin, an unconsecrated animal, since a tithed animal belongs to the owner.

(5) That the reason of R. Meir is lest the law of the priest's gifts be forgotten.

(6) Now, if the reason of R. Meir with reference to the firstling is because the priest can make his claim on two grounds and therefore R. lose argues for exemption, maintaining that the priest cannot say that if it is a firstling then it belongs entirely to him, since he holds that it is as if the priest had, after acquiring the firstling, sold it to the Israelite. But if you maintain that the reason of R. Meir is lest the law of the priest's gifts be forgotten, why does R. Jose give the reason that the priest has a beast in its stead, since possibly R. Meir himself might have exempted him on that ground. (Rashi).

(7) For R. Tarfon holds that the Priest chooses the stronger one.

(8) From his view in the early part of the Mishnah where he declared that the priest chooses the stronger one.

(9) And similarly the Mishnah is dealing with a case where the surviving animal, a doubtful first-born, was given in charge of a shepherd, and both the owner and priest claim it. Here we cannot say that the claimant must produce the evidence, since the animal is in the possession of neither of them.

(10) Who placed it among his herd of animals, one of which died. The owner declares that it is not his animal that has died, and the other makes a similar assertion. Here, since the animal is in the possession of the owner, the priest is the claimant.

(11) Since each of these Tannaim refers to different circumstances.

(12) Here surely R. Akiba cannot maintain that the claimant must produce the evidence. And similarly, R. Tarfon cannot maintain that where one gave an animal in charge of an owner, the living animal is divided.

(13) Where, e.g., the living firstling is in the ground of the owner and the priest is the shepherd of all his animals. A ground has the power to acquire chattels on behalf of its owner, v. B.M. 9b.
(14) So that the priest might acquire the firstlings immediately after birth.
(15) A good deed, by rearing the firstlings of the priest in his ground. Therefore it is as if the ground belonged to both. The ground also is like the shepherd in the case where two gave animals in charge of a shepherd and therefore they divide the surviving animal.
(16) I.e., in the case of an animal of uncertain first-birth, the owner would suffer a loss if the ground was the priest's.
(17) Of the ground.
(18) For there was a female with it, and therefore one can say that the female came first.
(19) And the priest takes the lean one. Heb. Meshammenim1. V. supra p. 121 n. 1.
(20) For one can say that each ewe gave birth to a male and a female and in each case there is a doubt as to whether the male came first.
(21) Where the priest receives one of the animals of uncertain first-birth, the other animal is exempt from the priests' gifts.
(22) For the reason stated by Raba supra 18a.
(23) Since perhaps the ewe which had never given birth begot the female, and the ewe which had given birth before begot the male.
(24) Where a ewe begot two males.
(25) And as there is a doubt, we say that the claimant must produce the evidence.
(26) For the reason why this is the strong one is because it came forth without a companion and had more room in emerging; therefore it is undoubtedly the firstling.

Talmud - Mas. Bechoroth 19a

that the one which had not given birth is much the better one.[1] There is need therefore [for the enumeration of all the instances where R. Tarfon and R. Akiba differ].

MISHNAH. WITH REGARD TO [AN ANIMAL] EXTRACTED THROUGH THE CESAREAN SECTION AND THE FIRSTLING WHICH CAME AFTER IT, R. TARFON SAYS: BOTH PASTURE UNTIL BLEMISHED AND ARE EATEN WITH THEIR BLEMISHES BY THE OWNERS,[2] WHEREAS R. AKIBA SAYS: IN BOTH CASES THE LAW OF THE FIRSTLING DOES NOT APPLY: IN THE FIRST, BECAUSE IT IS NOT THE FIRST-BIRTH OF THE WOMB, AND THE SECOND, BECAUSE ANOTHER [ANIMAL] PRECEDED IT.

GEMARA. On what principle do they differ? — R. Tarfon is in doubt whether a firstling in only one respect is the firstling [of Scripture]. whereas R. Akiba is certain that a firstling in only one respect is not the firstling [of the Scripture].

Our Rabbis taught: [A lesson can be derived] from a general proposition which requires complementing by specification and from a specification which requires complementing by a general proposition. For Instance: [Scripture says]: Sanctify unto me all the first-born.[3] I might understand from this that even a female is subject to the law of the firstling. Hence the text expressly states: All the firstling males[4] [that are born].[5] From the word males', however, I might understand that even if a female came forth before it, [it is subject to the law of the firstling]. Hence the text expressly states: That openeth the womb.[6] From the words 'that openeth the womb', however, I might understand that the law applies even if it came after an animal extracted through the cesarean section. Hence Scripture expressly states: The firstling.[7] Said R. Sherabya to Abaye: In the first part [of the above passage],[8] why does not the Talmud bring the text 'The firstling'?[9] From this we see that a firstling in only one respect is the firstling [of the Scripture]. And in the last part [of the above passage],[10] the Talmud brings the text 'firstling'. Consequently, we see that the firstling in only one respect is not the firstling [of the Scripture]! — He replied to him: Indeed a firstling in only one respect may still not be the firstling [of the Scripture][11] and, in the first part [of the above passage], what he means to

say is this: From the word ‘male’ in the text, however, I might infer that even a firstling extracted through the cesarian section is the firstling [of the Scripture]. Hence Scripture expressly states: The first-birth of the womb.[12] Rabina said: Indeed a firstling in one respect may still be the firstling [of the Scripture].[13] and the last part [of the passage] means this: If you should assume that a firstling which came forth after one extracted through the cesarean section is sanctified, what need is there for the Divine Law to write the word ‘Firstling’?[14]

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(1) And therefore its offspring is the stronger and, consequently, the priest should claim it as the firstling.

(2) For they are animals of uncertain first-birth, according to R. Tarfon. In the case of the first animal, although it is the first of the offspring, it is not the first which came forth from the womb. And with regard to the second animal, although it is the first which left the womb, it is not the first of the offspring.

(3) Ex. XIII, 2. This first part is not an illustration of the general proposition which requires a specification to define it, as mentioned above (Rashi).

(4) Deut. XV, 19.

(5) This is an example of a general proposition followed by a specification in which the scope of the proposition is limited by the things specified.

(6) Here we have a case of a specification which is required to define and explain a general proposition as mentioned above. It is not, however, a genuine general proposition followed by a specification referred to in the first portion of the passage where there is no necessity to define the nature of a first-born, since a female can also be first of the womb, the specification. however, limiting the scope of the general proposition to males alone (Rashi).

(7) Ex. XIII, 2. Here we have an illustration of a specification requiring a general proposition to define it.

(8) He calls here the middle part of the above passage commencing ‘From the word males" etc.’, the first part.

(9) If the law of the firstling only applied to an animal which is a firstling in every particular, why does not the Talmud, instead of saying ‘I might infer that even if a female came before’ etc., simply refer to the word ‘firstling, in the text as excluding this assumption, since a genuine firstling must be such in all respects? Hence we may deduce that the scriptural firstling can be an animal which is so only in one respect.

(10) It says ‘one might infer that the animal which came after one extracted through the cesarean section, etc., from which we may conclude that the firstling in only one respect is not a genuine firstling. Thus there is a clear contradiction in the above passage.

(11) For the firstling of the Scripture implies a firstling in every particular.

(12) And here the Talmud could not adduce the text ‘Firstling’ to refute the inference, for in this case the animal is a firstling, since it had never given birth. Therefore he quotes the text. The first-birth of the womb’, which, at the same time, excludes the case of a female born previously through the womb (Rashi).

(13) And we do not derive the exclusion of an animal following one extracted through the cesarean Section from the scriptural word ‘Firstling’, as the latter also indicates that it is a firstling even if it is so in one particular only. But the exclusion is in fact derived from the addition of the word ‘Firstling’.

(14) Let Scripture write: The first-birth of the womb, a male, thou shalt sanctify.

Talmud - Mas. Bechoroth 19b

It cannot be for the purpose of excluding a case of a female which came before it, since this is derived from the text ‘The first-birth of the womb’. Deduce then from here that the additional word ‘Firstling’ excludes the case of an animal which came forth after one extracted through the cesarean section.[1] Said R. Aha of Difti to Rabina: If you should assume that a firstling in one respect is the firstling [of the Scripture],[2] we can well understand that if a male extracted through the cesarean section is followed by a male subsequently born from the womb, the latter is not sanc tified, being excluded by the word ‘Firstling’, since we have here a firstling in respect of the womb but not as regards males and offspring.[3] But in the case of a female extracted from the cesarean section and a male subsequently born from the womb, let it be sanctified, since here we have a firstling of males and the firstling of the womb?[4] — The fact is that the best explanation is that of Abaye.[5]

CHAPTER III

MISHNAH. IF ONE BUYS AN ANIMAL FROM A HEATHEN NOT KNOWING WHETHER IT HAD GIVEN BIRTH OR HAD NEVER YET GIVEN BIRTH, R. ISHMAEL SAYS: THAT BORN OF A GOAT IN ITS FIRST YEAR CERTAINLY BELONGS TO THE PRIEST; AFTER THAT, IT IS A QUESTIONABLE CASE [OF A FIRSTLING].[6] THAT BORN OF A EWE TWO YEARS OLD CERTAINLY BELONGS TO THE PRIEST; AFTER THAT, IT IS A QUESTIONABLE CASE [OF A FIRSTLING]. THAT BORN OF A COW OR AN ASS THREE YEARS OLD CERTAINLY BELONGS TO THE PRIEST; AFTER THAT, IT IS A QUESTIONABLE CASE [OF A FIRSTLING].[7] SAID R. AKIBA TO HIM: IF AN ANIMAL WERE EXEMPTED [FROM THE LAW OF THE FIRSTLING] ONLY WITH THE BIRTH OF [ACTUAL] OFFSPRING, IT WOULD BE AS YOU SAY. BUT THE FACT IS [AS THE RABBIS] SAID: THE SIGN OF OFFSPRING IN SMALL CATTLE IS A DISCHARGE [FROM THE WOMB].[8] IN LARGE CATTLE, THE AFTER-BIRTH; IN A WOMAN, THE SIGNS ARE THE FOETUS AND THE AFTER-BIRTH. THIS IS THE GENERAL RULE: WHEREVER IT IS KNOWN THAT IT HAD GIVEN BIRTH,[9] THE PRIEST RECEIVES NOTHING. WHEREVER IT HAD NEVER GIVEN BIRTH, IT BELONGS TO THE PRIEST. IF THERE IS A DOUBT, IT SHALL BE EATEN IN ITS BLEMISHED STATE BY THE OWNERS.

GEMARA. [The Mishnah says] that, after that, it is a questionable case [of a firstling]. Why is it a questionable case? Why not go by the majority of animals which become pregnant and beget in their first year, and [so we say that] this one certainly gave birth in the first year?[10] May we, therefore, not say that R. Ishmael holds according to R. Meir, who takes into consideration the minority? — You may say that he even concurs with the Rabbis, for the Rabbis go by the majority only when it is the majority which is before us, as e.g. the case of the nine stalls[11] and the Sanhedrin.[12] But in the case of a majority which is not before us,[13] the Rabbis do not go by the majority. But is there not the case of minors, a boy and a girl,[14] which is a majority that is not before us, and still the Rabbis go by the majority? For we have learnt: Minors, whether boy or girl, do not perform the act of halizah[15] nor the levirate marriage.[16] This is the teaching of R. Meir. [The Rabbis] said to him: You rightly say that they do not perform the act of halizah, for Scripture says a man;[17] and we put a woman on a level with a man [in this respect]. But what is the reason why they do not perform the levirate marriage? — He thereupon replied to them: A boy minor [is not allowed to do so]. lest he be found to be a eunuch,[18] and a girl minor, lest she be discovered to be sterile[19] and thus render it a case of contact with a forbidden relation.[20] And the Rabbis? — We go by the majority of boys in the world, and the majority of boys are not eunuchs. We go by the majority of girls [in the world], and the majority of girl minors are not sterile![21] — Rather said Raba:

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(1) That it is not sanctified, but in the case where a female was born before through the cesarean section, the male animal following, it is still the firstling of the Scripture, although it is not a firstling as regards birth, for a firstling need not be so in every respect.

(2) And an animal which was born after one which came through the cesarean section is excluded, not by the implication of the word ‘Firstling’, but owing to the addition of the word ‘Firstling’.

(3) It is logical to maintain that the additional word ‘Firstling’ would exclude a case of this character.

(4) For the additional word can only exclude one case, whereas the Baraitha above implies that in both instances, even where a female was extracted through the cesarean section and a male was born from the womb, it is not the Scriptural firstling.

(5) That the significance of the term ‘Firstling’ is that in every particular the animal must be a firstling and therefore all the cases cited above are excluded.

(6) The animal therefore grazes until it is blemished and it is then eaten by the owners.

(7) And in the case of an ass of a questionable first-birth, the Israelite separates a lamb on its behalf, which, however, he retains for himself.

(8) And we say that there is an abortion. We fear then lest it discharged in its first year, and therefore that born of a goat, even in its first year is a questionable case of a first-birth.

(9) Either actual birth or a discharge from the womb.
(10) Consequently, the animal born now should be regarded as genuine hullin, to be eaten unblemished.
(11) Each selling meat killed ritually and one stall selling ritually forbidden meat. A piece of meat is found on the ground before one of these stalls and it is not known whether it is kosher (ritually fit to be eaten) or not. The ruling is that whatever comes out of a heterogeneous mass is presumed to come from the larger element in it and, in this instance, it is a majority which is before us, since the stalls are before us to witness.
(12) In a court of law, where twelve judges absolve and eleven condemn and we are guided by the views of the majority. Here, too, the majority is one which is visible to us; v. Hul. 11a.
(13) As in this case, where we argue that the majority of the animals the world over are pregnant, etc.
(14) A boy under thirteen years of age, and a girl under twelve.
(15) The ceremony of taking off the brother-in-law's shoe. (Deut. XXV, 5-11.)
(16) To marry the wife of a brother who died without issue.
(17) 'So shall it be done with that man', (Deut. XXV, 9.) Excluding, therefore, a minor.
(18) Impotent as regards a sexual act.
(19) Incapable of conception.
(20) A woman forbidden to marry a certain man and vice versa, owing to consanguinity.
(21) This proves that the Rabbis follow also a majority which is not before.

Talmud - Mas. Bechoroth 20a

It is the best explanation [to say that] R. Ishmael holds according to R. Meir, who takes into consideration the minority. Rabina said: You may still say that he holds with the Rabbis,for the Rabbis go by the majority only in the case of a majority that does not depend on action, but in the case of a majority which depends on action,[1] it is not so.

Our Rabbis taught: That born from a goat in its first year, certainly belongs to the priest; after that, it is a questionable case [of a firstling]. That born of a ewe two years old certainly belongs to the priest; after that, it is a questionable case. That born of a cow three years old certainly belongs to the priest; after that, it is a questionable case. The rule for a she-ass is the same as for a cow. R. Jose b. Judah, however, says that the offspring of a she-ass four years old [certainly belongs to the priest]. Thus far the teachings are those of R. Ishmael. When these teachings were reported to R. Joshua, he said to them: Go and say to R. Ishmael, you have made a mistake. If the animal were exempted only with the [actual] birth of an embryo, it would be as you say. But [the Sages] have declared: A sign of offspring in small cattle is a discharge [from the womb], in large cattle, the after-birth, and in a woman, the signs are the foetus and after-birth. I do not, however, hold with this. But [what I say is that] a goat which at six months discharged [from the womb] can give birth in its first year, that a ewe which discharged within its first year [from the womb], gives birth in its second year. Said R. Akiba: I have not got so far as this.[2] But [what I say is that] wherever it is known that it had given birth, the priest receives nothing; wherever it had never given birth, it belongs to the priest, and if it is a questionable [firstling], it shall be eaten in its blemished state by the owner. What is the point at issue between R. Ishmael and R. Joshua? May we say that the point at issue is as to whether a discharge [from the womb] exempts [from the law of the firstling].[3] R. Ishmael holding that a discharge does not exempt. whereas R. Joshua holds that a discharge exempts? — [No]. If we actually saw it discharging, all the authorities would agree that a discharge exempts [from the law of the firstling]. The point at issue, however, is whether we take into consideration the possibility of its having discharged. R. Ishmael holds: We do not take into consideration the possibility of its having discharged, whereas R. Joshua holds that we take into consideration this possibility. But does not R. Ishmael take into consideration [such a possibility]. Did not Raba say above that it is obvious that R. Ishmael holds with R. Meir, who takes into consideration [the minority]? — R. Ishmael takes into consideration [the minority] when the object is to make the ruling more stringent.[4] But when the object is to render the ruling more lenient,[5] then he does not take into consideration the minority. And if you prefer [another solution], I may say: Whether it is to restrict or to make the ruling more

lenient, he takes into consideration [the minority]. The difference of opinion, however, is [whether] where it discharges [from the womb] it can subsequently give birth in its first year. R. Ishmael held that an animal which discharges does not subsequently give birth in its first year. and consequently this one, since it gave birth, certainly did not discharge. But R. Joshua held: An animal which discharges can give birth subsequently in its first year.

[It says above]: 'l do not, however, hold with this. But a goat six months old which discharged gives birth in its first year, a ewe a year old when she discharged gives birth in its second year'. What is the difference between what he had on tradition[6] and his own opinion?[7] — Where e.g., the animal discharged at the end of six months,[8] and they differ as to Ze'iri's dictum. For Ze'iri said: The period of discharge is not less than thirty days.[9] What he had on traditions[10] agrees with Ze'iri's dictum, whereas his own opinion[11] does not agree with Ze'iri's dictum.

And if you prefer [another solution]. I may say: All [the authorities concerned] accept Ze'iri's dictum. The point at issue here, however, is whether an animal gives birth before the due number of months is completed.

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(1) As e.g., the animal's pregnancy, which depends on the act of coupling with a male, so that there is the possibility that there was no coupling in this instance.

(2) I.e., to know whether an animal which discharged in six months can bear in a year, so that even if it bears in the first year we are not certain that the offspring is a firstling.

(3) That R. Ishmael who regards that born of a goat in the first year as certainly a firstling is of the opinion that even if it discharges in its first year, it is not thereby exempted.

(4) And he rules that the offspring, even after the first year, is a questionable firstling, for a minority of animals do not give birth in the first year, whereas if we went only by the majority, an animal born after the first year would be regarded as hullin, without any doubt as to whether it is a first-birth.

(5) As in the example here, if we were to take into consideration the minority that discharges and therefore regard the animal as a questionable firstling even in its first year. that would be making the law of the firstling more lenient.

(6) R. Joshua's statement 'But the Sages said, etc'.

(7) Where he declares: But I do not hold with this.

(8) Where we actually saw the discharge commencing in the beginning of the seventh month.

(9) And for this period it is unable to couple with a male.

(10) Which does not say: That of a goat in its first year. thus implying that even if it gives birth on the first day of the second year. the offspring is a firstling, as we accept Ze'iri's dictum that its discharge is for thirty full days, after which there is a period of pregnancy of five complete months, so that it would give birth on the first day of the second year.

(11) Which says: But a goat six months old which discharges gives birth in its first year. It cannot, consequently. hold that the discharge lasts the full thirty days as laid down by Ze'iri's dictum, for then, allowing for the full months of pregnancy, it could not give birth in the first year.

Talmud - Mas. Bechoroth 20b

According to what we have on tradition, we do not maintain that it gives birth before the due number of months is completed,[1] but according to his own opinion we maintain that it does give birth before the due number of months is completed. And if you still prefer [another solution], I may say: We do not maintain that an animal gives birth before the due number of months is completed. and the point at issue here is, however, whether a part of the day[2] is considered as equivalent to the whole day. According to his own opinion,[3] we say that a part of the day is considered equivalent to the whole day.[4] whereas according to what he had on tradition we do not say that a part of the day is considered as the whole day.

'Said R. Akiba: I have not come so far as this. But wherever it is known etc.' What is the difference between R. Akiba and R. Joshua?[5] — Said R. Hanina of Sura: The difference between

them is whether milk exempts [from the law of the firstling].[6] R. Akiba holds: Milk exempts, for we go by the majority of animals and the majority of animals do not give milk unless they have given birth. But R. Joshua[7] holds that there exists a minority of animals which give milk although they have not yet given birth. But does R. Joshua take into consideration the minority? Have we not learnt: If [a woman][8] had a mother-in-law, she need not fear,[9] but if when she left the mother-in-law was pregnant, she must fear.[10] R. Joshua. however, says: She need not fear.[11] And we explained, what is the reason of R. Joshua — He holds: The majority of pregnant women actually gave birth, and only a minority miscarry. And of all who give birth, half bear males and half females.[12] Add the minority of miscarriages to the half which bear females, then males are in the minority and we do not take into consideration a minority? — Rather, reverse [the names above].[13] And it has been taught similarly: Milk exempts from the law of the firstling:[14] this is the teaching of R. Joshua. R. Akiba, however, Says: Milk does not exempt.[15]

Our Rabbis have taught: If a she-kid gave birth to three females[16] and each female gave birth to three,[17] all of them[18] enter the shed to be tithed. Said R. Simeon: I saw [a she-kid] of which [the offspring] was tithed in its first year.[19] What need is there [for the Baraitha] to state that each gave birth to three? Let it state that one gave birth to three and the rest each gave birth to two? — Since one animal must necessarily bear three,[20] [the Baraitha] states in each of the cases mentioned that it gave birth to three. And what need is there for [the Baraitha] to state [that each gave birth to] three at all? Let it say that each [offspring] gave birth to two and the mother again gave birth together with them?[21]

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(1) And, therefore, it does not speak of having been born in the first year.

(2) The thirtieth day of the discharge, and the point is whether it is possible for the animal to commence pregnancy on that day.

(3) Which refers to being born in the first year.

(4) That a part of the last day of the discharge is considered as a whole day, and therefore we can say that it became pregnant on that very day, so that the animal was born on the last day of its first year, even after allowing for five full months for the pregnancy.

(5) Since according to both, where we do not know if it had given birth, the embryo is a questionable first-born.

(6) If it gives milk in its first year, or if it was born in the Israelite's house and we did not see it giving birth until after the first year, but meanwhile it gave milk.

(7) Who takes into consideration the minority of animals which discharge, also takes into consideration the minority of animals which give milk although they had never given birth. Therefore the offspring in this case is subject to the law of the firstling.

(8) Who with her husband had gone to some place where information regarding those left behind was not easy to obtain, and the husband died without children and left no brother (Yeb. 119a).

(9) Lest meanwhile, during their absence, the mother-in-law had given birth to a son whom the widow is now obliged under the levirate law to marry.

(10) Lest a son was born to her mother-in-law, and therefore she cannot marry another.

(11) V. Yeb. 119a.

(12) Who do not render the widow liable to the law of the levirate.

(13) So that it is R. Joshua who maintains that a discharge exempts, and the same applies to the giving of milk, whereas R. Akiba only exempts where it is definitely known that it had given birth, but when it is not known, even if it discharges or gives milk, it is a doubtful first-born.

(14) As is the case when it discharges from the womb.

(15) From the law of the firstling, unless it is known that it had not given birth.

(16) Simultaneously, at the end of its year.

(17) At the end of their year. The offspring were females, but if they had been males, there would have been three firstlings and there could then be no tithing. All of them would have to be born between one Elul and the next, as the month of Elul is reckoned the New Year for animal tithing and those born before Elul cannot be tithed with those born after Elul; v. R.H. 2a.

(18) I.e., the offspring.

(19) I.e., in the same year as the three daughters were born, and the daughters in turn gave birth, and the animals entered for tithing.

(20) In order to make up the number ten to be subject to tithing. as the original she-kid is not tithed with the offspring because it belongs to a previous year.

(21) So that there will be three mothers with their six offspring and the additional offspring of the she-kid.

Talmud - Mas. Bechoroth 21a

May we say,[1] therefore, that he holds that an animal which discharges, does not subsequently give birth in the year [of its discharging]?[2] — [No], though you hold that an animal which discharges can give birth in the year [of its discharging],[3] [you may still maintain that] if it gave birth, it cannot give birth again in the same year.[4]

Said R. Simeon: 'I saw a she-kid etc.' What is the difference between the first Tanna [quoted above in the Baraitha] and R. Simeon?[5] — They differ in accepting or rejecting the dictum of Ze'iri. For Ze'iri said: The period of discharging [from the womb] is not less than thirty days.[6] The first Tanna [in the above Baraitha] accepts Ze'iri's dictum,[7] whereas R. Simeon[8] does not accept Ze'iri's teaching. And if you wish [another solution]. I may say: All the authorities concerned agree with Ze'iri's dictum, but the difference between them is whether an animal can give birth before the due number of months is completed. The first Tanna [of the above Baraitha] holds that an animal cannot give birth before the due number of months is completed, whereas, according to R. Simeon, It can give birth before the due number of months is completed. And if you wish [still another solution] I may say: All [the authorities concerned] maintain that an animal does not give birth before the due number of months is completed, and the difference of opinion is whether a part of the day is considered as equivalent to the whole day. According to the first Tanna [above] we do not maintain that a part of the day is considered like a whole day, whereas, according to R. Simeon, we maintain that a part of the day is considered like a whole day. And if you wish [still another solution], I may say: All the authorities concerned agree that a part of the day is considered like the whole day, and the point at issue here is whether animals may enter the shed to be tithed before its due time.[9]

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(1) Since the Baraitha above does not state that the mother gave birth again but that the ten animals for tithing are composed of each of the daughters giving birth to three.

(2) And in this case, it cannot bear, having given birth to three daughters in the beginning of the year. He mentions here 'discharging' because he also wishes to solve the dispute above between R. Ishmael and R. Joshua on the point whether there is a delay after a discharge as after an actual birth.

(3) I.e., that the period of discharging can be less than thirty days.

(4) And therefore the language of the Baraitha affords no proof with regard to discharging.

(5) For both agree that the she-kid, the grandmother, is not tithed with the rest.

(6) This passage is inserted from Sh. Mek.

(7) And these three daughters discharged in the beginning of the seventh month, continuing the discharge for thirty days, and therefore they could not give birth in the first year, but only at the beginning of the second year. For this reason the first Tanna does not use the expression 'In the first year'.

(8) Who uses the phrase 'In the first year', certainly does not agree with Ze'iri, but maintains that discharging can last less than thirty days, so that they gave birth in the first year. (R. Gershom). According to Rashi the explanation is that the females discharged on the last day of the sixth month and not on the first day of the seventh month. Add to this the thirty days of Ze'iri and the five full months of pregnancy, then the animal enters the shed for tithing at the end of the first year. But R. Simeon who uses the expression 'In the year' does not accept Ze'iri's teaching and therefore the tithing can take place some days earlier, before the completion of the year. A further explanation of Rashi is: According to the first Tanna of the Baraitha above, even if it begins to discharge on the first day of the seventh month, and allowing the thirty full days of Ze'iri, it still gives birth on the first day of the second year. If the year is a leap-year the mothers and their daughters enter the shed to be tithed even in that case. Reckoning the year therefore from Elul to the following Elul, we

could place the birth even on the first of Ab. But R. Simeon who uses the expression 'In his first year' does not accept Ze'iri's reaching and they can therefore be tithed together, having been born on the last day of Ab.

(9) Before the eighth day from its birth. According to the first Tanna of the Baraitha they do not enter to be tithed before the completion of seven days alter their birth, whereas according to R. Simeon, they can be tithed even before that time.

Talmud - Mas. Bechoroth 21b

And we have a Baraitha [confirming this]. R. Simeon the son of Judah reported in the name of R. Simeon: An animal, though immature,[1] can enter the shed to be tithed, for it is like the case of a firstling: Just as a firstling is sanctified before its due time[2] and is sacrificed when its time becomes due, so a tithing animal can be sanctified before its due time and offered up after its time becomes due. But why deduce [the case of a tithing animal] from the case of a firstling? Why not deduce it from the case of dedicated animals?[3] — It is reasonable to infer [the case of a tithing animal] from the case of a firstling, because to both apply the rules regarding redemption,[4] a blemish,[5] exchange,[6] and eating.[7] On the contrary, according to this, [the Baraitha] ought to infer [the case of a tithing animal] from the case of dedicated animals, because to both apply the rules regarding a plain animal,[8] a male,[9] sanctification,[10] and the priest's dues?[11] The fact is that R. Simeon learns from [the analogy between] 'passing'[12] and 'passing'.

What is the discharge [from the womb] like? — Rab said: As the shepherds of Zaltha said: The womb closes up.[13] Samuel said: Casting up blood. And he is required to show it to a wise man [Sage].[14] How does a wise man know? — Said R. Papa: [What is meant is] a wise shepherd. Said R. Hisda: Behold the Sages said: The period for the formation of an embryo in a woman is forty days.[15] R. Hisda thereupon asked: How long is the period in the case of an animal?[16] — Said R. Papa to Abaye: Is not this Ze'iri's dictum? For Ze'iri said: The period of discharging is not less than thirty days?[17] This [statement] referred only to the receiving of a male for coupling.[18] Now we have [in our Mishnah] the ruling concerning [an Israelite] purchasing [an animal] from a heathen. What is the ruling, however, where [an Israelite] purchases [an animal] from an Israelite? — Said Rab: It is surely a firstling, for if it had given birth, he would certainly have recommended it on this ground.[19] But Samuel says: It is a questionable firstling, because the seller thinks the other needs it for slaughtering.[20] R. Johanan said: The animal is genuine hullin.[21] What is the reason? If it be a fact that it had never given birth, since we have here a prohibition,[22] he would surely inform him.[23] It has been taught in support of R. Johanan's ruling, who maintains that it is hullin: If[24] he did not inform him,[25] he can proceed to kill and need not refrain.[26] May we assume [then] that this [Baraitha] is a refutation of Rab and Samuel?[27] — There,[28] it depends on the seller, whereas here the matter depends on the buyer.[29] MISHNAH. R. ELIEZER B. JACOB SAYS: IF A LARGE DOMESTIC ANIMAL HAS DISCHARGED A CLOT OF BLOOD, IT [THE CLOT] SHALL BE BURIED,[30] AND IT [THE MOTHER] IS EXEMPTED FROM THE LAW OF THE FIRSTLING.

GEMARA. R. Hiyya taught: [The clot of blood] does not make unclean with contact, nor by being carried. Now since it does not make [a person] unclean by contact nor the carrier unclean, why is it buried?[31]

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(1) I.e., too early for sacrifice, before the expiration of the seven days after birth.

(2) From the time it leaves the womb.

(3) Where not only is the animal disqualified for sacrifice before its due time but it is even not invested with any sanctity if consecrated before the expiration of the seven days after birth.

(4) A firstling and a tithing animal cannot be redeemed from their sanctity. whereas blemished dedicated animals are capable of redemption.

(5) A firstling, even born blemished, is sacred. A tithing animal is also sacred, even in a blemished state.

(6) The animal for which a firstling or a tithed animal is exchanged is not holy, whereas with reference to dedicated animals, they and their exchanges are sacred.

(7) A firstling and a tithing animal are eaten by their owners, in the first case by the priest and in the second by the Israelite, whereas blemished dedicated objects must be redeemed. Tosaf. explains that all consecrated animals which have been disqualified from the altar may be bought in a shop and sold by the pound weight, which is forbidden in the case of a firstling and tithing animal.
(8) The rules of tithing and consecration apply to plain animals, i.e., not first-born.
(9) Consecration and tithing apply to both males and females, whereas the law of the firstling applies only to males.
(10) An act of consecration is required in the case of tithing animals and dedicated objects. whereas a firstling is sacred from birth.
(11) A tithing animal or a consecrated animal is not the priests' due, whereas a firstling is the due of the priests.
(12) The text: 'Thou shalt cause to pass (set apart) unto the Lord all that openeth the womb'. (Ex. XIII, 12) stated in connection with the law of the firstling, and the text that passeth under the rod', mentioned in connection with the law of tithing animals.
(13) And the embryo was mashed.
(14) To ascertain whether there was an embryo and thus to be exempted from the law of the firstling.
(15) And should the woman, therefore, have a miscarriage before this period has elapsed. she is not required to keep the days of purity and impurity laid down by Scripture for a woman after childbirth.
(16) I.e., if it miscarried and is not therefore exempt from the law of the firstling.
(17) Apparently referring to the formation of the embryo.
(18) That it cannot take a male for coupling purpose for a period of thirty days, having commenced to discharge from the womb. But there is no indication here as regards the time it takes to form an embryo. Another explanation is that Ze'iri's meaning is that before the animal becomes pregnant she discharges for thirty days, but there is nothing here with reference to the period of the formation of an embryo. (R. Gershom.)
(19) That the animal had already given birth and thus the priest had no further claim on the offspring.
(20) And the reason, therefore, why the seller is silent on this point is perhaps not because it had never given birth but because he thinks that the buyer desires to kill the animal and not to rear offspring, in which case there is no advantage in informing him. Consequently, it is a doubtful firstling.
(21) An unconsecrated animal.
(22) If the Israelite ate the firstling, since it belongs to the priest.
(23) That the animal had never given birth.
(24) Hul. 83a.
(25) In four periods of the year. the Mishnah says in Hul. 83b, a seller must inform prospective buyers that he had sold the mother or the young on that day, so as to safeguard the buyer from killing the mother with its young on the same day.
(26) Since he had not informed him about selling its mother or its young on that day. We see therefore that we construe silence as indicating that there is no infringement of the law.
(27) Who hold above respectively that the animal is a certain or a doubtful firstling, for here we see that it is regarded as genuine hullin.
(28) In the case of the Baraitha in Hul., the duty rests with the seller to inform the public and therefore the purchaser interprets the former's silence as indicating that there is no infringement of the law.
(29) It rests with the buyer of the animal to inquire whether it is a firstling or not, as Scripture says: All the firstling males that come of thy herd and thy flock etc. (Deut. XV. 19), indicating that the duty of separating the firstling devolves upon the person in whose possession the animal is. Consequently, as the necessary inquiries were not made, we regard the offspring as a case of a questionable firstling.
(30) For it is forbidden to use it profitably in case it was a male embryo which was mashed and was sanctified as a firstling.
(31) Since it does not cause levitical uncleanness; we see that we do not fear lest there was here an embryo at all!

Talmud - Mas. Bechoroth 22a

— In order to make known that the mother is exempted from [the law of] the firstling. Does not this mean to say that it is a genuine embryo? Then why does it not make unclean by contact nor make the carrier unclean? — R. Johanan answered: Because the principle of neutralisation by the larger portion is applied here.[1] And R. Johanan is in agreement here with the opinion he expressed

elsewhere. For R. Johanan said: R. Eliezer b. Jacob and R. Simeon made similar statements. What is the statement of R. Eliezer b. Jacob? — That which we have learnt [in our Mishnah above]. What is R. Simeon's statement? — As we have learnt: If there is an after-birth[2] in a house, the house is unclean. Not that the after-birth is considered an embryo, only because there cannot be an after-birth without an embryo.[3] But R. Simeon says: The embryo was mashed before it came forth.[4] We have learnt elsewhere: The opening of the uterus[5] for untimely births is not until the embryo [on leaving the uterus] forms a round head like a coil. What kind of coil does this mean? — Like a coil of wool. Said Hiyya b. Rab to R. Huna: Did Rabbi explain whether the coil of wool containing warp[6] or containing woof is meant?[7] — He replied to him: It has been taught:[8] The coil of the warp. These are the words of R. Meir. R. Judah says: The coil of the woof. R. Eliezer b. Zadok says: From the time when the ring-like formations [at the mouth of the vagina] are visible.[9] What are the ring-like formations like? — Rab Judah reported in the name of Samuel in behalf of R. Eliezer son of R. Zadok: In Jerusalem they used to explain it in this manner. Like a mule which bends to urinate,[10] and it has the appearance of a coil coming forth out of a coil.

Said R. Huna: I learnt two sizes of coils, one of the warp and the other of the woof, and I am unable to explain.[11] When R. Dimi came, [from Palestine], he reported in the name of R. Johanan: I learnt of three sizes of coils, one of the warp, another of the woof and one large coil, and again another of the sack-carriers, and I am unable to explain.[11] When R. Abin came [from Palestine] he explained this in the name of R. Johanan. In the case of a woman, the coil is like a warp.[12] In the case of an animal, the size of the coil is like the woof.[13] As to a large-size coil of the sack-carriers, it is as we have learnt. A clod [of clay] from a beth ha-peras[14] or a clod of imported clay[15] must have the size of the great seal of the sack-carriers which is like the seal of leather bags. And of the same size is the top part[16] of the stopper of the Bethlehem wine jug.[17] Resh Lakish reported in the name of R. Judah the Prince: He who buys brine from an ‘am ha-arez[18] must bring it in contact with water[19] and it is then levitically clean. For in either case if the larger portion [of the brine] is water,[20] since he brings it in contact with water,[21] he has cleaned it; and if the larger part is brine, brine is not susceptible to levitical uncleanness.[22] The only doubtful element is that small quantity of water [in the brine][23] and this is neutralized in the larger portion of the brine.

Said R. Jeremiah: This has been laid down only with regard to dipping bread in it but, for cooking purposes, the brine is not permitted,[24] since like attracts like and the uncleanness is aroused.[25] R. Dimi was once sitting and repeating this statement of R. Jeremiah: Said Abaye to him: Can levitical uncleanness, once neu tralized, be aroused again? — He replied to him: And do you not hold that this is reasonable? Have we not learnt: If a se'ah[26] of unclean terumah[27] has fallen

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(1) The blood and the multi-coloured substance being the larger portion neutralizes the flesh of the embryo and therefore the latter is not susceptible of levitical uncleanness.

(2) Which a woman produced by a miscarriage and an embryo was not recognized therein.

(3) Which however was mashed. And nevertheless it made the house unclean since we fear lest the embryo was not mashed — and so neutralized — until after it came forth.

(4) V. Nid. 18a. And it was explained there that the reason why the house is not unclean was because we apply to it the principle of the greater proportion of blood etc., neutralizing the embryo before it came forth.

(5) If an embryo died inside a woman who sat on the travailing chair and her uterus was opened in one house but the embryo did not come forth in that house but in another, the first house is unclean, as if it had been born there, for impurity breaks through. v. Oh. VII.

(6) The thread of which is thin and small.

(7) The thread of which is thick.

(8) That there is a difference of opinion on this point.

(9) R. Eliezer differs from the first Tanna quoted above, for whereas the latter requires for constituting the opening of the uterus that the embryo should form a round head like a coil, the former holds that even if it had not formed a round head but in the period of travailing had reached the stage when ring-like formations were visible, indicating the passage of the

embryo's head, we regard it as the opening of the uterus.

(10) The mule bends more than any other animal or beast, and while it does so, wrinkles are descernible on the vagina.

(11) To what each of these sizes of coil refers.

(12) This is the size which makes the woman subject to the law of one whose womb is open.

(13) If the embryo had not yet formed a round head of the size of the coil of the woof, then, if the embryo died inside the animal, and the shepherd stretched his hand inside, he does not receive levitical uncleanness.

(14) A field declared to be unclean on account of the crushed bones carried over it from a ploughed grave.

(15) Which has the same law as a beth ha-peras.

(16) The upward sloping portion of the seal, like a handle, is called the top part.

(17) Oh. VII, 5.

(18) V. Glos. A person who is suspected of not keeping either through ignorance or willfulness certain regulations or customs relating to impurity.

(19) The brine in a vessel is placed in a mikweh (ritual bath of purification), so as to make its surface level with the surface of the water into which it is dipped. This is a form of purification.

(20) And the brine is nullified in the larger part of the water, thus receiving uncleanness on account of the water.

(21) Of the mikweh and it is purified thereby. This method of purification applies only to unclean water but not to food and other liquids.

(22) Because it is just the moisture of the fish which issues when salted,

(23) Which receives impurity and for which contact with mikweh water is no purification, since the larger portion is brine and this method of purification does not apply to food.

(24) For the water in the brine combines with the water in the pot and the two together being now the larger portion, neutralize the brine, and make the latter unclean.

(25) Shaken from the law of neutralization. (So Rashi on A.Z. 73a.)

(26) A measure of volume for dry objects and for liquids. V. Ter. V, 2.

(27) The priest's share of the crop.

Talmud - Mas. Bechoroth 22b

into a hundred of clean hullin.[1] R. Eliezer says: The terumah is separated and left to rot.[2] For I maintain that the same se'ah which fell was separated. But the Sages say: A se'ah is separated and eaten in a mouldy state,[3] parched, kneaded in fruit juice,[4] or divided into [minute] loaves, so that there shall not be in one place the size of an egg.[5] And it was taught in connection: As to that hullin

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(1) The unconsecrated portion, not belonging to the priest.

(2) This being the law of unclean terumah, which is forbidden to be eaten.

(3) From excessive dryness. Or it means, crumbled pieces less than the size of an egg. Although there is here clean and unclean food, nevertheless, so long as the former is not being made fit to receive levitical uncleanness, i.e. does not come in contact with a liquid, the mixture can be eaten in the manner set forth here.

(4) For fruit juice does not make food susceptible to uncleanness.

(5) This being the size which makes it fit to receive levitical uncleanness, v. Ter. V, 2.

Talmud - Mas. Bechoroth 23a

according to R. Eliezer, what shall become of it?[1] — It shall be eaten in a mouldy state, parched, kneaded in fruit juice or be divided into [minute] loaves, so that there shall not be in one place more than the size of an egg. And ‘Ulla further explained: What is the reason?[2] It is a precautionary measure in case he brings a kab[3] of unclean hullin from another source and a kab and a little over from this kind. He thinks that he neutralizes it by the larger portion, but since there is this minute quantity [of unclean terumah].[4] like combines with like and the uncleanness is stirred up![5] — He said to him: If levitical uncleanness arouses uncleanness, shall therefore levitical cleanness stir up uncleanness.[6] He [Abaye] raised an objection [to R. Jeremiah's views]: If ashes fit for lustration [from the red-heifer] were mixed with wood-ashes, we go by the larger portion to render unclean.[7]

But if the greater part is wood-ashes, they do not make unclean. Now, if you say that levitical uncleanness [which was neutralized] is considered as still existing, granted that it does not make uncleanness by contact,[8] still let it make the carrier unclean?[9] It was indeed stated on the subject: R. Jose son of R. Hanina said: [The word] 'clean' [in the above Mishnah] means that it is so far clean as not to make uncleanness by contact, but it still makes the carrier unclean. But did not R. Hisda say: Nebelah[10] is neutralized by ritually cut meat,[11] for it is impossible for ritually cut meat[12] to become nebelah? Now,[13] granted that it does not make unclean by contact, still let it make the carrier unclean? — He [R. Dimi] replied to him: You report this[14] in connection with what R. Hisda said, we report it in connection with R. Hiyya. [For] R. Hiyya taught: Nebelah and ritually cut meat neutralize one another [when mixed together]. And it was stated on the subject: R. Jose son of R. Hanina said: It is so far clean as not to make unclean by contact, but it makes the carrier unclean. But have we not learnt: R. ELIEZER THE SON OF JACOB SAYS: IF A LARGE DOMESTIC ANIMAL DISCHARGED A CLOT OF BLOOD, IT SHALL BE BURIED, AND IT IS EXEMPT FROM THE LAW OF THE FIRSTLING. And R. Hiyya taught [in a Baraitha]: It does not make unclean, neither by contact nor by carrying?[15] Now [if a forbidden thing remains in existence even after neutralization], granted that it does not make unclean by contact, still let it make the carrier unclean? — He [R. Dimi] became silent. [Nevertheless. there is no difficulty]; perhaps it is different here because it is an uncleanness which is putrid.[16] This would indeed hold good according to Bar Pada who said: A major uncleanness[17] attaches to it as long as it is fit to be eaten by a stranger,[18] whereas a minor uncleanness[19] until as long as it is fit for a dog; and in the case here it is surely not fit for a stranger. But according to R. Johanan who said:

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(1) For according to the Sages, he is permitted to eat both the hullin and the terumah in the conditions stated above.

(2) Why do we not regard the rest as genuine hullin according to R. Eliezer, since he holds that the se'ah which he separates is the terumah and therefore the rest should be real hullin?

(3) A small measure.

(4) Which must inevitably have mixed with the remainder, in spite of the fact that we maintain that the se'ah which is separated is the se'ah which fell into the hullin.

(5) And combine together and thus receive uncleanness. This proves that levitical uncleanness though once neutralized can be aroused again.

(6) That a minute quantity of uncleanness may stir up other uncleanness, as in the case of the terumah, is feasible; but in the case of the brine, we certainly do not assume that the clean water in the pot will combine with the small quantity of unclean water in the brine in order to neutralize the latter and thus make it unclean.

(7) So that if the larger portion of ashes belong to the red heifer, they make unclean by contact. v. Parah IX. 7.

(8) For since the ashes are mixed, we do not know which are the red heifer's and perhaps he did not touch the ashes belonging to the red heifer at all.

(9) For if he carried all the ashes, then he is bound to have carried the ashes of the red heifer, which make unclean.

(10) Ritually forbidden food, the animal not having been killed according to Jewish law.

(11) Where two or more pieces of ritually killed meat are mixed with one piece of nebelah.

(12) This is the correct version. A different version (cur. edd.) stating that it is impossible for nebelah to become etc. is incorrect, as it is possible for nebelah to be freed from its levitical uncleanness, if it becomes putrid and ceases to be regarded as edible food.

(13) If a forbidden thing, even after being neutralized, is still in existence and can be stirred up again.

(14) The ruling of R. Jose. [The meaning is not clear, nor is the text certain. The passage may also be explained: 'You report this ruling in the name of R. Hisda and as such it could not have been commented on by R. Jose; we report it as a Baraitha taught by R. Hiyya, and in connection with which R. Jose's statement was made'; cf. text in R. Gershom.]

(15) And we have explained above that the reason is because the larger portion of the blood etc. neutralizes the embryo.

(16) This is the answer suggested by the Talmud.

(17) Like the uncleanness of carrying.

(18) After which it does not cause uncleanness.

(19) Like the uncleanness of coming in contact.

The one as well as the other,[1] [attaches to it so long as] it is fit for a dog — in the case here is it not fit for a dog?[2] — This is indeed a difficulty.

[The above] text [stated]: 'Bar Pada said: A major uncleanness attaches to it as long as it is fit for a stranger, but a minor uncleanness, as long as it is fit for a dog. But R. Johanan said: In the one case as well as the other, so long as it is fit for a dog [it remains unclean]'. What is the reason of Bar Pada? — Scripture Says: Ye shall not eat of anything that dieth of itself; thou shalt give it unto the stranger.[3] [We infer from this that] what is still suitable for a stranger [to eat] is called nebelah, whereas that which is no longer suitable for a stranger [to eat] is not called nebelah. And the other? — He explains [the Scriptural text] as excluding the case where it was putrid from the beginning.[4] And [what says] the other [to this]? — Where it was putrid from the beginning there is no need for a Scriptural text to exclude, for it is mere dust. We have learnt: R. ELIEZER B. JACOB SAYS: IF A LARGE DOMESTIC ANIMAL DISCHARGED A CLOT OF BLOOD, IT SHALL BE BURIED, AND IT IS EXEMPTED FROM THE LAW OF THE FIRSTLING. And R. Hiyya taught [in a Baraitha]: It does not make unclean either with contact or by carrying it. And R. Johanan explained that we apply here the principle of the larger portion neutralizing [the other]. [The question therefore arises], what need is there for the neutralization by the larger portion? Why not deduce this from the fact that it was not fit at all [for a stranger]? — In this case, too, it was suitable to be eaten [by a stranger], on account of its mother.[5]

We have learnt elsewhere: R. Eliezer b. Jacob says: Clear brine[6] into which there fell a little water is levitically unclean.[7] R. Nahman reported in the name of Rabbah b. Abbuha: This proves that the 'amme ha-arez are suspected of mixing half water in brine.[8] But why half? Why not even less than a half, for together with the little water here, it makes a half, and a half does not become neutralized?[9] Read: Up to a half.[10] And if you prefer [another solution] I may say: The levitical uncleanness imposed with reference to an 'am ha-arez is a Rabbinic enactment, and the uncleanness of liquid is also a Rabbinic enactment. Therefore, in the case where the water is the greater portion, the Rabbis decreed uncleanness, but where there is half and half, the Rabbis did not decree uncleanness.

MISHNAH. R. SIMEON B. GAMALIEL SAYS: IF ONE BUYS AN ANIMAL GIVING SUCK FROM A GENTILE, HE NEED NOT FEAR THAT PERHAPS THE OFFSPRING BELONGS TO ANOTHER [ANIMAL].[11] IF HE WENT AMONG HIS HERD AND SAW ANIMALS WHICH HAD GIVEN BIRTH FOR THE FIRST TIME GIVING SUCK AND ANIMALS WHICH HAD NOT GIVEN BIRTH FOR THE FIRST TIME GIVING SUCK, WE NEED NOT FEAR THAT PERHAPS THE OFFSPRING OF THIS ONE CAME TO THE OTHER OR PERHAPS THE OFFSPRING OF THE OTHER CAME TO THIS ONE.[12]

GEMARA. R. Nahman reported in the name of Rab: The law is in accordance [with the Mishnah][13] in the whole chapter, except in the case where a difference of opinion is recorded. Said R. Shesheth: I say that Rab declared this tradition when he was half asleep. For to what does [Rab] refer? You can hardly say that he refers to the first part [of the chapter], for are there not differing opinions recorded of R. Ishmael and R. Akiba? Again if he refers [to the teaching of] R. Eliezer b. Jacob [in the preceding Mishnah] — is not the Mishnah of R. Eliezer b. Jacob little in quantity,[14] but well sifted?[15] And if he refers to [the teachings of] R. Simeon b. Gamaliel [in our Mishnah] — are there not differing opinions in the Baraitha?[16] If he refers to [the teachings of] R. Jose b. ha-Meshullam [in a subsequent Mishnah], has not Rab, however, informed us of this once, for Rab said: The law is in accordance With R. Jose b. ha-Meshullam? And if he refers to [the subsequent Mishnah] in connection with the hair of a blemished [firstling], — are there not, however, different opinions recorded of Akabya b. Mahalalel and the Rabbis? — Indeed [Rab refers] to [the teachings of] R. Simeon b. Gamaliel, and this is what he teaches us, that [the difference of opinion] in the

Baraitha is not considered a difference of opinion [to be taken into account]. But since Rab said: The law is according [to the Mishnah] in the whole chapter, except where there is a difference of opinion.

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(1) Both in the case of a major uncleanness and a minor uncleanness, it makes unclean, until it is no longer suitable for a dog to eat.

(2) And should therefore make the carrier unclean. R. Jeremiah's ruling above is therefore refuted. [Thus R. Johanan is self-contradictory.] Sh. Mek, reads: 'not fit at all to a stranger'.

(3) Deut. XIV, 21.

(4) Where e.g.. the animal broke its ribs when alive and it commenced to decay. Although it is fit for dogs, it does not make the carrier unclean, for it never had this uncleanness. But where it was at first fit for a stranger and it possessed the power of making the carrier unclean, then it retains this uncleanness until it is unfit for a dog to eat.

(5) For if the animal did not discharge and it was slaughtered and a clot of blood was discovered, the clot would have been fit for a stranger along with the flesh, and since in this case it is made fit because of its mother, it is fit even now, when it has been discharged. Consequently. were it not for the fact that it is neutralized by the larger portion, it would have received uncleanness.

(6) Where the larger portion is not water.

(7) Having now received a little water, it becomes unclean and requires contact with mikweh water for purification.

(8) So that when a little more fell into the brine, the parts which were similar, combined, and the water, being more than the brine, therefore received levitical uncleanness.

(9) For only a small quantity of water we say above is neutralized by the larger portion, but not where the amount is a half.

(10) I.e., nearly a half of water the 'amme ha-arez mix with their brine and this, together with the small quantity of water that fell in, makes up the half. Consequently, the water is not neutralized and it receives uncleanness.

(11) So as to consider the offspring which follows a doubtful firstling, as perhaps the animal had never given birth. And as for its giving milk, it is only a minority of animals which give milk without having given birth previously. We therefore consider the offspring as certainly belonging to the animal and the animal is thus exempted from the law of the firstling.

(12) But we presume that the offspring clinging to the animal belongs to it, and that there has been no mingling.

(13) Whether stated anonymously or as the pronouncement of a certain Tanna, where there is no difference of opinion.

(14) Lit., 'a kab', a small measure of capacity.

(15) Then what need is there for Rab's ruling. since in any case the law is in accordance with his views.

(16) V. infra 24a.

Talmud - Mas. Bechoroth 24a

what need is there for the ruling that the law is in accordance with R. Jose b. ha-Meshullam? — If he had said that the law was according [to the Mishnah] in the whole chapter and did not state subsequently that the law was in accordance with R. Jose b. ha-Meshullam. I might have thought that he referred to R. Jose b. ha-Meshullam. and that what [the expression] 'the whole chapter' meant[1] was that R. Jose stated two things [in the subsequent Mishnah][2] and that the difference of opinion in the Baraitha [is considered] a genuine difference of opinion.[3] Therefore Rab informs us that the law is in accordance with R. Jose. so as to intimate to us that [in the other statement] he refers to R. Simeon b. Gamaliel, and thus the difference of opinion in the Baraitha is not considered a difference of opinion [of any importance].

What is the Baraitha [referred to above]? — As it has been taught: If one buys an animal giving suck from a gentile, the young which follows it, is a doubtful firstling,[4] because it can give suck even to one to which it had not given birth. R. Simeon b. Gamaliel however, says: We follow the natural presumption.[5] And so R. Simeon b. Gamaliel used to say: If one goes among his herd at night and sees about ten or fifteen animals, both those which had not borne previously and those which had previously given birth, and, the next day, he rises early and finds the males[6] clinging to the animals that had given birth previously and the females clinging to those which were now giving birth for the

first time, he need not fear that perhaps the offspring of one came to the other.[7]

It was queried: Was the reason of R. Simeon b. Gamaliel's statement that we follow the natural presumption. because no dam gives suck [to a stranger] unless it has had a child of its own,[8] but where it had given birth before, we do fear lest it gives suck to a stranger. Or perhaps was it that it gives suck to its own but it does not give suck to a stranger? What is the practical differ ence?[9] To punish with lashes on its[10] account for transgressing the prohibition of killing the mother and its young [on the same day]. If you say that it gives suck to its own but not to a stranger, then there is here a liability of lashes, whereas if you say that it gives suck also to a stranger. then there is no liability of lashes?[11] — Come and hear: R. Simeon b. Gamaliel says: If one buys an animal from a gentile, he need not fear that perhaps it was the offspring of another![12] — [No]. Does R. Simeon say [that perhaps] it is?[13] He says: [That perhaps] it was. What he means is this:[14] He need not fear that perhaps it was the offspring of another, except when it had previously given birth.

Come and hear: If one went among his herd and saw [both the animals] now bearing for the first time giving suck and those not now bearing for the first time giving suck, he need not fear that perhaps the offspring of this one came to the other or the offspring of the other came to this one. Why is this so? Why not fear lest it gave suck to a stranger?[15] — Where it has its own offspring. it does not leave its own and give suck to a stranger.[16]

Come and hear: 'We follow the natural presumption'. And so.[17] Now does not the first part [of the Baraitha above][18] resemble the second part,[19] so that just as the second part refers to a case where the offspring is certainly its own,[20] so the first part also refers to a case where [the offspring] is certainly its own?[21] — Is this an argument? The first part deals with its own case and the second part deals with its own case.[22] And what does [the Baraitha] mean [by the phrase] 'and so'?[23] — It refers to the exemption from [the law of] the firstling.[24]

Rabbah b. Bar Hana reported in the name of R. Johanan: If one saw a swine clinging to a ewe,[25] it is exempted from [the law] of the firstling,[26] and it is forbidden to be eaten Until he come and teach[27] righteousness unto you.[28] [You say] 'It is exempted from the law of the firstling'. Whose view is followed? The view of R. Simeon b. Gamaliel.[29] [You say] 'And it is forbidden to be eaten'. Whose view is followed? The view of the Rabbis.[30] And, moreover, if it is according to the Rabbis, why 'Until he come and teach righteousness to you'? 'Until it be known to you' is what is required?[31] And should you say that R. Johanan is in doubt whether the law is in accordance with R. Simeon b. Gamaliel or the Rabbis,[32] if R. Johanan is in doubt then why is it exempt from the law of the firstling? And further, is there a doubt? Did not Rabbah b. Bar Hana report in the name of R. Johanan: Wherever R. Simeon b. Gamaliel expressed a view in the Mishnah, the halachah is in accordance with him, with the exception of his view regarding suretyship,[33] Sidon,[34] and the last [case dealing with] evidence?[35] — One may still say that R. Johanan is in no doubt that the law is in accordance with R. Simeon b. Gamaliel.[36] He is in doubt, however, whether R. Simeon b. Gamaliel holds that an animal which has given birth, gives suck [even to a stranger],[37] or whether it does not give suck [to a stranger].[38] If so, instead of stating [this ruling] in connection with the case of a swine, why not state it in connection with the case of a lamb, and as regards the punishment with lashes for infringing the prohibition of killing the mother and its young [on the same day]? — He had need to state [this ruling] in connection with the case of a swine. For if he had stated [this ruling] in connection with the case of a lamb, I might have thought that even if you assumed that R. Simeon holds that an animal which gives birth, gives suck [to a stranger], this only applies [to a stranger belonging] to its own species, but not to [an animal] not belonging to its own species.[39] Consequently. R. Johanan states the case of a swine [to inform us that this ruling applies] although it does not belong to the species [of the ewe], for even here one can say that perhaps it gave suck. And this is what R. Johanan meant above.

(1) Implying as it does a number of things.
(2) One thing. that we make a clear space in the neck for the butcher's hatchet in order to kill the firstling, and secondly, that we tear the wool to show the blemish of a firstling.
(3) Which would exclude the ruling of R. Simeon b. Gamaliel.
(4) For it is possible that the animal had never before given birth, and the fact that it gives milk is not a conclusive proof, as there is a minority which gives milk without having yet given birth. It is thus a doubtful firstling.
(5) That the offspring is surely its child and that therefore the succeeding offspring is exempted from the law of the firstling.
(6) Who were born now, clinging to and being given suck by animals which had already been exempted from the law of the firstling. And the females born now, he found clinging to and being given suck by animals that had now given birth for the first time. In these cases, the priest receives nothing, for as we presume that each offspring is near its own mother, the law of the firstling is not here applicable, as the males come from animals already exempted and the females are not subject to the law of the firstling.
(7) So as to impose a restriction and make them questionable firstlings, fearing lest the males belong to the animals which are giving birth for the first time. The reason why R. Simeon the son of Gamaliel speaks of entering at night etc. and does not state simply that if one entered his herd and saw males clinging etc., is in order to inform us of a striking thing, that although their birth certainly took place in the night when the dams did not as yet recognize their offspring and were, therefore, liable to make a mistake, nevertheless we do not fear lest the offspring of the one came to the other.
(8) And R. Simeon refers to an animal which never gave birth previously.
(9) For in either case, if it had given birth previously, whether it is its own offspring or a stranger, it is exempt from the law of the firstling.
(10) That of the offspring which clings to the animal.
(11) As we presume that it is not its own offspring.
(12) But presumes that the offspring belongs to the animal. Consequently we see that in his opinion it does not give suck, except to its own offspring.
(13) In which case we could properly have made this deduction.
(14) And in either case it is exempt from the law of the firstling, for we only entertain a doubt that it might be a stranger if the animal had given birth previously. But in respect of the infringement of the prohibition of killing the animal and its young on the same day, there is a doubt.
(15) Since they all possess offspring. Therefore the reason must surely be that even if it were not now bearing for the first time, it gives suck only to its own, thus solving the above query.
(16) But where it has none of its own offspring, it may give suck even to a stranger, and so the above query remains.
(17) V. supra.
(18) Which says: If one buys an animal which gives sock from a gentile etc.
(19) Viz., And so R. Simeon etc.
(20) That each offspring clinging to the animal belongs to it For you explained above that where it possesses its own offspring, it does not give suck to a stranger.
(21) And therefore with reference to the prohibition of killing the mother and the young on the same day. there is the liability of lashes, for we presume that it is certainly the animal's offspring.
(22) In the second part of the Baraitha it is certainly its offspring, whereas there is a doubt in this respect in the first part.
(23) Since they are not necessarily similar.
(24) In that respect alone the two parts of the Baraitha are alike. For just as in the second part they are certainly exempt from the law of the firstling, as certainly the females cling to those which have now given birth for the first time, for they would not leave their own offspring and give suck to strangers, in the first part of the Baraitha also, they are exempted in the future from the law of the firstling. And in the first part, even if they are not their own offspring, they are exempted, having already given birth, since otherwise they would not have given suck to strangers. But in respect of the prohibition of killing the mother and its young on the same day, there may still be a doubt.
(25) And being given suck by it.
(26) And the succeeding offspring is not a firstling.
(27) The word יורה is used here in the sense that Elijah will teach. The usual rendering of the word, however, is ‘to cause to rain’.
(28) Hosea X, 12.

(29) Who maintains that the animal only gives suck to its own offspring, and the swine itself is not sanctified, as it is a nidmeh.
(30) Who fear that the animal gives suck to a stranger. For if it were in accordance with the view of R. Simeon, it should be permitted to be eaten, as in the case of an unclean animal which comes from a clean animal. V. supra 5b.
(31) As this is not a question of pronouncing a legal decision but merely of revealing or intimating whether it is its offspring.
(32) And the text 'Until he comes etc.' means as follows: Until he comes and teaches whether the law is in accordance with R. Simeon and therefore it may be eaten or according to the Rabbis. It is, consequently, forbidden to be eaten because of the doubt that it perhaps gave suck to a stranger.
(33) B.B. 174a.
(34) Git. 77a.
(35) Sanh. 31a.
(36) That it is certainly exempted from the law of the firstling, for if the offspring were not its own, it would not have given suck unless it had already given birth.
(37) It is therefore exempt from the law of the firstling. for if the offspring belongs to the animal, then it is exempt. and if it is a stranger. then the animal must have already given birth, since it gives suck to strangers. It is also forbidden to be eaten, for the offspring might be a stranger and its own might have died,
(38) And it is therefore permitted to be eaten, for it certainly belongs to the animal to which it clings.
(39) I.e., a swine. And it is permitted to be eaten, for to one not belonging to the ewe species it would not give suck, and since the animal does give suck, it must of a certainty belong to it.

Talmud - Mas. Bechoroth 24b

Aha Beribi[1] asked: How is it if one saw a swine clinging to a ewe? But what exactly does the question refer to? If it has reference to the law of the firstling and the query is whether the law is in accordance with the view of R. Simeon b. Gamaliel or according to the Rabbis, why not put this query with reference to the case of a lamb?[2] — The query refers to the law of the firstling as laid down by the Rabbis[3] and to the rule as to eating, as laid down by R. Simeon b. Gamaliel.[4] The query refers to [the law] of the firstling, [thus]. [Do we say that] even in accordance with the Rabbis, who maintain that it gives suck [to a stranger], this is only the case [with an animal] belonging to its own species, but to one not belonging to its own species, it does not give suck?[5] Or do we perhaps maintain that even [to offspring] that does not belong to its own species, the animal also gives suck? And also in connection with eating, [the query is put forward]: Do we say that even according to R. Simeon b. Gamaliel, granting that he holds that an animal which has begotten[6] gives suck [even to a stranger], this is the case only when the offspring belongs to the same species [as the ewe], but where it does not belong to the same species, it does not [give suck]?[7] Or perhaps even if the offspring does not belong to the species [of the ewe], do we say that it also gives suck [to it]?[8] — Let this remain undecided.

MISHNAH. R. JOSE B. HA-MESHULLAM SAYS: ONE WHO SLAUGHTERS THE FIRSTLING, [FIRST] MAKES A CLEAR SPACE WITH THE [BUTCHER'S] HATCHET[9] ON BOTH SIDES AND TEARS THE HAIR [ON BOTH SIDES][10] PROVIDED HOWEVER THAT HE DOES NOT REMOVE THE WOOL FROM ITS PLACE[11] [WITH AN INSTRUMENT]. AND SIMILARLY ONE MAY TEAR THE HAIR TO SHOW THE PLACE OF THE BLEMISH [TO A SAGE].

GEMARA. Rab said: The halachah is according to R. Jose b. ha-Meshullam. [The scholars] asked R. Huna: What is the rule about acting similarly on a festival day?[12] Is the reason of R. Jose b. ha-Meshullam because he maintains that tearing is not [considered] the same as shearing[13] and yet on a festival day it is forbidden, for it would be detaching a thing from the place of its growth; or perhaps, does R. Jose b. ha-Meshullam as a rule main tain that tearing is [considered] the same as shearing, but the reason why he permits [in the Mishnah] is because it is a forbidden act which was

produced without intent[14] and a forbidden act which was produced without intent is permissible on a festival day? — He replied to them: 'Go and ask R. Hananel.[15] If he tells you that the halachah is in accordance with R. Jose b. ha-Meshullam, then I shall give you a definite answer'. They went and asked him. He replied to them: 'Rab said this: The halachah is in accordance with R. Jose b. ha-Meshullam'. Then they came before R. Huna. He said to them: It is permitted to act in a corresponding manner on a festival day.[16] It was also stated: R. Hananya b. Shalmia reported in the name of Rab: It is permitted to act in a corresponding manner on a festival day.

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(1) An eminent and prominent teacher in his generation. The term Beribi is frequently applied to the disciples of R. Judah ha-Nasi and his contemporaries and also to some of his predecessors.

(2) Since it is in connection with this case that they differ.

(3) For according to R. Simeon it is certainly exempted, for if it does not give suck to its own species unless it had already begotten, how much less is this the case where it does not belong to the species of animal to which it clings.

(4) And certainly according to the Rabbis.

(5) And the offspring in this case surely belongs to the ewe, and therefore the future offspring is exempted from the law of the firstling.

(6) But if he held that an animal which already had given birth does not give suck to strangers, then in the case here, the offspring is certainly permitted to be eaten, for it is its child.

(7) Hence in this case, the swine must be its offspring and permissible to be eaten, as it gives suck to it.

(8) Since it had given suck previously. Consequently, the swine is forbidden to be eaten in case it is a stranger.

(9) Clearing the hair in the place where the animal is to be slaughtered. The Mishnah mentions a butcher's hatchet and not an ordinary slaughtering knife, because in the former case there is more need to make a place and a larger one, than in the case of a slaughtering knife. The same applies to the slaughtering of dedicated animals, but as these are slaughtered in the Temple court where there are special knives, there is no need to clear a place when slaughtering. Moreover the Mishnah mentions here the case of a firstling because the law of the firstling is observed even in our days and also because a firstling's wool is probably thicker than that of an ordinary sacrifice, since the owner must wait until it is blemished before he slaughters it (Tosaf).

(10) In the place where the cut is to be made, in order to avoid haladah (passing the knife under cover) which would render the animal nebelah (Rashi).

(11) That it should not be said that he is shearing a firstling's wool, an action which is forbidden. Therefore he leaves the animal with its wool on both sides (Rashi).

(12) The query is whether it is allowed to tear the hair on both sides in order to clear a place for the cut, in the case of an unconsecrated animal.

(13) And in connection with a firstling. Scripture expresses only prohibited shearing.

(14) And the Mishnah means by the expression 'tearing etc.' to pull the hair on both sides so as to clear a place but not with the intention of tearing or plucking, and that should this happen, there would be no infringement of the law.

(15) A disciple of Rab.

(16) The reason being because there was no intention of committing a breach of the law.

Talmud - Mas. Bechoroth 25a

But did Rab say this? Did not R. Hiyya b. Ashi say in the name of Rab: The stopper of the brewery boiler[1] must not be squeezed in on a festival day?[2] — In that case even R. Simeon would agree. For Abaye and Raba both said: R. Simeon admits where it is a case of 'let his head be cut off, but let him not die',[3] that it is forbidden. But did not R. Hiyya b. Ashi report in the name of Rab: The halachah is in accordance with R. Judah,[4] and R. Hanan b. Ami reported in the name of Samuel: The halachah is in accordance with R. Simeon, and R. Hiyya b. Abin taught without naming the authority[5] as follows: Rab says: The halachah is in accordance with R. Judah, whereas Samuel says: The halachah is in accordance with R. Simeon? — Indeed Rab holds that a forbidden act which was produced without intent is prohibited [on a festival day] and that tearing is not [considered] the same as shearing,[6] and the reason why it is permitted on a festival day is because it is detaching a thing from its place of growth in an unusual manner.[7] But is not tearing [considered] the same as shearing? Has

it not been taught: If one plucks a large feather from the wing [of a bird] and cuts off [its head], and smooths[8] it, he is obliged to bring three sin-offerings.[9] And Resh Lakish explained: He is guilty for the act of plucking it, because it comes under the category of shearing; he is guilty for the act of cutting, because it comes under the category of severing; and he is guilty for the act of smoothing, because it comes under the category of scraping?[10] — [Plucking] a wing is different, for that is the usual thing.[11] Now since Rab holds in accordance with R. Jose b. ha-Meshullam, then R. Jose b. ha-Meshullam holds in accordance with Rab.[12] But does R. Jose b. ha-Meshullam hold that a forbidden act [which was produced] without intent is forbidden? Has it not been taught: If two hairs [of a Red Heifer] are red at the roots but black at the top. R. Jose b. ha-Meshullam says: He may shear with scissors without fear?[13] — The case of a Red Heifer is different, for it does not belong to a class [of animals] that are sheared.[14] But has it not been taught: [Scripture says]: Thou shalt do no work with the firstling of thine ox nor shear the firstling of thy flock.[15] From this I can gather only that working an ox and shearing sheep are forbidden. Whence will you deduce that the expression used in connection with an ox applies equally to sheep and the expression used in connection with sheep applies equally to an ox? The text states: Thou shalt not work nor shear the firstling of thy flock![16] — Rather [say] the case of a Red Heifer is different, for it is an offering for the Temple repair.[17] But has not R. Eliezer said: Offerings for Temple repair are forbidden in respect of shearing and work? — It is a Rabbinic enactment. But is there not still a Rabbinic prohibition?[18] — The case of a Red Heifer is different, as it is a rare occurrence.[19] But why not redeem the Red Heifer, bring it to a state of hullin [in order] to shear it and then again consecrate it?[20] — Its price is high.[21] But why not act here as Samuel taught. for Samuel said: A dedicated object worth a maneh[22] which has been redeemed for the value of a perutah[23] is considered redeemed? — Samuel's teaching refers only to a case where it has been done, but does he teach that it is directly permissible! If you wish I may say: Rab holds with R. Jose b. ha-Meshullam but R. Jose b. ha-Meshullam does not hold with Rab [that unintentional results caused by forbidden acts are prohibited].

AND TEARS THE HAIR PROVIDED HOWEVER HE DOES NOT REMOVE THE WOOL FROM ITS PLACE. R. Ashi reported in the name of Resh Lakish: They have taught this only with regard to tearing with the hand but with an instrument it is forbidden. But does not [the Mishnah] state: HE MAKES A PLACE WITH[24] A BUTCHER'S HATCHET ON BOTH SIDES? — Read: FOR[25] THE BUTCHER'S HATCHET. AND SIMILARLY IF ONE TEARS THE HAIR TO SHOW THE PLACE OF THE BLEMISH. It was queried: Does it mean that this is directly permitted[26] or only condoned if it had been done?[27] — Said R. Jeremiah. Come and hear: If wool is entangled in the ear,[28] R. Jose b. ha-Meshullam says: He tears it and shows its blemish. Deduce from here therefore that it means a direct permission. This stands proved. Said R. Mari: We have also learnt: AND SIMILARLY IF ONE TEARS THE HAIR TO SHOW THE PLACE OF THE BLEMISH. What does the expression AND SIMILARLY indicate? If it is to tell us that he must not remove it from its place, since if he slaughters, where the slaughtering proves his intention,[29] [you still say] that he must not remove its wool, can there be any question as regards showing the place of the blemish? Must you not therefore admit that it[30] refers to the ‘tearing’.[31] Deduce from this therefore that it is directly permissible. It stands proved.

MISHNAH. IF [A PORTION OF] THE HAIR OF A BLEMISHED FIRSTLING WAS TORN AWAY AND HE PLACED IT IN THE WINDOW,[32] AND SUBSEQUENTLY SLAUGHTERED THE ANIMAL. AKABYA B. MAHALALEL ALLOWS[33] IT

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(1) Made of soft material, as rag.

(2) For fear of breaking the law against squeezing and wringing on a Holy Day, v. Keth. 6a.

(3) A dialectic term denoting the unavoidable result of an act. And here, since he closes the boiler with the stopper, it is inevitable that there should be squeezing and therefore even R. Simeon, who elsewhere holds that an unintentioned forbidden act is not prohibited, admits in such an Instance that it is prohibited.

(4) Who prohibits an unintentional act.

(5) Of. R. Hiyya or Hanan.
(6) And therefore Rab declared that the ruling was according to R. Jose b. ha-Meshullam in connection with a firstling.
(7) For it is not usual to tear or pluck wool, except to shear it.
(8) Tearing the hair from the windpipe and smoothing it away from the sides.
(9) V. Shab. 74b.
(10) We see, therefore, that plucking or tearing is considered the same as shearing.
(11) Whereas it is not a usual thing to shear it, and consequently plucking is considered the same as shearing. But plucking or tearing wool is not a usual thing and therefore it is not considered the same as shearing.
(12) That a forbidden act which was produced unintentionally, is forbidden.
(13) That he is shearing dedicated animals, even if he shears other hairs as well. (Tosef. Parah I). Consequently. where he does not intend to shear but merely to trim, it is permissible. for the unintentional results of an act are permitted. This remedy is only possible in this instance, but where the two hairs are wholly black, the Red Heifer is disqualified. Another version (Tosaf.) is: The roots are black and the heads are red and it teaches us that although the outside is all red yet it requires trimming.
(14) For cows have no wool and consequently shearing is not prohibited. But one can still maintain that a forbidden act produced without intent is forbidden.
(15) Deut. XV, 19.
(16) ולא תגז the conjunction ו intimating that the prohibition of working and shearing refer to both the ox and the flock.
(17) And not for the altar and therefore shearing is permissible.
(18) Why therefore does the Baraitha state above that he need not fear?
(19) And for cases which occurred rarely the Rabbis did not enact their prohibitions.
(20) Why, therefore, shear the Red Heifer in its consecrated state?
(21) And it is therefore not easy to find the money with which to redeem it.
(22) A certain weight of gold and silver.
(23) A small coin.
(24) בקופיץ .
(25) לקופיץ .
(26) The expression AND SIMILARLY will then refer to the passage stating that it is permissible to tear on both sides for slaughtering and that just as it is allowed to do this, so there is a direct permission to tear the hair in order to show the blemish to the Sage, so that he may pronounce on the nature of the defect of the firstling.
(27) And the expression AND SIMILARLY refers therefore to the passage in the Mishnah stating that the wool must not be removed and that just as in the case of slaughtering the wool must not be removed, so when the blemish is shown to a Sage, the same rule applies. But this does not imply direct permission to tear the hair of the firstling to show its blemish.
(28) There being a blemish in that part of the body.
(29) That he does not do this for the sake of the wool, and still you say that it must not be removed. It should certainly therefore be so in the case where he tears the hair to show the blemish, since there is nothing to prove his intention, for the blemish is not visible to everybody.
(30) The expression AND SIMILARLY.
(31) That it is permissible in the first instance, even as it is in the first clause in our Mishnah.
(32) As the hair i.e., the wool, is forbidden to be used while the animal is alive, because it is the wool of an animal disqualified for the altar.
(33) The use of the wool by the priest, for just as the killing renders permissible the flesh, skin and the wool attached to the animal, so the part that becomes detached is also allowed to be used.

Talmud - Mas. Bechoroth 25b

WHEREAS THE SAGES DECLARE IT FORBIDDEN.[1] THESE ARE THE WORDS OF R. JUDAH. R. JOSE SAID TO HIM: AKABYA B. MAHALALEL DID NOT ALLOW IN THIS CASE,[2] BUT IT IS IN THE CASE WHERE THE HAIR OF A BLEMISHED FIRSTLING WHICH WAS TORN AWAY AND HE PLACED IT IN THE WINDOW, AND THE ANIMAL DIED SUBSEQUENTLY,[3] THAT AKABYA B. MAHALALEL ALLOWS, WHEREAS THE SAGES

DECLARE IT FORBIDDEN. WHERE THE WOOL OF A FIRSTLING IS LOOSELY CONNECTED [WITH THE SKIN].[4] THAT PART WHICH APPEARS [ON A LEVEL] WITH [THE REST OF] THE WOOL[5] IS PERMITTED, WHEREAS THAT WHICH DOES NOT APPEAR [ON A LEVEL] WITH [THE REST OF] THE WOOL[6] IS FORBIDDEN.

GEMARA. [AKABYA B. MAHALALEL DID NOT ALLOW IN THIS CASE]. Is it to be deduced then that the wool is forbidden? If in the case of a dead [firstling][7] [the wool torn away] is allowed [to be used], is there any question that in the case where it is slaughtered, [the wool torn away is allowed]? What is meant then is: Not in this case does Akabya allow and the Sages declare it forbidden,[8] but where he slaughtered it, all unanimously allow [the use of the wool]. They only differ in connection with the case of a dead [firstling].

R. Assi reported in the name of Resh Lakish: The difference of opinion relates to a case where the expert had permitted the firstling,[9] one authority maintaining that we enact a prohibition as a precaution lest he should come to detain it,[10] while the other authority maintains that we do not enact such a prohibition;[11] but where the expert had not yet permitted it, all unanimously hold [that the wool] is forbidden.[12]

R. Shesheth raised an objection: Blemished sacrifices [which became mixed up] with other sacrifices are forbidden whatever they may be;[13] R. Jose however says: The case must be examined. And we raised the point: What does R. Jose mean by the statement 'It must be examined'? You can hardly say that it refers to the blemished animal which is then to be taken away; for we should then infer that the first Tanna quoted above does not hold this?[14] And R. Nahman answered in the name of Rabah b. Abbuha: We are dealing here with the wool of a blemished firstling [torn away while alive], which became mixed up with the wool of hullin?[15] And who is the first Tanna quoted above? R. Judah [in our Mishnah] who said that where he slaughtered it the Rabbis declared it forbidden;[16] whereas R. Jose adheres to his own view that if he slaughtered it the Rabbis allowed. And it states: 'It shall be examined'. Now what does this expression 'It shall be examined' mean? Does it not mean that the examination is by the expert to see whether it possesses a permanent blemish [and then killing it, will make everything permissible to be used] or a transitory blemish?[17] — Said Raba: No. The expression 'It shall be examined' means that an examination is made if the expert had permitted [the firstling] before the wool was torn away; in that case [the wool] is allowed, but if not, then it is not [allowed].

When Rabin went up [from Babylonia to Palestine], he reported the dictum of R. Nahman before R. Jeremiah. The latter said: 'The foolish Babylonians because they dwell in a dark country report an obscure tradition. Have they not heard what R. Hiyya b. Abba reported in the name of R. Johanan: The difference of opinion[18] relates to a case where he searched and did not find the blemished animal, and they differ on the principle on which R. Meir and the Rabbis differ? For we have learnt, R. Meir used to say: Everything which has a presumption of levitical uncleanness continues for ever in that status,[19] until the uncleanness is revealed, whereas the Sages say: He digs until he reaches a rock or unbroken ground, [after which there is no further uncleanness]. But R. Assi says: The difference of opinion relates to a case where he searched and found [a blemished animal],[20] and they differ on the principle on which Rabbi and R. Simeon b. Gamaliel differ. For it has been taught: If one enters a field in which a grave was lost he becomes unclean. If a grave is found therein, he is clean, for I maintain that the grave found is the identical one which was lost. These are the words of Rabbi, whereas R. Simeon b. Gamaliel says: The entire field must be searched. Why does not R. Assi concur with [the interpretation of] R. Hiyya b. Abba? — He can reply [as follows]: This would indeed hold good with regard to levitical uncleanness,[21] for one can say that a raven or a mouse came and took it. But in the case of a blemished animal, where could it have gone?[22] And the other authority [R. Hiyya]? — He will reply: One can say that it was a transitory blemish.[23] And R. Hiyya b. Abba — what is his reason for not accepting the explanation of R. Assi? — He can answer to you

[in this manner]: This indeed holds good[24] with regard to a field in which a grave was lost, for just as it is possible for this man to bury there, so it is for another. But in the case of dedicated animals,[25] once they have been examined, is it a usual thing that a blemish should occur in them?[26] And the other [authority]?[27] — [He answers]: Since animals attack each other, blemishes frequently occur even after an examination.

An objection was raised: If one plucks wool from an unblemished firstling, although there appeared on it subsequently a blemish and he slaughtered it, [the wool] is forbidden to be used. Now, the reason why [the wool] is forbidden is because the animal was unblemished

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(1) For if you permit the use of wool plucked when the animal is alive, one may be led to detain the firstling in order to benefit from its wool, and this may eventually bring about a breaking of the law with reference to working and shearing.

(2) The Gemara later on explains this.

(3) But not slaughtered.

(4) I.e., it is entangled with the remaining wool and has not fallen.

(5) When it is slaughtered and sheared, it does not seem to be removed very much from the other wool.

(6) Where it is separated from the remainder of the wool in a marked degree. It is therefore considered as if it became detached while the animal was alive.

(7) Where the wool attached to it is forbidden to be used, as it requires burial.

(8) I.e., in this case there is no dispute.

(9) Before the wool was torn away.

(10) So that he can avail himself of its wool from time to time and in so doing he may come to break the law regarding working and shearing it.

(11) The expert having permitted its slaughter, we hold that he will not keep the animal.

(12) For it is like an unblemished firstling, and in such a case even Akabya agrees. for if the wool is allowed to be used, he will keep the animal until a blemish appears on it, thus preventing its sacrifice on the altar.

(13) No matter how few in number, so that even if one blemished animal became mixed up with a thousand. all are rendered unfit for sacrificial purposes.

(14) Surely not! For if the blemished animal can be recognized, what further doubt can there be?

(15) Unconsecrated animals, and we are not dealing here at all, with living animals.

(16) And there is no remedy in slaughtering it.

(17) According to R. Jose slaughtering the animal makes the wool permissible to be used even according to the Rabbis. Therefore, just as according to R. Jose, the Rabbis allow the use of the wool when the animal is slaughtered, whether the expert had permitted the firstling or not, for R. Jose says that the animal has yet to be examined, similarly Akabya with regard to a dead firstling makes no distinction whether the expert had permitted it or not, for Akabya makes no distinction between a case of slaughtering it and that of a dead firstling. Hence we see that even without the expert permitting the firstling, there is yet a difference of opinion. The text adopted is that of Sh. Mek. Cur. edd. read: the examination is whether it possesses a permanent blemish or a transitory blemish, though the expert did not permit it.

(18) The first Tanna quoted above and R. Jose differing in regard to living blemished sacrifices that became mixed up with others.

(19) If the lost grave is not found, though the whole field had been searched, similarly here, if the blemished animal cannot be identified, according to the first Tanna, all the animals are forbidden.

(20) For we fear, according to the first Tanna quoted above, lest the blemished animal found was really another, and, therefore, all the animals require examination, whereas R. Jose maintains that making a search is adequate and, having discovered a blemished animal, we presume that it is the one which became mixed up with the rest.

(21) The Rabbis maintaining the he digs until he reaches a rock etc. and this is sufficient, for although he does not find it, one may say that it was removed.

(22) Therefore R. Jose might not permit here, as the blemished animal is undoubtedly among them.

(23) And it healed up, and therefore he was not able to trace the blemished sacrifice.

(24) R. Simeon maintaining that a search should be made of the entire field.

(25) Where a blemished animal sacrifice became mixed up with others and it was found.

(26) And in such circumstances, the first Tanna mentioned above would not have prohibited.

(27) R. Assi — what answer can he give to this?

Talmud - Mas. Bechoroth 26a

but if it were blemished [the wool] would have been allowed[1] [to be used], although the expert did not permit the firstling?[2] — [Explain this as follows]: As long as the expert has not permitted it, the Tanna [in the Baraitha] describes it as an unblemished [firstling].[3]

Must it be said that this[4] is a difference of opinion among Tannaim? If one plucks wool from an unblemished firstling, although subsequently there appeared a blemish on it and he slaughtered it, the wool is forbidden [to be used].[5] If, however, wool was plucked from a blemished firstling and it died subsequently. Akabya b. Mahalalel allows, whereas the Sages declare it forbidden. Said R. Judah: Akabya b. Mahalalel does not permit in this case,[6] but in the case where the hair of a blemished firstling became torn away and he placed it in the window, subsequently slaughtering it, Akabya b. Mahalalel allows whereas the Sages declare it forbidden. Said R. Jose: Abba Halafta[7] agrees in this case[8] that it is allowed. Indeed the Sages clearly said: He shall place it in the window, as perhaps there is hope [of being able to use it].[9] If he slaughtered it, all unanimously agree that it is allowed. If [the firstling] died, Akabya b. Mahalalel allows [the use of the wool], whereas the Sages declare it forbidden. Now, is not the view of R. Jose identical with that of the first Tanna [quoted above]?[10] Then must you not therefore admit that the difference is in respect of a case where the expert had permitted it, the first Tanna [quoted] above] holding that if the expert permitted the firstling, [the wool] is allowed [to be used], but if not, it is not allowed,[11] while R. Jose comes along and says that even though the expert had not permitted the firstling, [it is still allowed]?[12] — Said Raba: No. All agree that if the expert had permitted [the animal, the wool] is allowed [to be used], and if the expert had not permitted it, it is not allowed to be used. There are however three differences of opinion in the matter. For the first Tanna [quoted above] holds that the difference of opinion between Akabya and the Sages refers to a dead firstling and the same applies in the case where he slaughtered it,[13] and the reason why they differ in connection with a dead [firstling] is to show to what lengths Akabya is prepared to go. And R. Judah holds that in connection with a dead [firstling] all [the authorities concerned] prohibit, and that the difference of opinion is where he slaughtered it. Then R. Jose comes along and says: Where he slaughtered it, all agree that it is allowed but the difference of opinion is where the [firstling] died.

Said R. Nahman: The law is in accordance with R. Judah[14] since we have learnt [in a Mishnah of] Bekirta[15] in agreement with his view. For we have learnt: If the hair of a blemished firstling became torn away and he placed it in a window, subsequently slaughtering it, Akabya b. Mahalalel allows, whereas the Sages declare it for bidden. R. Nahman b. Isaac said: The [language of the] Mishnah also indicates this: IF WOOL OF A FIRSTLING IS LOOSELY CONNECTED [WITH THE SKIN], THAT WHICH APPEARS [ON A LEVEL] WITH [THE REST OF] THE WOOL IS ALLOWED. WHEREAS THAT WHICH DOES NOT APPEAR [ON A LEVEL] WITH [THE REST OF] THE WOOL IS FORBIDDEN. Whose opinion is this? Shall I say that it is R. Jose's? If so, in what circumstance is this the case? You can hardly say where he slaughtered [the firstling], for both Akabya and the Rabbis in both instances[16] indeed allow. Does then this perhaps refer to the case of a dead [firstling]? But if the Mishnah gives the opinion of the Rabbis, then in both instances they indeed forbid[17] and if it is Akabya's opinion, then the passage ought to be reversed as follows: If it appeared on a level with [the rest of] the wool, then it is forbidden, for death renders it prohibited, whereas if it did not appear on a level with [the rest of] the wool, then it is allowed,[18] having been torn away previously! It is evident therefore that the Mishnah represents R. Judah's view. In what circumstances? You can hardly say in a case where [the firstling] died, for both Akabya and the Rabbis, in both instances, prohibit. What is meant then is. in a case where he slaughtered it, and if [the Mishnah represents] Akabya's view, in both instances he indeed allows. Must you not then admit that the Mishnah is the view of the Rabbis[19] and deduce from this that the point at issue is

where he slaughtered it?[20] This stands proved. R. Jannai asked: How is it if one plucks wool from an unblemished burnt-offering?[21] [But if one actually] plucks, is there any authority who allows?[22] — Rather [the question is regarding] wool which became detached from an unblemished burnt-offering; what is the ruling? Concerning a sin-offering or trespass-offering, there is no need to ask, for since they come to atone, he would not detain them. And as regards a tithing animal, too, [there is no need to ask for], since it does not come to atone, he might detain it.[23] The question does arise, however, concerning a burnt-offering. What is the ruling?

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(1) And the Baraitha follows R. Jose who says that when he slaughtered it. the Rabbis allowed the use of the wool, or it follows Akabya in accordance with R. Judah's interpretation of the Mishnah, and even though the expert did not permit the firstling before the wool was plucked. Hence there is a difficulty here with reference to the ruling of Resh Lakish!

(2) Previously. but only after the wool had been plucked.

(3) Although it is in reality blemished, and the expression in the Baraitha ‘although subsequently a blemish appeared on it’ means after the expert had examined the blemish and pronounced it to be of a permanent character.

(4) The ruling of Resh Lakish.

(5) For in that case, even Akabya agrees that the wool is forbidden to be used, for we apprehend that he may be led to detain the firstling and prevent it from being offered up on the altar. The same ruling also applies to wool which has become detached from the animal.

(6) Where the firstling died.

(7) One of the Sages who dispute with Akabya.

(8) Where he slaughtered it.

(9) If he should slaughter it as it is stated in the next passage.

(10) From the first Tanna mentioned above we deduce that if he slaughtered a blemished firstling the wool is allowed to be used according to all the authorities concerned, and the difference of opinion relates to where the firstling dies. And R. Jose also declares that the point at issue is where the animal dies.

(11) As this Baraitha above was explained on the view of Resh Lakish as meaning that the expression ‘unblemished firstling’ meant a blemished firstling which had not yet been shown to the expert, and therefore the wool is forbidden according to all the authorities concerned, but if the expert had permitted the animal, then the wool torn previously is allowed to be used.

(12) For since R. Jose says that there is a hope in slaughtering it, this implies that the expert had not yet examined the animal. We see, therefore, that on the ruling of Resh Lakish there is a difference of opinion among Tannaim.

(13) Since we do not find it stated by the first Tanna quoted above, that where he slaughtered it all maintain that the wool is allowed to be used.

(14) That Akabya only allows the wool to be used where he slaughtered the firstling and that the difference of opinion does not refer to a dead firstling.

(15) The tractate ‘Eduyyoth V, 6. On the name Behirta, v. Ed., Sonc. ed., Introduction.

(16) Both where it is on a level with the rest of the wool and where it is not.

(17) For that which is attached to the dead animal requires burial according to all, and of that which is detached the Rabbis prohibit the use, even to place it in the window.

(18) For the wool of the dead firstling which is allowed is that which has fallen off before it died but not that which is plucked after its death.

(19) Who hold that the wool torn away before the slaughtering is forbidden to be used but after the slaughtering it is allowed, and the interpretation of the Mishnah which says: THAT WHICH APPEARS ON A LEVEL WITH etc., is that the wool which is attached to the skin, i.e., which remains after the killing, is allowed to be used, but ‘that which is not on a level etc., i.e., that which has been detached previously. is forbidden.

(20) Since you cannot explain the Baraitha in any other way. And as R. Judah's view is stated anonymously in the Mishnah, therefore the law is in agreement with his interpretation, that the point at issue between Akabya and the Sages is where he slaughtered the firstling.

(21) When alive and it became blemished and was redeemed. What is the ruling according to the Rabbis? The inquiry does not concern a blemished burnt-offering, for since it requires an expert to examine it, there is a fear if the wool may be used, he may. in order to benefit from the wool, postpone the examination and thus possibly come to infringe the prohibitions of working and shearing a disqualified sacrifice.

(22) According to the view of the Rabbis who declare it is forbidden, he is certainly a transgressor. Tosaf. adds that since we are dealing here with an unblemished animal, even Akabya would consider it wrong in accordance with the Baraitha above.

(23) And therefore there is no question but that the wool is forbidden.

Talmud - Mas. Bechoroth 26b

Since it is essentially not brought to atone, he might detain it, or since a burnt-offering also atones for a transgression of a positive precept. [do we say that] he would not detain it? — Come and hear: If one plucks wool from an unblemished firstling, although a blemish appeared on it subsequently and he slaughtered it, the wool is forbidden to be used. Now, the reason is because he actually plucks it, but if it became detached, it would be allowed; how much more so, therefore, in the case of a burnt-offering,[1] [is it to be expected] that he would not detain it! — [No]. The same ruling applies if it became detached from an unblemished animal, that it is forbidden, and the reason, why [the Baraitha states] 'If one plucks', is to show the length to which Akabya is prepared to go, that in the case of a blemished sacrifice, one is evenly allowed to pluck it. But have we not learnt: WHICH BECAME TORN AWAY'? — It says WHICH BECAME TORN AWAY, to show to what lengths the Rabbis are prepared to go[2] [and] it says 'If one plucks', to show the lengths to which Akabya is prepared to go.

WOOL OF A FIRSTLING LOOSELY CONNECTED etc. How is the expression 'THAT WHICH DOES NOT APPEAR WITH THE WOOL to he understood?R. Eleazar reported in the name of Resh Lakish: Wherever the root [of the wool] is turned towards its head.[3] R. Nathan b. Oshaia says: Wherever it is not attached [to the skin] on a line with [the rest of] the wool.[4] Why does not Resh Lakish give the explanation of R. Nathan b. Oshaia?[5] — Said R. Ela: Resh Lakish holds [that the reason is] because it is impossible for wool to he free from loosely connected threads.[6]

C H A P T E R I V

MISHNAH. UP TO HOW LONG IS AN ISRAELITE BOUND TO ATTEND TO A FIRSTLING?[7] — IN THE CASE OF SMALL CATTLE, UNTIL THIRTY DAYS, WITH LARGE CATTLE, [THE PERIOD] IS FIFTY DAYS. R. JOSE SAYS: IN THE CASE OF SMALL CATTLE [THE PERIOD] IS THREE MONTHS. IF THE PRIEST SAYS [TO THE ISRAELITE] DURING THIS PERIOD 'GIVE IT TO ME', HE MUST NOT GIVE IT TO HIM. BUT IF THE FIRSTLING WAS BLEMISHED AND THE PRIEST SAID TO HIM 'GIVE IT TO ME SO THAT I MAY EAT IT', THEN IT IS ALLOWED.[8] AND IN TEMPLE TIMES, IF [THE FIRSTLING] WAS IN AN UNBLEMISHED STATE AND THE PRIEST SAID TO HIM 'GIVE, AND I WILL OFFER IT UP IT WAS ALLOWED. A FIRSTLING IS EATEN YEAR BY YEAR BOTH IN AN UNBLEMISHED[9] AS WELL AS IN A BLEMISHED STATE,[10] FOR IT IS SAID: THOU SHALT EAT IT BEFORE THE LORD THY GOD YEAR BY YEAR.[11] IF A BLEMISH APPEARED ON IT IN ITS FIRST YEAR, HE IS PERMITTED TO KEEP IT ALL THE TWELVE MONTHS.[12] AFTER THE TWELVE MONTHS, HOWEVER, HE IS NOT PERMITTED TO KEEP IT EXCEPT FOR THIRTY DAYS.

GEMARA. Whence is this proved?[13] — Said R. Kahana: Scripture says: The first-born of thy sons thou shalt give unto Me.[14] [Likewise shalt thou do] with thy sheep. Thou shalt not delay to offer of the fullness of thy harvest and of the outflow of thy presses.[15] Likewise thou shalt do with thine oxen. And why not reverse this?[16] — It is reasonable to assume that the part which comes first in the first text[17] forms an analogy with that which comes first in the subsequent verse[18] and that which comes later in the first text[19] forms an analogy with that which comes later in the subsequent text. On the contrary, the text that is near to it should rather form an analogy with the text near to it?[20] — Rather said Raba: The text says: 'Thou shalt do'. Scripture adds [the duty of] another doing[21] [i.e.,

attention] in connection with 'Thine oxen'. Then why not say sixty days?[22] — Scripture refers you to the Sages [for the precise interpretation].[23] It has also been taught to this effect: [Scripture says]: 'The firstborn of thy sons thou shalt give unto Me. Likewise thou shalt do with thy sheep'. I might [conclude from the Biblical text] that it applies also to 'Thine oxen'? The text therefore states 'Thou shalt do', the text adds [the duty of] another doing [i.e., attention] in connection with an ox and Scripture refers you to the Sages [for the precise interpretation]. Hence [the Sages] said: Up to how long is the Israelite bound to attend to the firstling? In the case of small cattle, until thirty days and in the case of large cattle, fifty days. R. Jose Says: In the case of small cattle, [the period] is three months, because it requires extra attention. What does the expression 'Because it requires extra attention' mean?[24] — A Tanna taught: Because its teeth are small.[25]

IF THE PRIEST SAID TO HIM DURING THIS PERIOD: GIVE IT TO ME', HE MUST NOT GIVE IT TO HIM. What is the reason? — Said R. Shesheth: Because it makes him appear like a priest who helps in the threshing floors.[26]

Our Rabbis taught: If Priests, Levites and poor help in the house of the shepherds,[27] in the threshing floors,[28] and in the slaughtering place,[29] we do not give them the priests' gifts,[30] terumah,[31] or tithes in reward; and if they acted thus, they render them hullin.[32] And concerning these, Scripture says: Ye have corrupted the covenant of Levi.[33] And Scripture further says: And ye shall not profane the holy things of the children of Israel, that ye die not.[34] What need is there for a further text? — You might think that there is no death guilt. Come therefore and hear: There is a further text, 'And ye shall not profane the holy things of the children of Israel that ye die not'. And the Sages wished to punish the owners by making them separate terumah [a second time] from their own. And what was the reason why they did not punish them? Lest[35] [the owners] come to separate from what is exempt [from terumah] for what is subject [to terumah].

And in all these cases [mentioned above] the owners enjoy

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(1) That its wool should be allowed to be used.

(2) That they forbid even if the wool became detached, but in reality according to Akabya, one may actually pluck the wool of a blemished firstling.

(3) The wool being folded up in the centre so that the two tops of the wool appear outside.

(4) Where some of it appears to be higher than the rest.

(5) The query is not raised why R. Nathan does not explain in the same way as Resh Lakish, because R. Nathan is more stringent in this connection than Resh Lakish.

(6) For it is a usual thing, and, consequently, if we adopted R. Nathan's interpretation, there would scarcely be any wool that would be allowed to be used in such circumstances.

(7) In our days, after the destruction of the Temple, for what length of time must the Israelite care for and feed the animal perforce the priest claims it?

(8) For whereas in the previous case where the priest asks for the unblemished firstling it is forbidden because it appears as if the priest receives the animal in exchange for looking after it until it becomes blemished, in this instance as the animal can be eaten immediately and there is no necessity for the priest to detain it, it is not so.

(9) In Temple times.

(10) In our days.

(11) Deut. XV, 20.

(12) From its birth.

(13) That the Israelite is bound to care for the firstling for a period of thirty days.

(14) And next to this verse, in Ex. XXII is the verse 'Likewise . . . with thy sheep' and we interpret the juxtaposition in the following manner: Just as in the case of a first-born son, redemption is necessary after thirty days, similarly in the case of a firstling of small cattle, the Israelite must keep the animal for thirty days.

(15) And next to this verse is another 'Likewise . . . with thine oxen'. Here also we make a comparison as follows. Just as the fulness of thy harvest, i.e., the first-fruits, ripen on Passover and are brought to the Temple on Pentecost fifty days

later, similarly the firstling of oxen, i.e., large cattle, must be looked after for a period of fifty days.
(16) I.e., draw the analogy between the text 'The first-born of thy sons etc.', and the text 'Likewise shalt thou do with thy oxen', and thus the firstling of large cattle will require only thirty days to be looked after.
(17) 'Thou shalt not delay to offer of the fullness of thy harvest'.
(18) 'Likewise shalt thou do with thy oxen'.
(19) 'The first-born of thy sons' we link up with the text 'Likewise thou shalt do with thy sheep'.
(20) The text 'The first-born of thy sons' should form a comparison with the text 'Likewise thou shalt do with thy oxen' and thus large cattle would have a period of thirty days.
(21) The superfluous text 'Thou shalt do' denotes that in the case of an ox and large cattle in general, a longer period of doing for the animal is demanded than is the case with sheep.
(22) Since the text increases the period in connection with large cattle, why not say that the addition consists of double that of the period of a first-born's redemption?
(23) Scripture does not state sixty days, but the Sages explain that fifty days are required, basing this on a comparison between the text 'The fullness of thy harvest' and the verse 'Likewise thou shalt do with thy oxen'.
(24) This passage is inserted with Sh. Mek.
(25) And it is unable to eat grass and without its mother's care it dies. But after three months it is able to eat without its mother's help.
(26) For in our days a firstling is of no use until a blemish befalls it. As, therefore, the Israelite has to take trouble with the animal for fifty days, if the priest asks him to deliver the firstling to him during this period to look after, he thus saves the Israelite expense and labour, in consideration for which he takes possession of the firstling and thereby prevents any other priest claiming it. He thus seems to be on a par with a priest who helps with the threshing in order that he may receive the priestly dues for his services, which is forbidden. If, however, the firstling was blemished and the priest asked him for it so that he might eat it, this would be permissible.
(27) This applies only to the priest, who can receive the firstling.
(28) This applies to all the classes mentioned here, to the priests for terumah, to the Levites who receive the first tithes, and to the poor who are the recipients of the poor men's tithing every third year.
(29) Referring again to the priests who receive the gifts of the shoulder, the jaws and the maw.
(30) V. Marginal Gloss.
(31) The dues of the priests.
(32) The priestly and levitical dues become secularized, the owners having acted improperly and not having discharged their obligations.
(33) Mal. II, 8.
(34) Num. XVIII, 32. As applied to the case in question, the expression 'death' means that the owner is in danger of committing a sin which involves the penalty of death, not that he is actually guilty of such a sin.
(35) In a case, for example, where there are two se'ahs, one from which terumah has been separated while the terumah from the other was given to a priest who helped in the threshing. Now, if you say that the owner is compelled to give terumah a second time, then he may think that the second se'ah is regarded as if terumah had not been given from it at all, and he may separate this for the other. This would be separating from what is exempt etc., for the second se'ah is biblically exempt from terumah.

Talmud - Mas. Bechoroth 27a

the benefit for putting a person under an obligation.[1] In what way? — If an Israelite separated terumah from his pile and another Israelite found him and said to him: 'Here is a sela' for you and give it to the son of my daughter, a priest', it is permitted. If, however, a priest [approached him] on behalf of another priest, it is forbidden.[2] And why does not the Tanna [of the Baraitha] also mention the case of the priest's gifts?[3] — He can explain it to you [as follows]. When terumah is consecrated as such, since it is not redeemed, no mistake can be made with it.[4] But in these cases [of the firstling and priest's gifts], since they are consecrated only for their value, the priest may make a mistake with them, thinking that their holiness is redeemed for the four zuz [i.e., the sela'] and thus will come to treat them after the manner of hullin.[5]

Raba said: Terumah from abroad[6] is not subject to the ruling of a priest who helps in the threshing floors.[7] R. Hama gave it to his attendant.[8] Samuel said: Terumah from abroad is neutralized in a larger quantity.[9] Rabbah[10] neutralized it in a larger quantity and used to eat it in the days of his [levitical] impurity.

R. Huna the son of R. Joshua, when he happened to have wine of terumah [from abroad], used to mix two natla[11] of hullin with one natla of terumah, and after that he would add one [natla] and take one.[12]

Samuel further said: Terumah from abroad one may go on eating, leaving the separation for afterwards.[13] Samuel further said: Terumah from abroad is forbidden only for one whose uncleanness issues from his body;[14] and this is the case only as regards eating, but as regards touching, there is no objection.[15]

Said Rabina: Therefore a woman during menstruation may separate the hallah[16] and a priest who is a minor,[17] eats it; and if there is not a priest who is a minor, she takes it on the point of the shovel[18] and throws it in the oven, and then separates other hallah[19] in order that the law of hallah may not be forgotten and an adult priest eats it.

R. Nahman, R. Amram and Rami b. Hama were sailing in a boat. R. Amram went away to ease himself. A certain woman came, approached and asked them: Is it allowed for one made unclean through a corpse that he should bathe and eat terumah from abroad?[20] — Said R. Nahman to Rami b. Hama:

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(1) Receiving in return a small amount for this privilege.

(2) For it looks as if the priest buys the right of the terumah on behalf of another priest, although he can claim it himself. It, therefore, comes under the category of the action of a priest who helped in the threshing floor.

(3) Of a butcher who separates the priest's gifts or that of a shepherd who gives up the firstling, in each of which cases he may receive a sela' from another Israelite who said to him: 'Here is a sela' and give it etc.'

(4) Since everybody is aware that terumah cannot lose its holiness, and therefore the priest on whose behalf the sela' was paid by the Israelite will not mistakenly use it as hullin.

(5) For if the priest chose to sell to an Israelite the firstling's flesh, or the shoulder etc. , he can do so and the latter is no longer required to eat the flesh roasted and with mustard, the royal manner of eating, as the priest is compelled to do, and thus he may be led to give the flesh to dogs to eat, treating it as mere hullin.

(6) Lit., outside Palestine.

(7) The ruling mentioned here is not applied, because the giving of such terumah is only a Rabbinic enactment, and therefore we are not particular with reference to it.

(8) Who was a priest, in lieu of payment for his services, and he had no fears about its being similar to the case of a priest who helps in the threshing floor.

(9) One measure of terumah is nullified in two of hullin, and it is not required that the one measure of terumah should be neutralized in a hundred, as is the case with terumah in the Holy Land. Also, after being neutralized, the whole mixture may be eaten by a non-priest or by the priest himself in his days of levitical impurity.

(10) He was a priest, being a descendant from the House of Eli.

(11) A measure, one-fourth of a log.

(12) And proceeded to act thus until all the terumah was neutralized, there being always a greater quantity of hullin to neutralize the terumah. (R. Gershom.)

(13) Even delaying the separation until the end. According to Tosaf., however, there must remain a portion of the pile even after the separation, to carry out the principle of mukaf (lit., 'brought near') requiring that the terumah must be of a mass in close neighbourhood of the products from which it is set aside.

(14) E.g., one afflicted with gonorrhoea, or who has become defiled.

(15) And although he makes the terumah unclean, we do not trouble, as there is no obligation to preserve it in a state of cleanliness.

(16) The Priest's share of the dough, since as regards coming in contact, there is no restriction on a menstruant woman.
(17) The woman herself being unclean through an uncleanness which issues from the body, and therefore only a minor but not an adult priest may eat it. And even an adult priest, if he bathes and purifies himself from pollution is considered as a minor in this respect. Another reason why it says 'a minor' is because a minor is not subject to pollution and thus did not become unclean. Still another reason is because hallah can be of a small quantity which is only sufficient for a minor, as the expression later on 'on the point of a shovel' indicates.
(18) Avoiding direct contact, for we are endeavouring as far as possible to prevent her touching it (Rashi). Tosaf. observes that this refers to a baker's shovel used in order to place it more easily in the oven and in the fire, for if according to Rashi's explanations the difficulty arises that coming into direct contact, as we are taught above, is not forbidden at all.
(19) This implies that where there is a minor who is a priests we do not demand the separation of two hallahs. In places, however, near the Holy Land, two hallahs are required to be separated, one for the fire and the other for the priest.
(20) Without the sprinkling and waiting for sunset, for complete purification.

Talmud - Mas. Bechoroth 27b

And have we [in these days] sprinkling [on the unclean]?[1] Rami b. Hama replied to him: 'Should we not take into consideration the views of the Elder'?[2] While this was going on, R. Amram arrived. He said to them: This is what Rab said: One made unclean through a corpse, bathes and eats of the terumah from abroad.[3] The law however is not in accordance with his view.[4] Mar Zutra[5] reported in the name of R. Shesheth: One made unclean through a reptile bathes and eats the terumah from abroad. The law however is not in accordance with his view.

A FIRSTLING IS EATEN YEAR BY YEAR etc. Since [the Mishnah] says: IF A BLEMISH APPEARED ON IT DURING ITS FIRST YEAR, we infer that we count according to its own year.[6] Whence is this proved: As Rab Judah reported in the name of Rab: Scripture says: Thou shalt eat it before the Lord thy God, year by year.[7] Now, what year is it which enters into another? One must say it is the year of a firstling.[8] The school of Rabbi,[9] however, taught: The text 'year by year' denotes one day in this year and one day in the next year, and teaches that a firstling may be eaten for two days and a night.[10] And according to the school of Rabbi, whence do they derive this?[11] — They infer it from dedicated sacrifices.[12] And as regards to dedicated sacrifices themselves, whence do we deduce this? — Said R. Aha the son of Jacob, Scripture says: A lamb of the first year,[13] implying the year of the lamb, but not the year counted according to the Creation.[14] And whence does Rab derive that a firstling may be eaten for two days and a night? — He derives it from the text: And the flesh of them shall be thine as the wave-breast and as the right thigh:[15] Scripture compares it to the wave-breast and the right thigh of peace-offerings. Just as there they may be eaten for two days and a night, so here it may be eaten for two days and a night.

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(1) As there is no sprinkling there is no need for awaiting sunset.
(2) R. Amram. It is not proper to give a decision in his absence.
(3) And he does not need to wait for sunset in order to complete his purification.
(4) Which required him to bathe but even bathing is not necessary, since it is terumah from abroad (Tosaf.) According to Rashi, however, it appears that the law is that one made unclean through a corpse may not eat terumah from abroad and Rabbenu Gershom says explicitly that this is the case.
(5) So Sh. Mek,. Cur. edd. 'For Mar Zutra'.
(6) So that if it was born in Nisan, he may keep it until the following Nisan, and we have not to consider that a new year commences in Tishri in this connection.
(7) Deut. XV, 20.
(8) For such a year enters into the new year commencing in Tishri.
(9) So Sh. Mek. Cur. edd. Rab.
(10) If he slaughters it on the last day of its first year he may continue eating it on the first day of the second.
(11) That the firstling's year is counted from its birth.

(12) From other dedicated sacrifices, which are offered up a year old counting from their birth.

(13) Lev. XII, 6. Lit., 'of its first year'.

(14) I.e., commencing in Tishri.

(15) Num. XVIII, 18. The text refers to a firstling.

Talmud - Mas. Bechoroth 28a

And [what says] the other [to this]? — From that text one could say that it refers to the wave-breast and the right thigh of a thanksgiving offering.[1] And the other? — Scripture says: 'Shall be thine' thus adding another 'being' in connection with the first-born.[2] And the other? — If we go by that text, we could say that it teaches concerning a blemished firstling that he gives it to the priest,[3] as we do not find this stated [explicitly] in the whole of the Torah.[4] And the other?[5] — It says: 'And the flesh of them', intimating that an unblemished as well as a blemished firstling [may be eaten]. And the other? — The text: 'And the flesh of them' refers to the firstlings of all the Israelites.[6]

IF A BLEMISH APPEARED ON IT DURING ITS FIRST YEAR, HE IS PERMITTED TO KEEP IT ALL THE TWELVE MONTHS. The query was put forward. What does [the Mishnah exactly] mean? Does it mean that if a blemish appeared on it during its first year, he is allowed to keep it all the twelve months and thirty days besides? Or does [the Mishnah] mean that where a blemish appeared on it during its first year, he is allowed to keep it all the twelve months but no longer, and where a blemish appeared on it after its first year, he is not allowed to keep it except for thirty days? — Come and hear: It was taught: A firstling in our days,[7] so long as it is not fit to show to a Sage,[8] is allowed to be kept for two or three years. And when it is fit to show to a Sage, if a blemish appeared on it during its first year, he is allowed to keep it all the twelve months, whereas after its first year, he is not allowed to keep it even one day nor even one hour.[9] On the ground, however, of restoring a lost object to the owners,[10] [the Rabbis] said that he is allowed to keep it for thirty days![11] But I can still however raise the question [concerning the Baraitha itself]: Does it mean thirty days after its first year[12] or before its first year?[13] — Come and hear: If a blemish appeared on it fifteen days during its first year, we complete for it fifteen days after its first year.[14] This proves it.[15] This supports the views of R. Eleazar. For R. Eleazar said: We give it thirty days from the time when the blemish appeared on it. Some there are who read: R. Eleazar said: Whence do we know that if a blemish appeared on a firstling in its first year we give it thirty days after its year? It is said: Thou shalt eat it before the Lord thy God year by year.[16] Now, what is the number of days which is reckoned [by all authorities] as a year? You must admit that it is thirty days. An objection was raised: [It is taught]: If a blemish appeared on it fifteen days in its first year, we complete for it fifteen days after its year. We deduce from here that we complete thirty days, but we do not give it [thirty full days after its first year]. This is a refutation of R. Eleazar! It is indeed a refutation.

MISHNAH. IF ONE SLAUGHTERED THE FIRSTLING AND SHOWED ITS BLEMISH [TO AN EXPERT],[17] R. JUDAH PERMITS,[18] WHEREAS R. MEIR SAYS: SINCE IT WAS NOT SLAUGHTERED BY THE INSTRUCTIONS OF THE EXPERT, IT IS FORBIDDEN.[19] IF ONE WHO IS NOT AN EXPERT SEES THE FIRSTLING AND IT WAS SLAUGHTERED BY HIS INSTRUCTIONS, IN SUCH A CASE IT SHALL BE BURIED AND HE SHALL MAKE REPARATION OUT OF HIS OWN ESTATE.

GEMARA. Said Rabba b. Bar Hana: In the case of a blemish of withered spots in the eye,[20] all agree that it is forbidden, for they change.[21] They only differ regarding blemishes of the body.[22] R. Meir maintaining that we prohibit blemishes of the body on account of withered spots in the eye, whereas R. Judah maintains that we do not prohibit blemishes of the body on account of withered spots in the eye. It has also been taught to the same effect: If one slaughtered a firstling and showed [an expert] its blemish [after its slaughter], R. Judah says: If there are withered spots in the eye, it is forbidden, since they change, whereas if there are bodily blemishes, it is permitted because they do

not change. But R. Meir says: Both in the one case as in the other it is forbidden, because they change. [You say] 'Because they change' — you cannot mean that? Do bodily blemishes change? — Rather what R. Meir means is on account of those [blemishes] that change.[23] Said R. Nahman b. Isaac:

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(1) Which can only be eaten for one day and a night. Therefore the school of Rabbi infers this from the text 'Thou shalt eat it' etc.

(2) Which shows that it is to be eaten for two days and a night, unlike some sacrifices,

(3) Therefore the school of Rabbi cannot derive the period of eating for a firstling from 'Shall be thine', as Rab maintains.

(4) Tosaf. however explains that this means that we do not find elsewhere that the priest should benefit from a sacrifice which became blemished, as is the case with regard to a firstling.

(5) Rab who deduces the period of two days and a night from 'Shall be thine' whence does he infer that a blemished firstling may be eaten?

(6) The text 'And the flesh of them' only refers to unblemished firstlings, and the plural 'them' alludes to the Israelites.

(7) When an unblemished firstling is not fit for anything.

(8) I.e., before a blemish appears on it so that he can show it to a Sage in order to decide whether it is a transitory or permanent blemish. Tosaf. explains the expression as meaning where a Sage is not at hand, for the Israelite is not compelled to go to distant parts to have the blemish examined.

(9) Now it is assumed that the Baraitha deals here with a case where the blemish appeared in its first year.

(10) I.e., the priest, for if the firstling must not be kept for any period in the possession of the Israelite, he may not find a priest to whom to give it, and if he kills it, it will become putrid, thus making a loss for the priest. Therefore the Israelite must keep it for thirty days, after which period he is allowed to kill and salt it keeping it until he finds a priest. The comment of Tosaf., however, is that we are dealing where the firstling is in the possession of the priest, giving the latter a period of thirty days to hold it, in case he had no need for the flesh at the moment. But the Israelite must always wait until he finds a priest to receive the firstling.

(11) We consequently see that the thirty days of the Mishnah refers to a blemish in its first year.

(12) I.e., that the blemish appeared after its first year.

(13) The blemish appeared before the first year ended, and he keeps it for thirty days after its first year. The words 'whereas after its first year' can bear either interpretation.

(14) We give the animal thirty days from the time when a blemish appears on it, and if a blemish appeared after the year or a little while before the expiration of the year, we give it thirty days from the time of the blemish for the Israelite to keep it. And we also infer that if the blemish appeared a month or three months in its first year, the Israelite waits until the end of its year.

(15) That the thirty days of the Mishnah refers to where a blemish appears after its year, for if the blemish appeared in its first year even a day before its expiration, we do not give the animal thirty full days but only complete the period of thirty days.

(16) Deut. XV, 20. Which implies that it is not eaten in the year of its blemish.

(17) After its killing, and the expert discovered that it was a permanent blemish.

(18) Since the animal was after all seen by an expert.

(19) We punish him because he did not show it to an expert before its killing:

(20) If he showed it after its killing.

(21) Owing to its death agony the eye is liable to change and therefore although at the moment the blemish seems to be a permanent one, it is possible that if he had examined it when the animal was still alive, the blemish might have been found to be a transitory one.

(22) E.g., a slit in the ear.

(23) I.e., withered spots in the eye, we penalize the Israelite even in cases of bodily blemishes.

Talmud - Mas. Bechoroth 28b

I can prove it from our Mishnah.[1]

R. MEIR SAYS: SINCE IT WAS NOT SLAUGHTERED ACCORDING TO THE INSTRUCTIONS OF AN EXPERT IT IS FORBIDDEN.[2]

Deduce from here that R. Meir does indeed penalize him. This stands proved.

The question was raised: Does [the statement above] 'on account of those blemishes that change', imply that all [the withered spots in the eye] change, or that some change and others do not change?[3] What is the practical difference?[4] — Whether we should declare the witnesses false or not.[5] If you say that in all cases withered spots in the eye change, then they are false.[6] But if you say that there are some that change and other do not, we rely on them. What is the ruling? — Come and hear. For Rabbah b. Bar Hana reported in the name of R. Johanan: R. Josiah of Usha told me: 'Come and I will show you withered spots in the eye that change'. Now, since he said to him 'Come and I will show you', this implies that there are some that change and others which do not change.

IF ONE WHO WAS NOT AN EXPERT SEES THE FIRSTLING AND IT WAS SLAUGHTERED BY HIS INSTRUCTIONS, IN SUCH A CASE IT SHALL BE BURIED. May we say that the Mishnah states anonymously that the ruling is in accordance with R. Meir?[7] — Perhaps it refers to a case of withered spots in the eye, and thus it will be according to the view of all the authorities concerned.[8]

AND HE SHALL MAKE REPARATION OUT OF HIS OWN ESTATE. A Tanna taught: When he pays [the priest], he pays a quarter [of the loss] for [a firstling of] small cattle and a half for [a firstling of] large cattle.[9] What is the reason [for this disparity in reparation]? In one case the loss is great, whereas in the other it is small. If this be a fact, let him pay [the priest] in proportion to the loss?[10] — R. Huna b. Manoah reported in the name of R. Aha b. Ika: They inflicted on him only [a quarter of the loss] because of the trouble of raising small cattle.[11] MISHNAH. IF A JUDGE IN GIVING JUDGMENT HAS DECLARED INNOCENT A PERSON WHO WAS REALLY LIABLE OR MADE LIABLE A PERSON WHO WAS REALLY INNOCENT, DECLARED DEFILED A THING WHICH WAS LEVITICALLY CLEAN OR DECLARED CLEAN A THING WHICH WAS REALLY DEFILED, HIS DECISION STANDS BUT HE HAS TO MAKE REPARATION OUT OF HIS OWN ESTATE. IF, HOWEVER, THE JUDGE WAS AN EXPERT FOR THE BETH DIN,[12] HE IS ABSOLVED FROM MAKING REPARATION.

GEMARA. May we say, the anonymous statement of the Mishnah is in accordance with R. Meir who is prepared to adjudicate liability for damage done indirectly?[13] — R. Ela reported in the name of Rab: [We suppose that] he personally executed the judgment by his own hand.[14] Now, this is quite intelligible where the judge made liable a person really innocent, [the explanation being] e.g., where he personally executed the judgment by his own hand; but where he declared innocent the person who was really liable, how are we to understand it? For if you say it means where he said to him: 'You are innocent', he does not personally execute the judgment by his own hand! — Said Rabina: The case deals here where e.g. [the creditor] had a pledge and [the judge] took it from him.[15] The case also where he declared defiled a thing which was really clean, [can be explained], where he touched clean things with a [dead] reptile;[16] and the case where he declared clean a thing which was really defiled, [can be explained] where he mixed them with his fruits.[17] MISHNAH. IT HAPPENED ONCE THAT A COW'S WOMB WAS TAKEN AWAY AND R. TARFON GAVE IT TO THE DOGS TO EAT.[18] THE MATTER CAME BEFORE THE SAGES AT JABNEH AND THEY PERMITTED THE ANIMAL [FOR] THEODOS THE PHYSICIAN HAD SAID: NO COW NOR SOW LEAVES ALEXANDRIA OF EGYPT BEFORE ITS WOMB IS CUT OUT IN ORDER THAT IT MAY NOT BREED.[19] SAID R. TARFON: 'YOUR ASS IS GONE, TARFON'.[20] SAID R. AKIBA TO HIM: YOU ARE ABSOLVED, FOR YOU ARE AN EXPERT AND WHOEVER IS AN EXPERT FOR THE BETH DIN IS ABSOLVED FROM REPARATION.

GEMARA. And why does not [R. Akiba] infer this[21] from the fact that he had erred in a matter where the Mishnah is explicit, and one who errs in a matter where the Mishnah is explicit can reconsider his decision?[22] — He gave him one reason and then another: One reason for absolving is because you gave a wrong decision against an explicit law in the Mishnah. And another is that even if your mistake was made against the common practice,[23] you are an expert for the Beth din, and whoever is an expert for the Beth din is absolved from reparation. MISHNAH. IF ONE TAKES PAYMENT FOR SEEING THE FIRSTLINGS, THEY MUST NOT BE SLAUGHTERED BY HIS INSTRUCTIONS,[24] UNLESS HE WAS AN EXPERT

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(1) That the controversy refers to bodily blemishes.

(2) Now, since R. Meir adduces as the reason for prohibiting that we penalize the Israelite because he did not show the blemished firstling to the expert before its killing, therefore if the difference of opinion applied also to the case of withered spots in the eye, then surely he would have given a more effective reason why he forbids, i.e., that the eye is liable to vary. Consequently, the controversy relates to bodily blemishes, and according to R. Meir we forbid in these cases on account of the case of withered spots in the eye, punishing him for not showing it to the expert.

(3) And yet in the case of bodily blemishes we forbid, on account of withered spots in the eye.

(4) Even in cases where the spots do not change, since we cannot be sure which change and which do not, the animals are forbidden in all cases if they are not examined previous to their killing!

(5) If he killed a firstling without previously consulting an expert, a permanent blemish being discovered now, and witnesses declare that the spots in the eye did not change and that they were the same when the animal was alive.

(6) And it is forbidden unanimously.

(7) For although after its killing it is discovered to possess a permanent blemish, nevertheless it is buried, which is according to the view of R. Meir, who punishes the Israelite in such circumstances.

(8) And spots in the eye are liable to change, and therefore the Mishnah says it shall be buried.

(9) He gives a half because it is money of doubtful ownership, as one might say that the Israelite made the priest suffer a complete loss, for had an expert seen the animal when it was alive, he might have permitted it, whereas now it has to be buried. On the other hand, perhaps there was no permanent blemish and an expert would not have permitted it, and also it may be that the firstling would have died without a blemish appearing on it at all.

(10) In one case a half of its larger value and in the other also, half of its smaller value.

(11) The firstling saved the priest considerable trouble as small cattle can only be raised on untilled land. Moreover, if the Israelite had shown it to another, he might not have permitted it and then the priest would have had to attend to it until it became blemished; hence the reparation is only a quarter. Another explanation why he only receives a quarter of its value is because he transgressed the prohibition enacted against raising small cattle in the Holy Land (v. B.K. 79b), and we are therefore dealing here with a case where it was the firstling of a priest's animal and the priest was raising small cattle.

(12) Court of Law. Another version is: An expert for the public.

(13) V. B.K. 100a. And here the judge by his words caused a damage.

(14) Taking the money from one and giving it to the other party of the suit.

(15) And exempted the debtor from any liability.

(16) In order that his decision might stand and that there should be no doubt in the matter.

(17) He took defiled fruits and declared them clean and then proceeded to mix them with fruit belonging to another, thus doing something direct in causing the damage.

(18) I.e., he caused it to be given to the dogs, having declared the animal trefah.

(19) For their cows and sows were highly rated, and therefore, to prevent them breeding elsewhere and thus compel buyers to come to Alexandria, they used to cut out the womb, and the animal did not suffer a fatal injury on account of this. We see, therefore, that the animal does not become trefah where the womb is absent.

(20) In order to make reparation for the cow which he had mistakenly made trefah.

(21) Absolving R. Tarfon from reparation.

(22) And therefore even if R. Tarfon were not an expert, he should be absolved, for there exists an explicit Mishnah in Hul. (54a) stating that an absent womb in an animal does not render the animal trefah. In this case therefore, if the cow were in existence, R. Tarfon could have permitted it, and consequently the person who gave it to the dogs to eat is himself responsible for the loss, v. supra n. 1.

(23) Lit., 'weighing of opinion', in a case concerning which there are opposing views among Tannaim or Amoraim no definite ruling existing, but there being an established practice.
(24) As we apprehend that he might be influenced to permit this by the hope of pecuniary gain.

Talmud - Mas. Bechoroth 29a

LIKE ILA[1] IN JABNEH WHOM THE SAGES PERMITTED TO ACCEPT FOUR AS[2] FOR SMALL CATTLE AND SIX AS FOR LARGE CATTLE, WHETHER UNBLEMISHED OR BLEMISHED.[3]

GEMARA. What is the reason?[4] — In one case, [i.e., of large cattle], he has much trouble,[5] whereas in the other case, he has not much trouble.

WHETHER UNBLEMISHED OR BLEMISHED. Now, we quite understand this in the case of a blemished firstling,[6] because in this case he permits it; but in the case of an unblemished firstling,[7] why [does he take payment]? — The reason is that otherwise he might be suspected, and it might be said that the animal pronounced blemished is unblemished, and the reason he permits it is because he receives payment. If your argument is true, in the case of an unblemished firstling also it might be said that it is really blemished and the reason why he does not permit it is because he thinks that he might be able to take payment a second time? — The Rabbis enacted payment for the first examination but they did not enact payment twice [for the same firstling].[8]

MISHNAH. IF ONE TAKES PAYMENT TO ACT AS A JUDGE, HIS JUDGMENTS ARE VOID; TO GIVE EVIDENCE, HIS EVIDENCE IS VOID; TO SPRINKLE[9] OR TO SANCTIFY,[10] THE WATERS ARE CONSIDERED CAVE WATERS AND THE ASHES ARE CONSIDERED CALCINED ASHES.[11] IF HE[12] WAS A PRIEST AND HE WAS MADE UNCLEAN REGARDING HIS TERUMAH,[13] HE[14] MUST GIVE HIM FOOD AND DRINK AND RUB HIM WITH OIL. AND IF HE WAS AN OLD MAN, HE MOUNTS HIM ON AN ASS. HE ALSO PAYS THE PRIEST AS HE WOULD A WORKMAN.[15]

GEMARA. Whence is it proved?[16] — Rab Judah reported in the name of Rab: Scripture says: Behold I have taught you, etc.:[17] Just as I teach gratuitously, so you should teach gratuitously. It has also been taught to the same effect. Scripture Says: Even as the Lord my God commanded me,[18] [intimating], just as I teach gratuitously, so you should teach gratuitously. And whence do we derive that if he cannot find someone to teach him gratuitously, he must pay for learning? The text states: Buy the truth.[19] And whence do we infer that one should not say 'as I learnt the Torah by paying, so I shall teach it for payment'? The text states: And sell it not.[19]

TO SPRINKLE OR TO SANCTIFY, ITS WATERS ARE CONSIDERED CAVE WATERS AND ITS ASHES ARE CONSIDERED CALCINED ASHES. The following was cited in contradiction: If one betrothes a woman with the waters of purification or with the ashes of purification, she is betrothed, although he is an Israelite?[20] — Said Abaye: This offers no difficulty. In the case mentioned above [in the Baraitha] it is payment for bringing the ashes[21] or filling the waters, whereas in the case [of the Mishnah] it is payment for actual sprinkling or sanctification.[22]

I can also prove it. For here in our Mishnah it states: TO SPRINKLE OR TO SANCTIFY, whereas there [in the Baraitha] it states: If one betrothes a woman with the waters of purification[23] or with the ashes of purification. It stands proved.

IF HE WAS A PRIEST, AND HE WAS MADE UNCLEAN IN RESPECT OF HIS TERUMAH. How could the priest go to a place of uncleanness?[24] — He went to a beth ha-peras,[25] the prohibition being a rabbinical enactment. For Rab Judah reported in the name of Rab: A man can blow away the

bones of a beth ha-peras and may then proceed.[26]

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(1) A pious person and above suspicion in these matters.

(2) A Roman coin usually of the value of one twenty-fourth of a denar.

(3) Whether he pronounced the firstling to be unblemished or possessing a permanent blemish, he used to take full payment for his examination.

(4) That for small cattle he took four as and for large cattle six as.

(5) To cast it on the ground in order to bind it so as to enable the expert to examine it.

(6) That the expert takes payment where he decides that it possesses a permanent blemish.

(7) Where the priest pronounces the animal unblemished or having only a transitory blemish.

(8) There is no fear, therefore, lest the firstling is really blemished and that it is pronounced unblemished in order that the priest might receive a further payment in a subsequent examination as there is no double payment for the same animal.

(9) The water of purification.

(10) To mix the ashes of purification with living water in a vessel.

(11) I.e., ordinary ashes.

(12) The expert, witness or judge.

(13) If the person who required the priest's services led him to inspect the firstling or to give evidence etc., through a path which inevitable caused the priest to become unclean. The latter cannot therefore now eat terumah, which is cheaper in price than hullin, since the latter can be eaten by everybody whereas terumah is only suitable for priests.

(14) The person who accompanies the priest.

(15) This is explained in the Gemara.

(16) That it is forbidden to take payment for giving decisions on Jewish Law and teaching the Torah.

(17) Deut. IV, 5.

(18) Ibid.

(19) Prov. XXIII, 23.

(20) For usually priests carry out these offices. Hence we see that one is permitted to take payment, for otherwise how could she be betrothed?

(21) From a distance to Jerusalem, and for the money earned in that manner he betrothes a woman.

(22) This being part of the preparation for the performance of the precept for which there is no reward.

(23) The language employed in the Baraitha, i.e., 'With the waters etc.' suggests payment for bringing the waters, whereas the language used in the Mishnah indicates that the priest receives reward directly for sprinkling of sanctification.

(24) Thus transgressing the negative precept There shall none be defiled for the dead (Lev. XXI, 1).

(25) A field rendered unclean on account of crushed bones carried over it from a ploughed grave.

(26) To bring the Paschal lamb, since abstaining from this fear of uncleanness would render him liable to the guilt of excision; but in respect of terumah the rabbinic enactment stands.

Talmud - Mas. Bechoroth 29b

And R. Judah b. Ami reported in the name of Rab Judah: A beth ha-peras which has been trodden is levitically clean.[1] Or, we may also say: [The Mishnah refers] to other impurities,[2] concerning which he is not warned [against coming into contact].

IF HE WAS AN OLD MAN, HE MOUNTS HIM ON AN ASS. A Tanna taught: He receives payment on the scale of a workman with nothing to do. [What does the expression 'an idle workman' mean, since it does not render him idle?] — Abaye said: He pays the priest like a workman idle from his particular occupation.[3] MISHNAH. IF ONE IS SUSPECTED IN CONNECTION WITH FIRSTLINGS,[4] EVEN DEER'S FLESH[5] WE MUST NOT BUY FROM HIM, NOR UNDRESSED HIDES. R. ELIEZER SAYS: FEMALE HIDES WE MAY BUY FROM HIM. WASHED OR DIRTY WOOL WE MUST NOT BUY FROM HIM BUT SPUN WOOL OR GARMENTS WE MAY BUY FROM HIM.

GEMARA. [The reason for prohibiting] deer's flesh is because it might be exchanged for calf's flesh. Undressed skins are forbidden [to be bought], thus implying that dressed skins we may buy. What is the reason? — If there was any substance in the suspicion that they might be of a firstling, he would not have troubled in the matter, reflecting thus: If the Rabbis heard about me,[6] they would make me forfeit them.

R. ELIEZER SAYS: FEMALE HIDES WE MAY BUY FROM HIM. What is the reason? — It is easily recognized.[7] And the first Tanna?[8] If this be so, then in the case of a male also he might cut away the male genital[9] and maintain that mice have devoured it. And the other? — The action of mice is easily recognized.

WASHED OR DIRTY WOOL WE MUST NOT BUY FROM HIM. If we must not purchase washed wool[10] [from], him is there any question about dirty wool? — Rather this is stated as one case: Wool washed from its dirt.

BUT SPUN WOOL OR GARMENTS WE MAY BUY FROM HIM. Now if we must not buy spun wool, is there any question as to garments?[11] — The kind of garments meant are felt spreadings.[12]

MISHNAH. IF ONE IS SUSPECTED OF IGNORING THE SABBATICAL YEAR,[13] FLAX MUST NOT BE BOUGHT FROM HIM, EVEN CARDED;[14] BUT SPUN OR WOVEN WOOL MAY BE BOUGHT FROM HIM.

GEMARA. Now if spun wool may be bought, is there any question with regard to woven wool?[15] — 'Woven' means here twists.[16]

MISHNAH. IF ONE IS SUSPECTED OF SELLING TERUMAH AS HULLIN, EVEN WATER AND SALT MUST NOT BE BOUGHT FROM HIM.[17] THESE ARE THE WORDS OF R. JUDAH. R. SIMEON SAYS: WHATEVER COMES UNDER THE OBLIGATION OF TERUMAH AND TITHES MUST NOT BE BOUGHT FROM HIM.

GEMARA. [The expression 'WHATEVER' of R. Simeon], what does it include? — It includes the entrails of fish in which oil is mixed.[18] There was a certain butcher suspected of selling

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(1) The field having been trodden by several people, it is impossible that a dead man's bone the size of a barley-corn could remain to cause uncleanness, v. Pes. 92b.

(2) E.g., coming in contact with a carcass or dead reptile, the negative precept cited above referring exclusively to a corpse.

(3) If, for example, he performs light work and earns a big wage, then the priest's compensation would only be slightly less than what he receives for his normal work. But if his work was of an arduous kind for which he received say, three zuz, then if he had invited him to take a zuz for much lighter work, he would probably have accepted the offer, This is therefore what the priest receives now for his services which prevented him following his occupation, but not the whole of his usual wages, as the work which the priest is performing for him is not arduous.

(4) E.g., of causing blemishes.

(5) The flesh being red, it can be exchanged for calf's flesh, and he might therefore sell him the flesh of an unblemished firstling calf, pretending that it is deer's flesh.

(6) That I took it from an unblemished firstling which requires burial. Therefore to spare himself unnecessary trouble, he would not dress the skins, if they came from firstlings,

(7) The difference between the skin of a male and a female. A female animal is not subject to the law of the firstling.

(8) In our Mishnah, who forbids the purchasing of skins of both sexes, as he makes no distinction. But surely one can observe a difference in the skins!

(9) And make the part look like a female organ and when questioned about the cut in the organ, he may ascribe it to the

work of mice.

(10) Where one might have said that he would not take the trouble to wash the wool if it came from a firstling, for fear that the Rabbis might hear of the case and he would as a result have to forfeit it.

(11) Since we have already permitted it from the moment when the wool was spun.

(12) Which were never spun and therefore our Mishnah needs to inform us what the ruling is.

(13) I.e., of sowing or doing business with the spontaneous growth of the sabbatical year.

(14) And prepared with a comb.

(15) As we have already permitted the buying of the wool in the earlier stage of spinning.

(16) Ropes made from flax before they are spun.

(17) As a punishment.

(18) Oil being subject to the law of terumah.

Talmud - Mas. Bechoroth 30a

kidney fat for the fat of ileum.[1] Raba punished him by forbidding him to sell even nuts. Said R. Papa to Raba: What opinion does this represent? R. Judah's![2] If it is the opinion of R. Judah, then the prohibition should apply even to water and salt?[3] — It may still represent the opinion of R. Simeon, and we punish him through the very object which caused the offence. Young children are generally attracted by nuts. He goes and misleads the children of butchers, attracting them by means of nuts. They bring him kidney fat[4] and he sells it for the fat of ileum.

MISHNAH. ONE WHO IS SUSPECTED OF IGNORING THE SABBATICAL YEAR IS NOT SUSPECTED OF IGNORING [ALSO] THE TITHES.[5] ONE WHO IS SUSPECTED OF IGNORING TITHES IS NOT SUSPECTED OF IGNORING [ALSO] THE SABBATICAL YEAR. ONE WHO IS SUSPECTED OF IGNORING BOTH IS SUSPECTED OF IGNORING THE RULES OF LEVITICAL PURITY. AND IT IS POSSIBLE FOR ONE TO BE SUSPECTED OF IGNORING THE RULES OF LEVITICAL PURITY AND YET NOT SUSPECTED OF IGNORING THE TWO LAWS [CITED ABOVE]. THIS IS THE GENERAL RULE: ONE WHO IS SUSPECTED OF IGNORING A RELIGIOUS LAW MUST NOT GIVE JUDGMENT ON IT OR TESTIFY CONCERNING IT.

GEMARA. What is the reason? — Fruits of the sabbatical year are not required to be eaten within the walls [of Jerusalem],[6] whereas tithes are required to be eaten within the walls and therefore the rule is more stringent with regard to them.

ONE WHO IS SUSPECTED OF IGNORING TITHES. What is the reason? — The tithe can be redeemed, whereas fruit of the sabbatical year is forbidden to him[7] and cannot be redeemed;[8] and therefore the rule is more stringent in regard to it.

ONE WHO IS SUSPECTED OF IGNORING BOTH LAWS. Since he is suspected of ignoring both laws of biblical enactment, how much more so is he suspected of ignoring a rabbinic enactment [like eating hullin levitically prepared]?

AND IT IS POSSIBLE FOR ONE WHO IS SUSPECTED OF IGNORING THE RULES OF LEVITICAL PURITY. What is the reason? — Even though he is suspected of ignoring a rabbinic enactment,[9] he is not suspected of ignoring a biblical enactment. The following was cited in contradiction: One who can be relied upon in respect of the rules of purity, is relied upon with respect to the sabbatical year and tithes. This allows the inference that one who is suspected of ignoring [the rules of levitical purity] is suspected [of ignoring the laws just cited]! — Said R. Elai: The Mishnah refers to a case where we saw him practise privately at home.[10] R. Jannai son of R. Ishmael said: [The Baraitha refers to a case] where e.g., he was suspected of ignoring both the sabbatical year and levitical purity, and he came before the Rabbis and received a warning

concerning both of them; and subsequently he was again suspected of ignoring one of them. We then hold that since he is suspected of ignoring the one, he is also suspected of ignoring the other.

Rabbah b. Bar Hana reported in the name of R. Johanan: Those are the words[11] of R. Akiba, whose opinion has been adopted without naming him; but the Sages say: One who is suspected of ignoring the laws of the sabbatical year is suspected of ignoring the laws of tithes. Who are the Sages [referred to]? — R. Judah, for in the place of R. Judah the sabbatical year was strictly observed by the people.[12] For there was a certain party[13] who called after his companion: proselyte son of a proselyte, and the latter retorted 'May I merit [divine reward] as I have not eaten the fruits of the sabbatical year like you'.[14] Some there are who say: Rabbah b. Bar Hana reported in the name of R. Johanan: Those are the words of R. Akiba whose opinion has been adopted without naming him; but the Sages say: One who is suspected of ignoring tithes is suspected of ignoring the law of the sabbatical year. And who are the Sages [referred to]? It is R. Meir who said: One who is suspected of ignoring one religious law is suspected of disregarding the whole Torah.

R. Jonah and R. Jeremiah, the pupils of R. Ze'ira, or according to others, R. Jonah and R. Ze'ira, pupils of R. Johanan [reported differently]. One said: But the Sages said: One who is suspected of ignoring the sabbatical year laws

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(1) The former fat is prohibited, the latter permitted, v. Hul. 48b.

(2) Who punishes by forbidding to buy in all cases.

(3) And why therefore did Raba penalize him only as regards nuts.

(4) Stolen from their father's houses.

(5) The fruits in other years, however, may be bought from him.

(6) Scripture saying: And thou shalt eat before the Lord thy God, etc. (Deut. XIV, 23).

(7) To do business with.

(8) For no matter how many successive exchanges of the fruit of the sabbatical year took place, only the last object is invested with restrictions of the sabbatical year whereas the fruit of the sabbatical year itself always remains forbidden (R. Gershom).

(9) For the eating of hullin (ordinary food and not terumah) with levitical cleanness is only a rabbinical injunction.

(10) The regulation pertaining to tithes and the sabbatical year and therefore the Mishnah states that he is not suspected of disregarding them in public, albeit he ignores the rules of levitical purity.

(11) That one who is suspected of ignoring the sabbatical year is not suspected of disregarding the law of tithes.

(12) Consequently, if one was suspected of disregarding the sabbatical law he was certainly suspected with regard to tithes, since the former was kept more strictly in R. Judah's locality.

(13) In the place of R. Judah.

(14) And since he boasts of this, we see that in that place, the sabbatical law was held strictly. Another explanation is: May a curse come to me if I partook of the fruits of the sabbatical year, as you have done.

Talmud - Mas. Bechoroth 30b

is suspected of ignoring the laws of tithes. And who are the Sages [referred to]? R. Judah, for in the place of R. Judah the sabbatical year law was kept strictly by the people. And the other said: One who is suspected of ignoring the laws of tithes is suspected of ignoring the sabbatical year laws. And who are the Sages [referred to]? — R. Meir, as it has been taught: An 'am ha-arez[1] who accepted the obligations of a haber[2] and who is suspected of ignoring one religious law is suspected of disregarding the whole Torah. But the Sages say: He is only suspected of ignoring that particular religious law. And a proselyte, who accepted the teachings of the Torah, though he is suspected of ignoring only one religious law, is suspected of disregarding the whole Torah,[3] and he is considered as a non-observant Israelite.[4] The difference[5] would be that if he betrothes a woman, [even after his relapse], his betrothal is valid, [the woman thus requiring a divorce.]

Our Rabbis taught: If one is prepared to accept the obligation of a haber except one religious law, we must not receive him as a haber. If a heathen is prepared to accept the Torah except one religious law, we must not receive him [as an Israelite]. R. Jose son of R. Judah says: Even [if the exception be] one point of the special minutiae of the Scribes' enactments. And similarly if a son of a Levite was prepared to accept the duties of the community of Levites[6] except one religious law, we must not receive him [as a Levite]. If a priest was prepared to accept the duties of the priesthood except one religious law, we must not receive him [as a priest], as it is said, He [among the sons of Aaron] that offereth the blood etc.,[7] implying the [entire] service that is transmitted to the sons of Aaron and that any priest who does not acknowledge this has no share in [the privileges of] the priesthood.

Our Rabbis taught: If one applies to become a haber, if we saw him practising these privately at his house,[8] we receive him and subsequently instruct him, but if not, we first instruct him and then receive him [as a haber]. But R. Simeon b. Yohai says: Both in the first case and the second, we receive him [as a haber] and he learns incidentally as he goes on.

Our Rabbis taught: We accept a haber if he promises to observe cleanness of hands[9] and afterwards we accept him as one who will observe the other rules of levitical purity.[10] If he said: I only promise to observe cleanness of hands, we receive him [as a haber, as his promise is important in connection with levitical purity]. If, however, he promised to observe the rules of levitical purity but not cleanness of hands, then even his promise to observe the rules of levitical purity is not regarded as a genuine promise.[11]

Our Rabbis taught: How long is the period[12] before we receive him [as a haber]? Beth Shammai say: As regards [the purity of his] liquids, [whose uncleanness is of a light character], the period is thirty days, but as regards the purity of [his] garment,[13] the period is twelve months; whereas Beth Hillel Say: Both in the one case as well as in the other, the period is twelve months. If this be so, then you have here a ruling where Beth Shammai is more lenient and Beth Hillel is the stricter?[14] — Rather [read]: Beth Hillel Say: Both in the one case as well as in the other, the period is thirty days.

(Mnemonic: A Haber, Scholar, Purple-blue, Repent, Taxcollector.) Our Rabbis taught: One who desires to accept the obligations of a haber is required to do so in the presence of three haberim, whereas his sons and the members of his family are not required to accept [these obligations] in the presence of three haberim. But R. Simeon b. Gamaliel says: His sons and the members of his family are also required to accept [these obligations] in the presence of three haberim, because the case of a haber who accepts [these obligations] is not on a par with the case of the son of a haber[15] who accepts [them].

Our Rabbis taught: One who desires to accept the obligations of a haber is required to accept them in the presence of three haberim, and even a talmid hakam [a scholar] is required to accept the obligations in the presence of three haberim. An elder, a member of a scholars' council, is not required to accept [these obligations] in the presence of three haberim, having already accepted them from the time when he took his place at the council. Abba Saul Says: Even a talmid hakam is not required to accept the obligations of a haber in the presence of three haberim. And not only this, but even others may accept the obligations of a haber in his presence. Said R. Johanan: In the days of the son of R. Hanina b. Antigonus was this teaching taught.[16] For R. Judah and R. Jose were in doubt concerning a matter of levitical cleanness. They sent a pair of scholars to the son of R. Hanina b. Antigonus. They went and asked him to inquire into the matter. They found him carrying[17] levitically prepared food. He seated some of his own disciples[18] with them,[19] while he stood up to look in to the question. They came and informed R. Judah and R. Jose [of his conduct towards them].[20] R. Judah said to them: His father[21] held scholars in contempt and he also holds scholars in contempt. R. Jose replied to him: Let the dignity of the elder[22] lie undisturbed in its place,[23] but from the day that the Temple was destroyed, the priests[24] guarded their dignity by not entrusting matters

of levitical cleanness to everybody.[25]

Our Rabbis taught: [The wife of a haber is considered as a haber].[26] If a haber dies, his wife and the members of the family retain their status until there is reason to suspect them.[27] And similarly a court-yard in which tekeleth [purple-blue][28] was sold retains its status until it is disqualified.[29] Our Rabbis taught: The wife of an ‘am ha-arez who was married to a haber, likewise a daughter of an ‘am ha-arez who was married to a haber, and similarly the slave of an ‘am ha-arez who was sold to a haber — all of these must first[30] accept the obligations of a haber.[31] But the wife of a haber who was married to an ‘am ha-arez, likewise the daughter of a haber who was married to an ‘am ha-arez and similarly the slave of a haber who was sold to an ‘am ha-arez, need not first accept the obligations of a haber.[32] R. Simeon b. Eleazar says: Even the latter require first to accept the obligations of a haber. For R. Simeon b. Eleazar reported in the name of R. Meir: It happened with a certain woman who was married to a haber that she fastened the straps of the tefillin [phylacteries] on his hand and when afterwards married to a publican, she knotted the custom seals for him.[33]

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(1) One who is not relied upon, especially in connection with terumah and tithes.

(2) A member of an order who were very scrupulous in the observance of the levitical laws in daily intercourse; v. Glos.

(3) Sh. Mek. adds, Or even if he is suspected of ignoring the whole Torah.

(4) And we do not maintain that he is considered as a real heathen, as if he had not become a proselyte.

(5) In regarding him as a non-observant Israelite and not as a real heathen.

(6) To sing, minister and serve as a gate-keeper of the Temple.

(7) The verse continues: Of the peace-offering and the fat, shall have the right thigh for a portion (Lev. VII, 33), thus teaching that the priest must practise all the laws devolving upon the sons of Aaron, and then only he is entitled to his dues.

(8) Prior to agreeing to observe them publicly so that he cannot be accused of doing so merely for show.

(9) Washing the hands before eating and before touching food of terumah.

(10) To partake of his terumah on the assumption of it being levitically clean.

(11) For, if he will not undertake to keep a simple matter like the washing of hands, then we can have no confidence in his promise to observe other levitical restrictions.

(12) During which he must practise the laws of levitical purity.

(13) The garment of an ‘am ha-arez is considered unclean by a person observant of the rules of levitical purity, through the former leaning and pressing on it.

(14) In ‘Ed. only six examples of these are quoted. This case would therefore constitute one more example.

(15) The father, a haber, will be more strict, as he publicly accepted in the presence of three haberim the obligations involved, whereas the son of a haber only sees his father practise these laws. Another interpretation is as follows: The reason, according to the first Tanna quoted above, why the sons and the members of the family of a haber are not required to accept these obligations is because the family of a haber actually seeing these levitical laws observed at home, are not suspected of disregarding them and therefore there is no necessity for them to accept these obligations in the presence of three haberim.

(16) That even a talmid hakam is required to accept the obligations of a haber in the presence of three haberim, for even he was suspected in such matters.

(17) Sh. Mek. has ‘guarding’.

(18) Who scrupulously observed the levitical rules regarding food.

(19) To keep an eye on his levitically prepared food, against the touch of the Rabbis who had been sent on the mission.

(20) That he did not trust them in matters of levitical purity.

(21) He said this in a temper, but this was not actually the case.

(22) I.e., the father and the son.

(23) Do not accuse him of despising scholars.

(24) R. Hanina b. Antigonus was a priest.

(25) It was not therefore because R. Hanina held scholars in contempt that he seated some of his disciples with the Rabbis.

(26) So Sh. Mek.

(27) Of disregarding the rules of levitical cleanness.
(28) For the fringes, in accordance with Num. XV, 38.
(29) By selling therein a vegetable blue dye for genuine tekeleth.
(30) Before we can receive them as haberim.
(31) And although it is stated above that the members of the family are not required to accept the obligations of a haber, the case is different here because when acceptance took place the wife, daughter and slave were not with him and there is, consequently, the fear that earlier habits may still influence their conduct.
(32) If they return to the sphere of the haber.
(33) We see therefore that even a wife originally of a haber can alter her habits in a changed environment and the same applies to a slave, etc.

Talmud - Mas. Bechoroth 31a

Our Rabbis taught: And all of these[1] if they repented must never be received. [These are] the words of R. Meir. R. Judah Says: If they repented only in secrecy, we must not receive them, but if publicly, they may be received. Some there are who say: If what they did[2] was in secrecy, they may be received, but if publicly, they must not be received. But R. Simeon and R. Joshua b. Karha say: Both in the first case as in the other, they may be received because of what is said, Turn, O backsliding children.[3]

R. Isaac of Kefar Acco[4] reported in the name of R. Johanan: The halachah is in accordance with the view of that pair.[5]

Our Rabbis taught: At first [the Sages] said: If a haber became a tax-collector he is expelled from the order.[6] If he withdrew,[7] he is not received [as a haber]. They subsequently declared: If he withdrew, he is regarded like any other person. The scholars required the teaching of R. Huna b. Hiyya.[8] Rabbah and R. Joseph went in to him together with four hundred pairs of scholars. When he learnt that they were coming, he wreathed[9] four hundred stools for them. Eventually they heard that he had become a tax-collector. Thereupon they sent him a message that he should adhere to his office.[10] He went back to his former position,[11] and sent back to them: 'I have withdrawn'.[12] R. Joseph did not go, but Rabbah went. R. Joseph said:[13] We have learnt: If he withdrew from the office, he must not be received [as a haber]. Rabbah however says: We have learnt: They subsequently decided that if he withdrew, he is regarded like any other person.

Our Rabbis taught: A man may examine all firstlings, except his own;[14] he may examine his holy sacrifices[15] and his animal tithes.[16] He also allows himself to be asked with reference to his levitically prepared food.[17]

The master said: 'A man may examine all firstlings except his own'. What are the circumstances? Shall I say that only one person [examines]? But is one person believed?[18] Then we must suppose that three persons [examine]. But are three persons suspected [on his account]? Have we not learnt: If a woman made a declaration of protest[19] or performed halizah[20] before him [a scholar], the latter may marry her because he is of the Beth din?[21] — I may still say it refers to one person and as R. Hisda reported in the name of R. Johanan elsewhere that it was a case of an individual expert, so also here it is the case of an individual expert [who examined the firstling]. 'He may examine his holy sacrifices', [the reason being] because if he wished, he could ask for their release [from a scholar].[22] And as regards 'his [animal] tithes', [the reason is] because if he wished, he could cast a blemish in the entire herd [of animals].[23] 'He also allows himself to be asked with reference to his levitically prepared food', [the reason being] because they are fit to eat during the period of his uncleanness.[24]

C H A P T E R V

MISHNAH. THE PROFIT ON ALL DEDICATED OBJECTS WHICH BECAME UNFIT [FOR THE ALTAR] GOES TO THE SANCTUARY.[25] THEY ARE SOLD IN A MARKET,[26] SLAUGHTERED IN A MARKET AND WEIGHED BY THE POUND,[27] EXCEPT IN THE CASE OF A FIRSTLING OR A TITHING ANIMAL, AS THEIR PROFIT GOES TO THE OWNERS.[28] THE PROFIT ON DEDICATED OBJECTS WHICH BECAME UNFIT [FOR THE PURPOSE CONSECRATED] GOES TO THE SANCTUARY. YOU MUST WEIGH ONE PIECE OF MEAT OF THE FIRST-BORN AGAINST ANOTHER PIECE OF ORDINARY MEAT OF ASCERTAINED WEIGHT.

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(1) The reference is to the second clause of the Baraitha in Tosef. Dem'ai. II, concerning one accepting the obligations of a haber except one religious law, a priest who accepts all priestly obligation except one, and similarly a Levite. Tosaf explains that it refers to an earlier clause in the Tosef. with reference to an ‘am ha-arez accepting the obligations of a haber, a heathen who accepts the teachings of the Torah and a priest who accepts the full obligations of the priesthood. Now, if any of these retracted, i.e., returned to their former habits, they are never received again, since they have shown their weakness, whereas R. Judah maintains that if this relapse was in secrecy, they must not be received because they are merely deceiving people and doing it for show, but if their relapse was both privately and publicly, then if they retracted, we accept them again as genuine penitents.

(2) I.e., ignoring the rules of levitically prepared food. Tosaf. interprets this as follows: If we recognized from the beginning, prior to their lapse, that they observed the obligations of a haber even privately, then we receive them when they return. But where we saw them keeping those obligations only in public but not privately, they must not be received back by us, as we suspect them merely of deceiving people.

(3) Jer. III, 14.

(4) [Caphare Accho in Lower Galilee; v. Hildesheimer, Beitrige, p. 81.]

(5) R. Simeon and R. Judah b. Karha.

(6) Publicans or customs-collectors had the taxes farmed out to them by the crown and as a rule recouped themselves by imposing iniquitous burdens on the people; consequently they were considered robbers in Jewish law.

(7) From the office of publican.

(8) In order to consult him on some point of Jewish law. Lit., ‘the time needed him’. Another explanation is that he fell ill and it was necessary for them to visit him.

(9) So Jast.

(10) Since he was already a publican, let him cling to the position, but as far as they were concerned, they would not visit him.

(11) I.e., resigned his office. Read אזל for זיל. So Jast. According to cur. edd. this was the continuation of the message, viz., that he should adhere ‘to his (new position) before him’.

(12) V. supra p. 196, n. 6.

(13) Explaining why he did not go.

(14) A priest is not allowed to inspect his own firstling and to permit it.

(15) Peace-offerings, in which a blemish appears in order to ascertain whether it is a permanent blemish, so as to redeem them as hullin.

(16) In which a permanent blemish appeared.

(17) If he is versed in such matters, and there is a doubt on some point, he need not go to a scholar to inquire.

(18) For even to permit firstlings belonging to others we require the decision of three persons.

(19) Against a marriage contracted during her minority; v. Glos. s.v. Mi'un.

(20) V. Glos.

(21) For he was not there alone, as a Beth din of three were present. Therefore we do not suspect him of permitting her for the purpose of marrying her.

(22) By pleading that the consecration was a mistake, thus finding a way out to free the animal from its sanctity. We therefore do not entertain the suspicion that he would declare the blemish to be a permanent one when it is transitory. This method, however, of releasing the animal from its holiness does not apply to a firstling which is hallowed from birth, and consequently there is room for suspicion here.

(23) Before tithing his herd, tithing taking effect even on blemished animals, and from the very beginning he could have released them from their holiness in the matter of eating them within the walls of Jerusalem.

(24) He is consequently not suspected of declaring something which is unclean to be clean, since he can make use even of unclean food. This of course only refers to hullin, but unclean terumah is not suitable for him to eat even when he is levitically unclean, as it requires to be burnt.
(25) Their profit is obtained by selling at a high price.
(26) Where much is bought and at a high price.
(27) Lit. 'Litra', the Roman Libra, a pound, in the manner butchers who sell hullin.
(28) In the case of a firstling, the owner is the priest, who sells its flesh to anybody. Since therefore the profit belongs to private people, it was not permitted to sell the meat and treat it lightly like hullin by selling it in the market etc., in order to gain more profit.

Talmud - Mas. 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 presenta tion 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 alive[5] 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 animal[7] 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[9] 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 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 lulab[15] from another in the sabbatical year, he gives him at the same time the ethrog[16] as a gift because he must not buy it[17] 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;

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(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 be 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.

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 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 place[9] 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 haramim[12] 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 con nection 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 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 interpretation[23] 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 pediyah [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 firstling[33] 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]

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(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.

(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 **לא יגאל** , rendered 'It shall not be redeemed' also connotes selling.

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

(13) **לא יגאל** 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, פדה in the one and גאל 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 pediyah 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 pediyah.
(37) And cannot therefore unless blemished be redeemed.
(38) Num. XVIII, 14.

Talmud - Mas. 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 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 redemp tion [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 there[6] priests may [eat] but not a lay Israelite,[7] so here priests are allowed [to eat] but not an Israelite.

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(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.

Talmud - Mas. 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 Baraitha] 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] — [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 labour 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-offerings[20] 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 slaughtered[22] 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 Baraitha] 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.

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(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.

Talmud - Mas. 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 colleges[5] 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. 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 son[14] 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 cleanly 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. Joshua[17] 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 agreed[23] that one who added a transgression to the leavening effected by another person[24] 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 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

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(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.
(29) E.g., a first-born which had an attack of congestion.
(30) Lev. XXII, 21, the word כל , 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.

Talmud - Mas. 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 Scripture[9] 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 authorities[12] [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 ONE[15] 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 bahereth[16]

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

(2) Num. XVIII, 8.

(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. תרומתי not תרומותי 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.

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 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 then[10] he shall become clean'? What is the practical difference?[11] — 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 clean[14] 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.

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 heathen[16] 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 work[18] 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 improved[22] 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:

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

Talmud - Mas. 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 DOWN[4] 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 cases[9] 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: This[14] 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]

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 IT[20] ON ACCOUNT OF THIS.

GEMARA. Said R. Papa: This[21] 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 ears[24] 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 levelled [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. Papa[31] 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 beats, the defect is visible.

MISHNAH. IN RESPECT OF ALL BLEMISHES WHICH MIGHT COME THROUGH THE AGENCY OF A MAN,[32] LAY ISRAELITE SHEPHERDS ARE TRUSTWORTHY[33] 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 favouring 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 means: [Shepherds of Israelite sheep] even if priests, are trustworthy.

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(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 he slaughtered on account of open blemishes or defects.

(29) But if they were merely broken or levelled, 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. לגמא ; 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 favourable 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.

Talmud - Mas. 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 [an employer] priest, that the former's testimony is untrustworthy, for we suspect them of favouring 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 MATTER[3] 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 independent[5] 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 firstling[8] 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. Meir[12] 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 owners[19] 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? — 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]

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(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 hullin. 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 hullin.

(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 ani mal 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.

Talmud - Mas. Bechoroth 36a

R. Meir[1] 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 firstling[4] — 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 woman[5] 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 there[12] 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 walls[16] — 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 blemish[18] 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 tradition[22] 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. He[23] came before R. Joshua.[24] He[25] 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 debaters[28]

enter the Beth Hamidrash'. When they entered the Beth Hamidrash, the questioner[29] arose and asked: 'Have we made any difference between [a priest] who is a haber and one who is an 'am ha-arez'? R. Joshua replied 'No'.[30] Thereupon Rabban Gamaliel said: 'Was not the answer "Yes" reported to me in your name? Joshua, stand on your feet[31] 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 murmured[34] 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 FIRSTLING[37] 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 eat[43] 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 trustworthy[47] 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,

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(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.
(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).

Talmud - Mas. Bechoroth 36b

for[1] 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 Giddul[7] 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 his[11] 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] He[14] 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 impudent[16] but everybody was not impudent.

Once a case of sarua'[17] 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 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 WORTHY[25] 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 tenth[27] 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 BLINDED[30] 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 firstling[32] abroad[33] 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';

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(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.

(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?

Talmud - Mas. 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 Rabina: They[3] 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 this[5] that the former ruling[6] 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 FIRSTLING[9] AND IT BECAME KNOWN THAT HE HAD NOT SHOWN IT [TO A SCHOLAR]. AS REGARDS WHAT [THE PURCHASERS] HAVE EATEN, THERE IS NO REMEDY[10] AND HE MUST RETURN THE MONEY TO THEM.[11] AS REGARDS, HOWEVER, WHAT THEY HAVE NOT YET EATEN, THE FLESH MUST BE BURIED[12] 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: Carcases, 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 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 KARSHINAH[22] 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 specifications[27] 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 functions[28] 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]: 'Any[30] 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 levelled [to the gum] or the molars are torn out [completely].[31]

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(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.
(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 כל is a comprehensive term which includes other defects as blemishes.
(31) Infra 39a.

Talmud - Mas. Bechoroth 37b

[thus implying that] when torn out completely [they are blemishes] but not where they are broken off or levelled [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] — 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 Rabbis[15] 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 karshinah[18] [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 remember[23] 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 size[27] 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 dupondium[30] or as large as a Neronian sela'. And it[31] has

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(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 כל 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.

(6) Lev. XXVII, 11.

(7) Ibid XXVII, 27.

(8) To the question why, in view of the word כל 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.

Talmud - Mas. Bechoroth 38a

[a size] as large as a hole of a yoke![1] — He[2] was silent. Said R. Hisda to him: perhaps what we have learnt[3] 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 vessel[9] 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 becomes[10] 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 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 here[12] 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 it[16] 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 sack[21] 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 vessel[24] unclean [rabbinically]?[25] — Midras[26] 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. Meir[29] 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 easier[31] and the ruling of Beth Hillel severer; and [as regards examples of this kind of ruling] what we have learnt[32] we accept[33] 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 BLEMISHES AS REGARDS THE WHITE OF THE EYE].[39]

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(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 מקדח 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 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.

Talmud - Mas. 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. This[7] 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 this[9] 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] 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] AFTER[18] THE FRESH.[19]

GEMARA. What opinion does our Mishnah[20] 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 colleges[34] it was asked: Does the amount mentioned refer only to the animal's first meal,[35]

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(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 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.

Talmud - Mas. 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 three[11] 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 months]. If you say therefore that it[13] 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: The[15] 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. Kapuzai[23] 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 levelled [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 slaughtering[32] 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 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]?

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(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 then 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.

(20) Lit., 'from the molars and within', as in those teeth a defect is not recognized either when the animal cats or bleats. The molar is called תיומת (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 Baraitha 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 Baraithas.
(38) The Baraitha which disqualifies an animal where there is the loss of a kidney.
(39) In the Baraitha 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.

Talmud - Mas. Bechoroth 39b

Has not R. Ze'ira said in the name of Rab. If one makes a slit in the ear of the bull[1] and subsequently receives its bloods, it is 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 this[6] 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 crushed[12] or torn[13] 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 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 Master[16] 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] they[20] 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 BAG[22] IS MUTILATED OR THE GENITALS OF A FEMALE ANIMAL IN THE CASE OF SACRIFICIAL OFFERINGS:[23] IF THE TAIL IS MUTILATED FROM THE BONE[24] BUT NOT FROM THE JOINT;[25] OR IF THE TOP END [ROOT] OF THE TAIL DIVIDES THE BONE[26] 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-Bul[29] 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

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(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.

(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 מפציל '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 משולשת 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.

Talmud - Mas. 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 silver[3] 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 BUTTOCK[4] AND HE RUBS [THE BAG].[5] IF A TESTICLE IS [THERE, INSIDE THE BAG] IT WILL EVENTUALLY COME OUT. IT 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 Peran[11] 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 CLOSED[16] 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: This[17] 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 loin[23] 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 ILA[25] 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 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 slit[35] [in which the eye is seated is meant].

OR HAS A MOUTH LIKE THAT OF A SWINE. Said R. Papa: You should not say[36] 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.

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(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.

(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 ציריא , according to Rashi and R. Gershom. R. Hananel has ציהרא , referring to the red parts surrounding the black of the eye. Cur. edd. חיוורא , '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 ופרום דשפיד 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.

Talmud - Mas. 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 shrunk[8] or if its feet are shrunk, if it is on account of [lack of] room[9] 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.

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 part[12] [of the Mishnah] referred to a kid, similarly the second part[13] 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 OR ANTIGONUS SAYS: IF [A FIRSTLING] HAS A YABELETH[14] IN ITS EYE OR IF A BONE OF ITS FORE-FOOT OR HINDLEG IS DEFECTIVE,[15] OR IF THE BONE OF THE MOUTH[16] 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 Temple[18] or in the country[19] 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 case[28] 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 other[31] 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 'ARKUB[37] , [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.

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(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 עצם refers to the תנוך '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 רוח not ריוח) 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.

(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.

Talmud - Mas. Bechoroth 41a

GEMARA. It has been taught: The upper joint, [the inner part of the knee] not the lower joint [knuckle]. And the corresponding part[1] 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 TEMPLE[7] 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 COMMITTED[12] OR AN ANIMAL WHICH IS KNOWN TO HAVE KILLED A HUMAN BEING ON THE TESTIMONY OF ONE WITNESS OR OF THE OWNERS.[13] A TUMTUM[14] OR A HERMAPHRODITE[15] 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 cling[22] [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] 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 text[24] 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 Egypt[25] 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: Of[28] 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 cattle'[32] intimating the exclusion of an animal which covered[33] [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 these[35] 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 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 haruz[44] 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]

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(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) יַלֶּפֶת comes from the word to cling, to join, the word וְיִחְבַּר (in Ex. XXXVI) being translated in Targum Onkelos וּלְפִיף .
(23) Deut. XXVIII, 27.
(24) Lev. XXII, 22.
(25) Mentioned in the imprecations in Deut. XXVIII.
(26) Ex. IX, 10 The word אֲבַעְבֻּעֹת in the text is connected with נוֹבֵעַ '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 מִן (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 vigour 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.

Talmud - Mas. Bechoroth 41b

Raba enquired:[1] What is the reason of R. Ishmael? Is he convinced that a hermaphrodite is a firstling [male] with a blemish[2] 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 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 opinion[7] 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 this[10] 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 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 opinion[17] relates only to a hermaphrodite but as regards a tumtum all agree that there is a doubt as to its sex[18] 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 valuation[19] should apply to a tumtum?

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(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.

Talmud - Mas. 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].

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 [Baraitha].

Come and hear: R. Eleazar said: trefah, kil'ayim,[13] a foetus 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 substitution[15] 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 foetus 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

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(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 ואם 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 (carcase) 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 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 sub stituted 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.

Talmud - Mas. 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 teacher[2] holds: We fear lest his male sex may have changed into a female sex, whereas the other teacher[3] holds: We have no apprehension of such a thing.[4] This agrees with what is told of R. Elai[5] who gave a decision that a tumtum animal which urinates in the female part is hullin[6] 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 teachers[12] 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 apprehend[14] lest its male sex may have changed to female? — Said [Abaye] to[15] 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? For it has been taught: If a tumtum betrothes 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 halizah[23] 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 saris[25] 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. Eleazar[32] 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:

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(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.

(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 rares 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. חמה means lit., 'from seeing the sun', i.e., a eunuch from birth, in contradistinction to סרים אדם 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 maintain that he need not release his sister-in-law by halizah.

Talmud - Mas. 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, dak[8] and teballul[9] , [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 blemishes[17] in one connection[18] 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 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 one[25] 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 Aaron[42] [is rendered unfit by a blemish].[43]

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(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, 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 חרוץ (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.
(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].

Talmud - Mas. 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-eyed[14] 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 wher ever there is an example of unfitness for appearance sake, repeat this [as in the following]: One whose teeth were 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: This[28] 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 ZAGDAN[38] 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,

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(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, 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 הכהנים , 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) סכי from the word סכך 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.

Talmud - Mas. 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 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', 'tebullal 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 colours in the eye][10] it is not so, therefore the Divine Law says 'tebullal'. And if the Divine Law had only said teballul, we might have thought that the reason was because of the confusion [of the colours 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 blindness[12] we derive from the text 'Man'. Every case of defective vision, we derive from the text 'dak'. Every case of confusion [of colours in the eye] we derive from the text 'te ballul', 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 hates[13] the sun [a blinkard]. ZAGDAN. R. Huna showed by gestures, one eye like ours[14] and the other, like theirs.[15] Rab Judah was annoyed.

An objection was raised: Shakbonah is one whose eyebrows overshadow[16] [his eyes]. Zagdan is one who has one black and one white [eyebrow]. A Tanna taught: Any pair [of eyes] which is not properly matched[17] is called zagdan.

ZIRAN. It has been taught: One whose eyes are bleared[18] 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 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 trader[30] 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 Temple[32] 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 case[36] [the horns] were uprooted,[37] and in the other[38] [the horns] were levelled.[39] But if the horns were only levelled, 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] [

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(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 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 סכי 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 colour 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 טורדות 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. טייעא 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.

Talmud - Mas. Bechoroth 44b

MISHNAH. IF ONE HAS LARGE[1] 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 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 then,: 'Even in her ear'.[9] But may I not assume[10] 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 tub[17] 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 Baraitha]: 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 nefalim[25] 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 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]

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(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 honoured 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. ממורח 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.
(32) And here too we take away the ח from מרוח and the א from אשך adding the ח to the latter word and א to the former, thus making מראו חשך 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.

Talmud - Mas. 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 GOOSE[2] 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 calves[10] 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 thin[13] 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 above[15] 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. 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 ob jects might not be burnt [unnecessarily] on account of it.[27]

We have learnt elsewhere: The greater portion[28] 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 kab[29] 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 Rabina[32] 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 one[35] 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 doors[38] 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: She[40] 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 dissolved in the course of dissecting. Said Rab:[45] And all these[46] 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 travailleth?[51] 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]

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(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 vigour 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 it 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 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 Baraitha 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 צריה (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 clause 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.

Talmud - Mas. Bechoroth 45b

IF HE HAS ADDITIONAL FINGERS AND ADDITIONAL TOES ON HIS HANDS AND FEET etc. Said R. Isaac: And both[1] 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]. 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 nethinim[6] 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 Master[9] holds that it is due to an unusual weakness which has befallen the right hand, and the other

Master[10] 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 CLEAN[13] — [THESE DEFECTS] DISQUALIFY IN HUMAN BEINGS[14] BUT NOT IN ANIMALS. R. SIMEON B. GAMALIEL SAYS: ONE SHOULD NOT FOR CHOICE SACRIFICE A MAD ANIMAL. R. ELEAZAR[15] 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, thin[20] 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 Keilah[28] and drank milk and[29] fermented honey, if he entered the Temple, incurs liability [to excision].[30]

MISHNAH. THE FOLLOWING ARE FIT IN THE CASE OF HUMAN BElngs,[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 MARRIAGE[34] 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 Aaron[36] 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 West[38] in the name of R. Jose b. Abin [as follows]: This proves that Hanania taught this Mishnah. For we have learnt [in a Baraitha]: 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-service[40] 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

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(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.

(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 לווקני .

(17) White lambs (Rashi.).

(18) V. e. gihia.

(19) Am. II, 9.

(20) 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 בוהק is: One glistening (with unsteady eyes), albino (Jast.)

(24) טפיח , 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.

Talmud - Mas. 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] INHERITANCE[4] BUT NOT WITH RESPECT TO REDEMPTION FROM A PRIEST;[5] A FIRST-BORN WITH RESPECT TO 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 ALIVE[6] 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 LIKE[10] FOETUS OR A PLACENTA[11] OR A FOETUS[12] 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 PROSELYTE[18] 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 PRIEST[22] BUT NOT A FIRST-BORN [WITH RESPECT] TO INHERITANCE.[23]

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(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 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 know whose first-born he is and from what inheritance he should take a double portion.

Talmud - Mas. 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. 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 ruling[10] [separately] both for the case of an animal[11] 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 too[14] 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 birth[18] 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 purity[23] 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 end[32] but were not lenient in the beginning.[33] And if you prefer [another solution] I may say:

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(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 life נשמת 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 יביר .

(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 Baraitha. 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.

(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 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.

[The phrase] 'But he shall acknowledge' is one thing[1] 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 PRE VIOUSLY 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] Then[11] 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]! — 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: This[15] 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 child[20] 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 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 tithe[29] 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 said[32] 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 Israelite[34] and the reason why [the Mishnah] describes her as a priestess is because her son is a priest.[35]

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(1) Since it does not mention 'Countenance' (פנים) therefore even the coming forth of the forehead is an identification of birth for purposes of inheritance.

(2) Since Scripture adds here 'countenance' פנים 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.
(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.

Talmud - Mas. Bechoroth 47b

It was stated: If a priest dies and leaves a son who is a halal[1] 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 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 one[10] 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 this[13] 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 priest[15] 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 INHERITANCE[20] 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 LOCUSTS[21] 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 SECTION[23] NOR THE INFANT WHICH FOLLOWS[24] IS EITHER A FIRST-BORN FOR INHERITANCE OR A FIRST-BORN TO BE REDEEMED FROM A PRIEST. R. SIMEON HOWEVER SAYS: THE FIRST[25] 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 foetus 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] [

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(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 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' יצר , as it does in connection with man.

(22) Because until the morrow of the fortieth day of conception the foetus 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 foetus 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.

Talmud - Mas. 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 SAYS: IF THEY GAVE THE FIVE SELA'S BEFORE THE PROPERTY WAS DIVIDED UP, IT IS IRRECOVERABLE[3] 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 city[8] 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 neighbour 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 heirs[14] and with regards the other half, they are considered purchasers[15] from one another. Moreover, all agree that a [pecuniary] obligation arising from a rule of the Torah[16]

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(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 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.

Talmud - Mas. 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 zuz[7] 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 him[13] 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 WOMEN[15] 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 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:

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(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 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 is not entitled to receive redemption money (Rashi). According to Tosaf. 49a s.v. מת 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 he 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 neighbour's, and therefore I am entitled to the five sela's'.

Talmud - Mas. 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 authorization[2] to take 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 valuation[18] and did not leave us to infer this [from the expression 'and upward'] in the Book of Numbers, we have therefore two verses[19] 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 REDEEMED[27] 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 Rab bah: 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 woman.[33] There [in the case of betrothal] although the money was used, is not the betrothal yet valid?

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(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 neighbour 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 posses 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.
(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).

Talmud - Mas. 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 now[2] 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 property[6] 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 property[7] 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. MISHNAH. THE FIVE SELA'S OF A FIRST-BORN TAKE THE TYRIAN MANEH AS THEIR STANDARD.[10] AS REGARDS THE THIRTY SHEKELS OF A SLAVE[11] AND LIKEWISE THE FIFTY SHEKELS OF ONE WHO VIOLATES A WOMAN,[12] THE INDEMNITY FOR SEDUCTION[13] AND THE ONE HUNDRED SHEKELS OF ONE WHO SPREADS AN EVIL NAME[14] — IN ALL THESE CASES THE HOLY SHEKEL[15] IS MEANT AND TAKE THE TYRIAN MANEH AS THEIR STANDARD. ALL OF THESE ARE REDEEMED[16] 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 denar and five of which are the amount for the redemption of the first-born.

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(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 denars mentioned in the Talmud, each of which has six ma'ah, are the equivalent of ten Arabian denars, the latter denars being light ones. Tosaf. explains that the golden Arabian denar 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 סרסריתא both forms deriving from the word סוריא (Syria). R. Gershom has another form סורסירא 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.

Talmud - Mas. Bechoroth 50a

R. Johanan Says: Take a Trajanic or Hadrianic denar which is rubbed off[1] 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 then[4] a sixth and the remainder[5] is the amount for the redemption of the first-born which is twenty times the weight of a [Tyrian] denar, and which makes twenty-eight and a half zuz and a half danka.[6]

Said Raba: The biblical sela' contains three and a third [denars], because Scripture says: A shekel is twenty gerahs,[7] which the Targum[8] 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. Raba[16] 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 denars which were rubbed off[26] 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'.

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(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 denar, because seven Tyrian denars make ten Arabian denars, therefore fourteen Tyrian denars make twenty Arabian denars. The remaining six denars (to complete the twenty denars i.e., the twenty zuz, a denar being identified with a zuz) make eight and a half denars and a half of a danka i.e., a dupondium. For since every denar contains twelve dupondia and the proportion between a Tyrian and an Arabian coin is as ten to seven, one Tyrian denar 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 dears 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 denars plus one dupondium. Therefore six Tyrian denars make eight and a half Arabian denars plus one dupondium and together with the fourteen Tyrian denars which equal twenty Arabian denars, we have thus in twenty Tyrian denars the equivalent of twenty-eight and a half Arabian denars plus a half of a danka viz., one dupondium.
(7) Ex. XXX, 13.
(8) Sc. Targum Onkelos.
(9) Therefore three denars make eighteen ma'ah and a third of a denar makes two ma'ah, as each denar 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 denars, for each denar 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 denars.
(14) Lev. XXVII, 25. Implying that one can go on adding more.
(15) Lit., 'twenty gerahs it is' (Num. XVIII, 16). The word הוא being used here in the restrictive sense.
(16) Who was a priest.
(17) Each sela' containing three and a third denars, five sela's therefore making seventeen denars minus a third. Consequently, in sending him seventeen denars there was an addition of a third of a denar.
(18) Because a sela' has four denars, five sela's therefore making twenty denars. You therefore owe me another three denars to make up the twenty denars.
(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.

Talmud - Mas. 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 neighbour 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] — There[6] 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 changes[13] [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 hekdesh,[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 hekdesh worth a maneh has been redeemed against a perutah, it is a valid redemption?[18] — In the case of hekdesh too we draw an analogy between the expres sion 'holy' used in this connection[19] 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 denar and the worth of a denar, 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 it[23] 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 payments[24] 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 neighbour'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 com pensation. He possessed

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(1) And where the Scripture says shekel it means a Tyrian sela', which has four denars, and where it does not say shekel but kesef (silver coinage) it means a Tyrian denar. In B.K. 36b the author of this passage is given as Rab.

(2) Against his neighbour 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 denar. We see therefore that kesef mentioned in the Torah does not mean a Tyrian denar as Rab declares, for if the Torah meant two denars, then it should read: Two kesef.

(6) In Ex. XXII, 6.

(7) Suggesting a comparison between כסף (silver coinage) and כלים (stuff).

(8) כלים 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 denars 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 denar, 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 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 neighbour's ear.
(27) Which is an eighth of a Tyrian sela'.
(28) V. n. 8.

Talmud - Mas. 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 repetition[3] 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 cases[4] 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 tithes[7] and the pilgrim's[8] burnt-offering.[9] 'Shekel payments', as we have learnt.[10] You may exchange[11] shekels for darics[12] 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'S[20] 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 Mishnah[25] 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 month[26] is an amplification; According to thy estimation of the money[26] is a limitation, and Shalt thou redeem[27] 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 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 say[39] 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

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(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 denars (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.
(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 generalisations makes no difference.

(42) That we cannot redeem the first-born with consecrated objects.

Talmud - Mas. 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] 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. Hanina[8] 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 did[11] 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-born[15] 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 Lord[18] [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 there[24] 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] AS HE DOES OF WHAT IS HELD IN POSSESSION.

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(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 neighbour.

(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.

Talmud - Mas. 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 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 man[5] 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 creditor[8] 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 this[12] 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.

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(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 alimentation 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 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.

Talmud - Mas. 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 hafirah[2] and now it is shuble [ears], or [on the father's death] they were shalpufe[3] 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-LAW[7] 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 cases[15] 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 double portion'; thus the Divine Law describes his share as a present. With regard also to the case of one who in herits 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 cemetery[26] 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 place[29] 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].

CHAPTER IX

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(1) And without any expense of labour 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.
(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?

Talmud - Mas. Bechoroth 53a

MISHNAH. THE LAW CONCERNING THE TITHE OF CATTLE[1] IS IN FORCE IN PALESTINE[2] 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 NEW[3] 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 Mishnah[6] 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 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 grain[9] 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 statement[10] refers to offering [the animal up].[11] the other to the consecration [thereof].[12] This[13] 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 died[17] [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 too[21] 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 devoted[23] 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]

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(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 practised 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 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?

Talmud - Mas. 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]

But[2] 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 grade[13] 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 this[20] 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] — You might have said that there[26] [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 old[31] 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]

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(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.
(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 neighbour', implying a trespass which is at the same time 'against the Lord' and 'against his neighbour'.
(15) So that if a man deposited for safe keeping with his neighbour 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 neighbour', 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 וצאן 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).

Talmud - Mas. 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 grain[2] 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 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 kinds[9] [one for the other]? — [The tithing of] these[10] 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'

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(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.

Talmud - Mas. 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. 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 year[17] 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.

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(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'.

(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).
(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.

Talmud - Mas. Bechoroth 55a

An objection was raised: If he had five animals in Kefar Hananiah[1] and five in Kefar 'Uthnai[2] [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 himself[4] 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[8] 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 cities[10] as e.g., Namer and Nemuri[11] 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 [Baraitha] 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 points[24] [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. 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 l 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 three[37] and these three are lower than the Euphrates.[38] But are there not

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(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.

(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 Banias, 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.

Talmud - Mas. 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] — 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 name[4] 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 mikweh[9] for his daughters in the days of Nisan and had mats laid for them[10] 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 water[11] 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 Euphrates[15] in the days of Tishri. 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 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.

Talmud - Mas. 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 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 possible[10] 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 time[14] 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]

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(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.

(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.

Talmud - Mas. 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 ACQUIRED[15] ANIMALS [THE CATTLE] FROM THE ESTATE,[16] THEY ARE BOUND [TO TITHE THEM].[17] BUT IF NOT,[18] THEY ARE EXEMPT FROM TITHING; IF[19] 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 divided[24] 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] — 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: This[28] 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 small[33] 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'.

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(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.

(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).

Talmud - Mas. 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 certain[5] 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 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 dog[11] 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]

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 forth[21] excludes the case of offspring brought forth by the caesarean section; Then it shall be seven 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 there[23] all the categories[24] are excluded, similarly here all the categories are excluded. And just as here[25] 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 tumtum[30] 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 also[33] 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 earth[38] 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 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

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(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 judgement 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 ali 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.
(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.

Talmud - Mas. 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 Libnah[4] 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 Yokani[9] 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 PERIODS[13] FOR THE TITHE OF CATTLE.[14] IN THE PERAS[15] 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 HASHANAH[21] 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]

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(1) The mother being unclean through the confinement and therefore it is eligible to enter the shed to be tithed, v. supra 47b.

(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) למעלא (above) נתחטא (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.

Talmud - Mas. 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 duty[3] 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[5] [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 sometimes full[10] [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 Siwan[11] 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] Sometimes[16] the month of Ab is defective[17] [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 opinion[24] 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: They[28] gave their opinions purely as traditions derived from the prophets Haggai, Zechariah and Malachi.[29]

It has been taught: In what way[30] 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 in Elul and five in Tishri, he brings them into a shed to be tithed.

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(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 כת י).
(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 קרח (‘bald-head’) was the name of a man.
(28) R. Meir as well as R. Eleazar and R. Simeon.
(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.

Talmud - Mas. Bechoroth 58b

He can also take one from those born in Elul[1] 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 tenth[5] 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 TEN[11] 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 COUNTED[14] 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 prohibited[22] 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 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 gedolah[30] 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]

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(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 be 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 Iambs 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 he 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.
(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 ונחשב 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.

Talmud - Mas. 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-offering[1] 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 Baraitha] refers to a case where he indicated[10] 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 blemished[12] 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:

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(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 Baraitah.

(9) For since it followed the ninth, it was obvious that it was the tenth, and therefore it is like other 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.

Talmud - Mas. Bechoroth 59b

The ninth also is not sacred[1] 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 sacrificed[3] 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 elim inated therefrom it is holy[6] 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 holy[10] 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 they[20] 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 tithe[22] 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, and after he had counted five[28] 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 exempt[30] 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 rest[33] combine [in one shed] with those [born] in a later tithing period.[34] But if not,[35] the six are exempt[36] 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 exempt[39] 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 exempt[44] 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 number[45] but where it is uncertain whether there is a proper number[46] seeing that it is possible to combine the six either here[47] 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 fifteen[50] 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

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(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.

(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).

Talmud - Mas. Bechoroth 60a

he cannot say: 'I will select ten [meagre 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 explain[6] [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 Festival[12] 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 IT[21] 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]

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]

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(1) Both the meagre ones and the fat ones (Rashi).

(2) We are therefore taught here two things. First, that he cannot select the meagre 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 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.

Talmud - Mas. 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 ninth[13] 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 them[16] 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 tenth[18] and he called them the tenth, the tenth and the eleventh are mixed together.[19]

If he called them[20] 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 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 case[26] 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 tenth[34] 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 here[36] 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 this[40] 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 eleventh[43] 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 pasture[48] 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]

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(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.

(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 tithe 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 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).

Talmud - Mas. 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 consecration[4] 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 herd[6] this includes the eleventh[7] 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 it[8] 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 Sifra[10] 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: It[12] refers to tithing in our days[13] 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].

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 thing[21] 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 ten[24] 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]

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(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 practised. (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 then 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?
(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.