

II

BAVLI TRACTATE BEKHOROT CHAPTER TWO

FOLIOS 13A-19B

2:1

- A. (1) He who purchases the unborn offspring of the cow of a gentile,
(2) and he who sells it to him (even though one is not permitted to do so),
(3) and he who is a partner with him,
- B. (4) and he who receives [cows] from him
(5) and he who delivers [cows] to him under contract [to rear them and share
in the profit]
- C. is exempt from the law of the firstling,
- D. since it is said, “[All the firstborn] in Israel” (Num. 3:13) —
- E. but not [the firstborn produced] among others.
- F. Priests and Levites are liable.
- G. They are not exempted from the law of the firstborn of a clean beast.
- H. But they are exempt only from the redemption of the firstborn son and from
[the law of the firstling in regard to] the firstborn of an ass.

Mishnah-Criticism: The Sequence of topics, from chapter to chapter

- I.1** A. *How come the framer of the Mishnah formulates the rule for the embryo of the ass first [in Chapter One], and then reverts and considers the matter of the embryo of a cow [in Chapter Two]? Why not encompass in the initial chapter the rule for*

the embryo of the cow as well, for it is a matter concerning the consecration of an animal as to its body, and then take up the matter of the embryo of an ass, which involves the consecration not of the body of the animal itself but only of the value of the animal?

- B. *They say in the West, “If you like, I shall explain, it is because he took special pleasure in this matter, along the lines of the view of R. Hanina [asses helped the Israelites when they left Egypt, for not a single Israelite failed to possess ninety Libyan asses loaded with the silver and gold of Egypt]. And if you like, I shall explain, it is because since the rules governing the unclean animal are sparse, the framer got them out of the way first of all.”*

II.1. A. [(1) He who purchases the unborn offspring of the cow of a gentile, (2) and he who sells it to him (even though one is not permitted to do so), (3) and he who is a partner with him, (4) and he who receives cows from him (5) and he who delivers cows to him under contract to rear them and share in the profit is exempt from the law of the firstling, since it is said, “All the firstborn in Israel” (Num. 3:13) — but not the firstborn produced among others:] Said R. Isaac bar Nahmani said R. Simeon b. Laqish in the name of R. Oshaia, “An Israelite who handed over money to a gentile for his beast — [the matter is adjudicated] in accord with their laws, even though he has not made formal acquisition of the beast by drawing it, has acquired possession of it, in consequence of which the beast is liable to the law of the firstling; and a gentile who handed over money to an Israelite for his beast — [the matter likewise is adjudicated] in accord with their laws, even though he has not made formal acquisition of the beast by drawing it, he has acquired possession of it, in consequence of which the beast is liable to the law of the firstling].”

- B. A master has said, “An Israelite who handed over money to a gentile for his beast — [the matter is adjudicated] in accord with their laws, even though he has not made formal acquisition of the beast by drawing it, he has acquired possession of it, in consequence of which the beast is liable to the law of the firstling:”
- C. *Now what is the meaning of, “in accord with their laws”? Shall we say that “according to their laws” means, in respect to the person of the gentile, and we draw an argument a fortiori: if the person of the gentile is acquired by the Israelite for money alone, as Scripture says, “to hold for possession” (Lev. 25:46) — comparing a Canaanite slave with a possession, so that, just as a possession is acquired by handing over money to a seller, by a bill of sale, and by taking possession [e.g., performing work on the estate], so a Canaanite slave is acquired*

with money, — then how much the more so would that be the rule with respect to the property of a gentile [which then is acquired by handing over the purchase money] — then the gentile's property should also be acquired by means of a bill of sale and by taking possession! *And furthermore, the purchase of an Israelite from an Israelite will prove the contrary, for while the person of an Israelite is acquired with money, the property of an Israelite is acquired only by an act of formal acquisition through drawing the property into one's own domain.*

- D. Said Abbaye, "The meaning of 'in accord with their laws' is those that the Torah has set forth to apply to them: '...or buy of your neighbor's hand' (Lev. 25:14) — it is a purchase from your neighbor to which the act of acquisition through drawing pertains, lo, purchase from a gentile is through a mere exchange of money."
- E. *But why not deduce from the cited verse that from a gentile there is no valid mode of acquisition?*
- F. *Say: do not let such a proposition come to mind! For there is an argument a fortiori to the contrary: if one may validly acquire possession of the gentile's body [as a slave], is it not an argument a fortiori that one may acquire possession of his property in some valid way?*
- G. *But might I say that one may effect a valid acquisition from a gentile only if there are two media for effecting possession [money and drawing, but not money alone]?*
- H. *One may reply, is it not an argument a fortiori: if through a single means of the transfer of ownership one acquires possession of his person, should two be required for his property?*
- I. *But might I say that it may be done either in this way or in that way?*
- J. *It must be done by analogy to the form of acquisition mentioned with reference to your neighbor. Just as is the case with your neighbor a single mode of acquisition suffices, so with the gentile a single mode of acquisition suffices.*

- II.2.** A. A master has said, "...and a gentile who handed over money to an Israelite for his beast — [the matter likewise is adjudicated] in accord with their laws, even though he has not made formal acquisition of the beast by drawing it, he has acquired possession of it, in consequence of which the beast is liable to the law of the firstling]."
- B. *Now what is the meaning of, "in accord with their laws"? Shall we say that "according to their laws" means, in respect to the person of the Israelite who is acquired by a gentile with money, and we draw the following argument a fortiori: if the person of an Israelite is acquired by him with money, as it is said, "Out of*

the money that he was bought for” (Lev. 25:51), *should it all the more so be the case that an Israelite’s property is acquired by a gentile by means of a mere exchange of money?*

- C. The purchase of an Israelite from an Israelite will prove to the contrary, *for he acquires possession of his body through money, but it must involve also a formal act of drawing.*
- D. Rather, said Abbaye, “‘...in accord with their laws’ means, in accord with the laws that the Torah has set forth for them: ‘And if you sell anything to your neighbor’ (Lev. 25:14) — ‘to your neighbor’ the correct mode of effecting the transfer of ownership is through an act of drawing, but in the case of a gentile, the title is acquired with money.”
- E. *But why not deduce from the cited verse that from a gentile there is no valid mode of acquisition?*
- F. *No. For there is an argument a fortiori to the contrary: if one may validly acquire possession of the gentile’s body [as a slave], is it not an argument a fortiori that one may acquire possession of his property in some valid way?*
- G. *But might I say that one may effect a valid acquisition from a gentile only if there are two media for effecting possession [money and drawing, but not money alone]?*
- H. *One may reply, is it not an argument a fortiori: if through a single means of the transfer of ownership one acquires possession of his person, should two be required for his property?*
- I. *But might I say that it may be done either in this way or in that way?*
- J. *It must be done by analogy to the form of acquisition mentioned with reference to your neighbor. [13B] Just as is the case with your neighbor a single mode of acquisition suffices, so with the gentile a single mode of acquisition suffices.*

II.3. A. Say: and according to Amemar, who has said that an act of drawing serves to transfer ownership to a gentile, *there is no problem if he accords with the view of R. Yohanan*, who has stated that on the basis of the law of the Torah money too effects acquisition of title in a transfer of property, while a formal act of drawing does not. Then the verse, “to your neighbor” serves to sustain the deduction that “to your neighbor” [an Israelite] money effects transfer of property, but to transfer title of property to a gentile, an act of drawing is necessary. *But if he is in accord with the view of R. Simeon b. Laqish, who takes the view that transfer of title to property is expressly set forth in the Torah, with the result that “to your neighbor” [an*

Israelite] title is transferred with a formal act of drawing, and to a gentile title is transferred with a formal act of drawing, then what purpose is served by the verse, “to your neighbor”?

- B. Say: “to your neighbor” you must return an overcharge, but you do not have to return an overcharge [above true value] to a Canaanite [gentile].
- C. *But have we not derived the rule on the overcharging of Canaanites from the verse, “You shall not oppress one another” (Lev. 25:14)?*
- D. *One verse refers to the Canaanite, the other to property that has been sanctified [which may be redeemed at more than true value]. And it was quite necessary to state the rule that the law of overcharging does not pertain to either the Canaanite or to the redemption of property that had been consecrated. For had the All-Merciful stated the law solely in connection with the one, I might have held that it is to the Canaanite that the prohibition of overcharge and the requirement of returning the overcharge does not apply, but as to redeeming what has been consecrated, the law of overcharge does apply. So we are informed that that is not the case.*
- E. *The formulation just now set forth poses no problem to him who maintains that it is forbidden to steal from a gentile, and that is why it was necessary for a verse of Scripture to permit overcharging him, but if one takes the view that it is permitted to steal from a gentile, why was it necessary to prove on the basis of Scripture that overcharging him also is permitted?*
- F. *The framer necessarily will concur with R. Yohanan [since one may keep the object that has been stolen from a Canaanite, there is no need to deal with overcharging; the text then implies that although money effects possession in a transaction between Israelites, in the case of gentiles an act of formal drawing is required, and it follows that Amemar concurs with Yohanan (Miller & Simon)].*
- G. *An objection was raised: He who buys from a gentile broken pieces of silver, and finds among the pieces an idol, if before he had handed over the money, he had acquired title through a formal act of drawing, he should withdraw from the transaction. But if he had made a formal act of acquisition through drawing after he had handed over the money, he should toss whatever benefit he has derived from the transaction into the Dead Sea [since an Israelite*

can never derive benefit from an idol]. *Now, if you take the position that the exchange of money effects the transfer of title, what need do I have for an act of drawing at all?*

H. *With what sort of case do we deal here?* It is one in which the gentile agreed to judge the transaction in accord with the laws of Israel.

I. *If so, what need do I have for an exchange of money [as an indication of the moment of the transfer of title]?*

J. *This is the sense of the passage: even though he has handed over the money, if there has been a formal act of transfer of title through drawing, one can retract, but if not, he cannot withdraw from the transaction.*

K. *If so, then there is a problem in the opening clause [He who buys from a gentile broken pieces of silver, and finds among the pieces an idol, if before he had handed over the money, he had acquired title through a formal act of drawing, he should withdraw from the transaction]! [Miller & Simon: why should his withdrawal cancel the sale? Since he made an act of drawing, he should be required to dispose of the profit of the transaction anyhow].*

L. *Said Abbaye, "The consideration operative in the opening clause is that, in this case, there is a purchase made in error [which is null] [the Israelite did not know there was an idol in the lot]."*

M. *Said to him Raba, "You maintain that the consideration operative in the opening clause is that, in this case, there is a purchase made in error. Then is there no purchase made in error in play in the concluding clause of the same passage?"*

L. *Rather, said Raba, "In both the opening clause and the closing clause, there is a purchase made in error. But in the situation covered by the opening clause, since the man has not handed over money, it does not appear as though the idol were in the possession of an Israelite, while in the latter part of the matter, where the Israelite had handed over the money, it does appear as though the idol was in the possession of an Israelite."*

M. *And Abbaye?*

N. *He will say to you, "The transaction covered in the first clause represents a purchase made in error, for the Israelite had no knowledge whatever of the presence of the idol in the lot, since he*

had not handed over the money [and he did not examine the contents of the purchase], while in the case covered in the second part of the rule, it is not a purchase made in error, for, since he had given the money, when the man was about to effect transfer of title, he ought to have examined the lot and only then performed his act of drawing [and since he did not do so, the transaction is valid, the act effective, and the rest follows].”

O. *R. Ashi said, “Since the opening clause of the rule maintains that the formal act of drawing the object does not constitute the moment of transfer of title, in the last part of the rule, likewise, the formal act of drawing the object does not constitute the moment of transfer of title. But since the author of the rule makes mention of a formal act of drawing in the first clause, he mentions it also in the second.”*

P. *Rabina said, “Since in the latter part of the rule, the formal act of drawing effects the transfer of title, in the opening clause likewise the formal act of drawing effects the transfer of title. But this is the sense of the opening clause: if he has not handed over the money and he has not made a formal act of transfer of title through drawing the object, he may retract.”*

Q. *What is the meaning here of “retract”?*

R. *He may retract what he has said.*

S. *The framer of this passage then takes as its premise the following proposition: if one retracts what he has said, he indicates a lack of honesty. But that rule applies only when an Israelite deals with an Israelite, who stand by their word. But if it is a transaction of an Israelite with a gentile, who does not stand by what he says, that is not the case.*

We open, I.1, with an obvious problem in Mishnah-criticism. II:1 proceeds to a problem of its own, generated in clarification of the law of our Mishnah on joint ownership of beasts. No. 2 then continues the clarification of the secondary materials. No. 3 forms an expansion of No. 2.

2:2-3

- A. [14A] All Holy Things, the permanent blemish of which came before their consecration, and which were redeemed
- B. are liable to the law of the firstling, and to the priestly gifts, and go forth for secular purposes, for sheering and for labor.
- C. And their offspring and their milk are permitted after their redemption.
- D. And he who slaughters them outside [the Temple court] is free of punishment.
- E. And they are not subject to the law of the substitute.
- F. And if they died, they are redeemed,
- G. except for the firstling and for tithe [of cattle].

M. 2:2

- A. [All Holy Things], the consecration of which came before their blemish, or [in which was] a transient blemish before their consecration, and in which afterward a permanent blemish appeared, and which were redeemed.
- B. are free of the law of the firstling, and from the priestly gifts, and do not go forth for secular purposes, for sheering and for labor.
- C. And their offspring and their milk are prohibited [even] after their redemption.
- D. And he who slaughters them outside is liable.
- E. And they are subject to the law of the substitute.
- F. And if they die, they are buried.

M. 2:3

- I.1 A. [All Holy Things...which were redeemed:] *The operative consideration [that the law of the firstling applies] is that they were redeemed. Lo, if they were not redeemed, they would have been exempt from the law of the firstling and from the requirement to give the priestly gifts [the shoulder and maw, when the beast is slaughtered].*
- B. *The framer of the passage maintains that when something is sanctified as to its value, that sanctification overrides the law of the firstling and the requirement to hand over the priestly gifts.*

II.1 A. and go forth for secular purposes, for sheering and for labor:

- B. *The operative consideration that shearing and working with the beasts are permitted is that they are redeemed. Lo, if they are not redeemed, they may not be sheared or worked with.*
- C. *That supports the view of R. Eliezer, who has said, “Animals that have been sanctified for the purposes of the upkeep of the Temple house may not be sheared or worked.”*
- D. *Say: no, objects consecrated for value, which will ultimately be used to purchase sacrifices for the altar, may be confused with an object that itself is sanctified for use on the altar, and therefore rabbis made the prohibition in hand. But where an object has been consecrated for the upkeep of the Temple house, no such prohibition pertains.*

III.1 A. And their offspring and their milk are permitted after their redemption:

- B. *What sort of case can be in mind? If I say that we deal with a case in which it was only after they were redeemed that the beasts became pregnant and gave birth, that is a perfectly obvious inference, since we are dealing with unconsecrated beasts. So, rather, we are dealing with a case in which the beast became pregnant before it was redeemed, but it gave birth afterward.*
- C. *Then before they were redeemed they were forbidden [for use for any purpose, without redemption, and they could not be offered on the altar, since even their own mother is not fit for the altar (Miller & Simon)]. [14B] Then if they are unblemished, may they be redeemed, or may they be redeemed only if they have been blemished? [Miller & Simon: do we have to delay until the offspring are blemished, or can they be redeemed as is?]*
- D. *Come and take note: He who assigned beasts bearing permanent blemishes for use on the altar and they gave birth — the offspring may be sold and do not have to suffer a blemish prior to sale, for they are not deemed in any aspect to be sanctified [since the mothers are not sanctified]. What is secondary should not be subject to a more stringent rule than what is primary [and since the mother can be sold and the proceeds used for the purchase of sacrifices, there is no reason to insist that the offspring must be blemished before they can be sold]. Now the operative consideration that the offspring does not have to be blemished before it can be sold and redeemed is, What is secondary should not be subject to a more stringent rule than what is primary. But if he had consecrated a male for its value, it is treated as sanctified like an animal sanctified as to its body [Miller and Simon: a ram that was dedicated for its value has the sanctity of an animal consecrated for*

its body, and it does not become deconsecrated without a blemish; the same applies to a female].

- E. *That rule supports the position of Raba, for said Raba, "If he consecrated a male for its value, it is treated as sanctified as though it were animal sanctified as to its body."*

IV.1 A. And he who slaughters them outside [the Temple court] is free of punishment:

- B. *R. Eleazar repeats this passage in the version, "He is culpable," and he refers the passage to the context of offering the beast on the high place belonging to an individual.*
- C. For R. Eleazar has said, "How on the basis of Scripture do we know that one who slaughters as a sacrifice a blemished beast on a high place belonging to an individual during the period in which high places were permitted is liable for violating a negative commandment? As it is said, 'You shall not sacrifice to the Lord your God an ox or a sheep on which is a blemish' (Deu. 17: 1). If this cannot refer to the principal altar, concerning which Scripture in any event has stated, 'Blind or broken you shall not offer these to the Lord' (Lev. 22:22), then refer the passage to a private altar."
- D. *But why not say, if the passage does not refer to Holy Things, that refer it to the firstling? For it might have entered your mind to say, since it is holy even though it is blemished [since shearing and working with it are forbidden even in the case of a blemished firstling], it may as well be offered up even if it is blemished, and Scripture had to come along and indicate that that is not the law!*
- E. *I might reply, in regard to a firstling, Scripture has stated explicitly, "Lame or blind you shall not offer it" (Deu. 15:21).*
- F. *But why not say, if the passage does not refer to Holy Things, that refer it to the tithe of the herd? For I might have maintained that since an animal that has been designated as tithe is holy even if it is blemished, since Scripture says, "He shall not inquire whether it be good or bad" (Lev. 27:33), let it also be offered if it is blemished, and Scripture therefore comes along to tell us that that is not the case.*
- G. *I might reply that with respect to the beast designated as tithe also, we draw an analogy between the reference to "pass" used in that connection and the reference to "pass" used in regard to the firstling [with the result that the same rule applies to both].*
- H. *But why not say, if the passage does not refer to Holy Things, that refer it to an animal that has been substituted for an animal that had been sanctified? For I*

might have maintained that since an animal that has been designated as a substitute is holy even if it is blemished, since Scripture says, “He shall not alter it or change it” (Lev. 27:10), let it also be offered if it is blemished, and Scripture therefore comes along to tell us that that is not the case.

- I. Scripture states, “Then it and that for which it is changed shall be holy” (Lev. 27:10) — Scripture thus draws an analogy between the beast that has been declared a substitute and the animal itself; just as the animal itself is unfit for the altar if it is blemished, so the beast that is exchanged for it is unfit for the altar if it is blemished.
- J. *R. Zira objected, “Might I say, then refer the verse [cited by R. Eleazar] to the blemished offspring that was born of an unblemished sacrifice [indicating that it is unfit to be sacrificed on the altar]? For I might have maintained that, since even though they are blemished, they are holy on account of the status of their mother, so even though they are blemished, they still may be offered. Thus we are informed that that is not the rule.”*
- K. *Said Raba, “The reason is that a Tannaite authority of the household of R. Ishmael has already settled that question. For the Tannaite authority of the household of R. Ishmael [has stated,] ‘Scripture says, “Only the holy things that you have and your vows” (Deu. 12:26):*
- L. *““Only the holy things:” this speaks of animals that have been substituted, [and tells us that they are offered on the altar];*
- M. *““...that you have:” this refers to the offspring of animals that have been consecrated*
- N. *““...and your vows:” Scripture here compares them with animals that have been vowed for use as a sacrifice. Just as an animal that is vowed for use as a sacrifice cannot be offered up if it is blemished, so these too cannot be offered up if they are blemished.”*

V.1 A. And they are not subject to the law of the substitute:

- B. *What is the scriptural basis for this fact?*
- C. Scripture states, “He shall not alter it or change it, good for bad, bad for good” (Lev. 27:10) — *now if you have said that he may not exchange a bad [a blemished consecrated animal] for a good [unblemished, unconsecrated animal], do we have to be told that one may not exchange a good [unblemished, consecrated animal] for a bad [blemished, unconsecrated animal]?*
- D. The point then, is, to an animal that is to begin with good [and unblemished, before it was dedicated, but which was blemished only afterward], the law of substitution

applies. But to an animal that was blemished to begin with, before it was dedicated, the law of the substitute does not apply.

VI.1 A. And if they died, they are redeemed:

- B. Said R. Judah said Rab, “This represents the opinion of R. Simeon, who has said, ‘Objects that were consecrated for use on the altar were subjected to the requirement of being presented to the priest and being evaluated, while objects that were consecrated only for the upkeep of the Temple house were not included in the law of presentation to the priest and evaluation.’”
- C. *For we have learned in the Mishnah: R. Simeon says, “Things sanctified for the upkeep of the house, if they die, are to be redeemed” [M. Tem. 7:3D].* But R. Simeon will concede that if to begin with it was a blemished animal, it is to be redeemed.”
- D. *What is the scriptural basis for this view?* “And the priest shall value it” (Lev. 27:12), and the word “it” then excludes the beast that to begin with, prior to sanctification, was blemished.
- E. But sages say, “If they die, they are to be buried.”
- F. *Who are the sages in this context? It is the Tannaite authority of the household of Levi.*
- G. *For the Tannaite authority of the household of Levi has said, “All things that were consecrated were subjected to the requirement of being presented to the priest and being evaluated, even a beast that to begin with was blemished.*
- H. *And so did the Tannaite authority of the household of Levi teach in a Tannaite version, “Even a wild beast, even fowl.”*
- I. But does Scripture not say, “And the priest shall value it” (Lev. 27:12), and the word “it” then excludes the beast that to begin with, prior to sanctification, was blemished?
- J. *The “it” poses a problem to the position of the Tannaite authority of the household of Levi.*
- K. *Now as to the rabbis who differ from R. Simeon [b. Tem. 32B: Said R. Yohanan, “In the opinion of rabbis, if they die, they are to be buried, all the same are those things that have been consecrated to the altar and those things that have been consecrated for the upkeep of the Temple house: they all fall into the rule of having to be set up before the priest and appraised by the priest [in line with Lev. 27:11: “And if it be any unclean beast, of which they may not bring an offering then the man shall [1] bring the animal before the priest, and the priest*

shall [2] value it as either good or bad; as you the priest value it, so shall it be; but if he wishes to redeem it, he shall add a fifth to the valuation” (Lev. 27:11)] (Miller: and since this cannot be done after death, therefore they are not redeemed but buried, and the rule applies to all kinds of dedications)] [Miller & Simon: they will agree that an animal blemished from the start may be redeemed after its death] — *what is their position? Do they indeed maintain that if the blemished, sanctified animal died, it is to be redeemed? If that is the case, then what Rab should have said is, [15A] “This is the opinion of R. Simeon and also of those who differ from him on another matter.”*

- L. *Say as follows: Rab takes the view [not of R. Yohanan, given just now] but of R. Simeon b. Laqish, who has said, “In the opinion of rabbis things that have been consecrated for the upkeep of the Temple house fall into the rule of having to be set up before the priest and appraised by the priest. Those things that have been consecrated to the altar do not fall into the rule of having to be set up before the priest and appraised by the priest.”*
- M. *But one cannot maintain that our Mishnah-passage is wholly in accord with rabbis, since at the end, it states, **And if they died, they are to be buried** [Miller & Simon: from which we may infer that objects consecrated for the altar are included in the law of presentation and valuation, while rabbis hold the opposite view in the interpretation of Simeon b. Laqish].*
- N. *But how do you know that the consideration operative in the Mishnah that dictates that they are to be buried is that they are subject to the law of presentation and valuation? Perhaps the reason is that we may not redeem sacrifices that have been dedicated only in order to feed the dogs [and the other issue is not relevant]?*
- O. *I should reply: if so, the Mishnah should have said, “If they are rendered tereifah, they are to be buried [Miller & Simon: from which I could infer that, although it was possible to make a presentation and valuation here, still, since they were fit only for dogs, they must be buried. But since the Mishnah states, **If they died...**, I deduce the operative consideration is that presentation and valuation cannot be carried out].*
- P. *And if you like, I shall say, “In point of fact Rab accords with R. Yohanan, and he did repeat the Tannaite version as, “This is the opinion of R. Simeon and of those who dispute with him on other matters in context.””*

VII.1 A. [All Holy Things], the consecration of which came before their blemish, or [in which was] a transient blemish before their consecration, and in which

afterward a permanent blemish appeared, and which were redeemed...are free of the law of the firstling, and from the priestly gifts:

- B. *What is the scriptural basis for this rule?*
- C. *It is in accord with that which our rabbis have taught on Tannaite authority:*
- D. “Howbeit as the gazelle and as a hart” (Deu. 12:22) [Scripture deals with dedicated sacrifice that are blemished after they were dedicated, as the text says, “the unclean and the clean shall eat of them alike,” and they still retain some measure of holiness (Miller & Simon)] — just as the gazelle is exempt from the law of the firstling, so Holy Things that have become unfit are exempt from the law of the firstling.
- E. Shall I then eliminate them from the obligation to the law of the firstling, but not exempt them from the law of the priestly gifts?
- F. Scripture says, “hart” — just as the hart is exempt from the law of the firstling and from the obligation to yield the priestly gifts, so the Holy Things that have become unfit are exempt from the law of the firstling and from the law of the priestly gifts.
- G. How about the proposition that just as the fat of the gazelle and the hart is permitted for everyday use, so the fact of blemished Holy Things is permitted for every day use?
- H. Scripture states, “Howbeit,” so as to distinguish [that aspect from the others].

VII.2. A. A master has said, “Shall I then eliminate them from the obligation to the law of the firstling, but not exempt them from the law of the priestly gifts? [Scripture says, ‘hart’ — just as the hart is exempt from the law of the firstling and from the obligation to yield the priestly gifts, so the Holy Things that have become unfit are exempt from the law of the firstling and from the law of the priestly gifts.]”

- B. *How come [we deriving the limitation of a firstling from the first text, and then utilize another text to exclude the priestly gifts]?*
- C. I exclude the firstling, because its law does not apply equally to all cases, but I shall not exclude the priestly gifts, the law concerning which applies equally in all cases [females as well as males].
- D. Scripture says, “...hart....”

VII.3. A. Said R. Pappa to Abbaye, “How about the argument: just to the case of the gazelle and the hart the law prohibiting the killing of the young with the mother on the same day does not apply, so the law concerning not killing the mother and the offspring on the same day does not apply to Holy Things that have become unfit for use on the altar?”

- B. *He said to him, “What do you think is the governing analogy [such that blemished Holy Things will be exempted from that law]? If it is to unconsecrated things, then the law of not killing the mother and the offspring on the same day applies; and if you compare them to Holy Things, then the law of not killing the mother and the offspring applies anyhow.”*
- C. *He said to him, “If so, then the same rule should apply in respect to the fat of blemished Holy Things: what do you think is the governing analogy? If it is to unconsecrated beasts, then their food is forbidden, and if it is to Holy Things, their fat is forbidden too?”*
- D. [Abbaye responded,] “But have you not also said, “Howbeit,” so as to distinguish [that aspect from the others]? Then I may also say, ‘howbeit’ — and not the law of not slaughtering the mother and the offspring [which is excluded from the analogy].”
- E. Raba said, “‘Howbeit’ — serves to exclude from the analogy the law concerning not killing the offspring with the mother on the same day. In respect to blemished Holy Things, we derive the prohibition from the words, ‘the blood thereof,’ in the verse, ‘Only you shall not eat the blood there’ (Deu. 15:23) [which concerns the firstling that has been blemished]. Now what is the meaning of ‘the blood thereof’? If I say that it refers actually to its blood, is the blood of a gazelle or a hart permitted? The words ‘the blood thereof’ can refer only to the fat.”
- F. *And why does Scripture not say simply, “its fat”?*
- G. *If Scripture had made explicit reference to fat, I might have concluding that both the analogy and the verse itself define the prohibition of the fat; the analogy [between the word ‘fat’ and the words ‘as a gazelle and a hart’] exclude it from the punishment of extirpation, for Scripture imposes extirpation only one who eats the fat of an animal: ‘for whoever eats the fat of an animal’ (Lev. 7:25); the Scripture verse also helped to make eating the fat of blemished Holy Things equivalent to the violation of a negative commandment. So the All-Merciful has said, ‘the blood thereof’ to teach you that just as the eating of the blood is subject to extirpation, so eating of the fat is subject to extirpation.*
- H. *But lo, The Tannaite authority has said, [How about the proposition that just as the fat of the gazelle and the hart is permitted for*

everyday use, so the fact of blemished Holy Things is permitted for every day use?] Scripture states, “Howbeit,” so as to distinguish [that aspect from the others] and to eliminate use of the fat.

- I. *This is the sense of the matter:* if the language “the blood thereof” had not been stated, I might have supposed that the word “howbeit” implies, “but not its fat.” Now that Scripture says, “The blood thereof,” the word “howbeit” serves to exclude from the analogy the law on not killing the young with the mother on the same day.

VIII.1 A. ...and do not go forth for secular purposes, for sheering and for labor:

- B. *What is the source of this rule in Scripture?*
C. *It is in line with that which our rabbis have taught on Tannaite authority:*
D. “Notwithstanding you may kill” (Deu. 12:15) — but not shear; “meat” — but not milk; “and eat” — but not for the dogs.
D. **[15B]** *There are those who say, “You may kill and eat:” you have permission to eat them only from the time that they are properly offered and from that point on.*
E. But we may redeem Holy Things and feed the meat to the dogs [as no verse of Scripture prohibits doing so].

IX.1 A. And their offspring and their milk are prohibited [even after their redemption]:

- B. *How shall we imagine this case? If I say that the beast became pregnant and gave birth after being redeemed, then why should the offspring be forbidden? They are in the status of the gazelle and the hart [entirely unconsecrated animals]! So we must deal with a case in which the animal became pregnant before being redeemed but gave birth after being redeemed.*
C. *But if they were born before they were redeemed, they would become holy.*
D. *What is the source for that rule?*
E. *It is in line with what our rabbis have taught on Tannaite authority:*
F. [With reference to peace offerings, Scripture states,] “Whether a male” (Lev. 3: 1) — this serves to encompass the offspring of a peace offering;
G. “or a female” — this serves to encompass an animal exchanged for a peace offering.
H. I know only that the offspring of an unblemished beast and the substitute for an unblemished beast [are covered by the law]. How do I know that the law pertains also to the offspring of blemished beasts and animals declared substitutes for blemished beasts are also covered by the law?

- I. When Scripture states, “Whether a male” it includes even a blemished offspring, and when it says, “or a female,” it includes a blemished animal declared a substitute.
- J. And what about the offspring that were in the embryo before redemption and were born afterward? *Concerning those that were born before redemption there is a difference of opinion, with one master maintaining that they are sufficiently holy to be offered up on the altar, and another authority taking the view that they are only sufficiently holy only to be left to graze [until blemished].*
- K. And what about the rule governing offspring born after the mother is redeemed?
- L. Said R. Huna, “One puts them in a stall and they are left to die of hunger. *For what alternative do we have? Shall they be offered upon the altar? But they derive from a status of sanctification that has been dismissed [the mother has lost its sanctity because of its blemish, and they were born after the mother’s redemption anyhow]. And as to redeeming them, they are not qualified to be redeemed [since they were redeemed through their mother, so there is no sanctity left to allow them to be redeemed and turned into unconsecrated beasts].*”
- M. *In the West they stated in the name of R. Hanina, “Just prior to redeeming them, he consecrates them for that particular sacrifice.” [And possessed of that holiness, they can indeed be redeemed.]*
- N. “Just prior to redeeming them” — *does this then imply that they are subject to redemption? Rather, I should read, “Before the redemption of their mother, he consecrates them for that particular sacrifice.”*
- O. *[And with reference to Huna’s view that they are left to die, rather than devising a method of redeeming them,] what is the reason?*
- P. Said R. Levi, “It is a prophylactic measure to prevent his rearing flocks from them. [This would then delay the redemption of the mothers and we might eat them without redeeming them.]”

IX.2. A. *Rabina asked R. Sheshet, “May one consecrate the offspring of a blemished Holy Thing for any purpose of his choice?”*

- B. He said to him, “He may not dedicate them [to any sacrifice of his choice, but only for the sacrifice for which the mother had been designated]. “What is the scriptural basis for that view?”
- C. *“What is the scriptural basis for that view?”*
- D. *He said to him, “We derive the law by analogy from the use of the words ‘within your gates’ that appear with reference to blemished Holy Things (Deu. 12:21) and the use of the same words, ‘within your gates’ (Deu. 15:22) in regard to firstlings: in the case of the firstling, it cannot be designated for any sacrifice that one wishes,*

since it is written, 'Howbeit the firstling among beasts that is born a firstling to the Lord, no many shall sanctify it' (Lev. 27:26) [but it remains only within the category of holiness that it now has, as a firstling], *so in the present matter*, one cannot designate them as holy for any purpose that one wants."

- E. *There is a Tannaite teaching in accord with the position of R. Sheshet:*
- F. **Holy Things, the permanent blemish of which preceded their consecration, which were redeemed are liable to the law of the firstling and to the law of the priestly gift, whether this is prior to their being redeemed or after their being redeemed. He who shears them and who works with them does not incur a flogging, whether he does so before they are redeemed or after they are redeemed, and they are not subject to the law of substitution' and before they are redeemed the laws of sacrilege apply to them, but after they are redeemed, the law of sacrilege does not apply to them. Their offspring are unconsecrated, and they may be redeemed even when unblemished; and one may assign them as holy for any sacrifice of one's choice. The upshot of the matter is this: lo, they are unconsecrated for all purposes having to do with them. The only religious duty that pertains to them is that they be offered up alone.**
- G. **But if the act of consecrating them came prior to the appearance of the blemish, or a transient blemish came prior to the act of consecration, and afterward a permanent blemish appeared on them, and they are redeemed, they are exempt from the law of the firstling and from the priestly gifts, whether this is before they are redeemed or after they are redeemed. He who works with them or shears them incurs a flogging. And whether it is before they are redeemed or after they are redeemed, they are subject to the law of substitution [in that one who says, "Lo, this beast be like that one," that one being one of these, this beast is holy as much as that one]. Before they are redeemed the laws of sacrilege applies to them, After they are redeemed, the laws of sacrilege do not apply to them. Their offspring are holy, and may not be redeemed when they are unblemished, and one may not assign them as an offering for any purpose of his choice. The upshot of the rule is this: lo, they are deemed Holy Things for all matters pertaining to them, and you have in them only the matter of remission such that they may be eaten [as Holy Things] alone [T. Bekh. 2:3-4].**
- H. The statement, "The upshot of the rule is this," made in the first of the two rules — *what is it meant to encompass?*

- I. It is meant to encompass the case of one who slaughters them outside of the Temple court, indicating that he is exempt from any penalty [of extirpation].
- J. The statement, “The upshot of the rule is this,” made in the second of the two rules — *what is it meant to encompass?*
- K. **[16A]** *It is meant to encompass the case of one who its milk.*

IX.3. A. The master has said, “...and may not be redeemed when they are unblemished, and one may not assign them as an offering for any purpose of his choice.”

B. *When they are unblemished, it is then in particular that he may not redeem them, but if they are blemished, then he may redeem them; for any sacrifices he chooses they are not concentrated, but for the particular sacrifice that they were consecrated he may. The upshot is that they are consecrated for that particular sacrifice and are redeemed when they are blemished.*

C. *May we say that this then refutes the position of R. Huna [who has held that they may not be redeemed at all and are left to die, but may not be redeemed and are not consecrated from a particular sacrifice].*

D. R. *Huna will say to you, “The rule is that even blemished animals may not be redeemed, but since the Tannaite authority of the passage has formulated the initial rule, they may be redeemed if they are unblemished, he has also repeated the latter clause, they are not redeemed if unblemished; and since in the initial clause he specified that they may be used for any offering that the farmer wishes, he has included in the closing clause the same language.”*

IX.4. A. “[It is meant to encompass the case of] one who slaughters them outside of the Temple court, indicating that he is exempt from any penalty [of extirpation]:”

B. R. *Huna repeats as his Tannaite version: “he is liable,” and he interprets the rule to speak of a case in which the animal was blemished with a withered spot in the eye, and he accords with the view of R. Aqiba that, if such has gone up on the altar, it is not taken down again.”*

IX.5. A. “And whether it is before they are redeemed or after they are redeemed, they are subject to the law of substitution [in that one who says, “Lo, this beast be like that one,” that one being one of these, this beast is holy as much as that one].”

B.Said R. Nahman said Rabbah. bar Abbuha, “And a beast that has been exchanged for it after it has been redeemed has to be left to die. *What is the reason for doing so? For what alternative do we have? Shall they be offered upon the altar? But they derive from a status of sanctification that has been dismissed [the mother has lost its sanctity because of its blemish, and they were born after the mother’s redemption anyhow]. And as to redeeming them, they are not qualified to be redeemed [since they were redeemed through their mother, so there is no sanctity left to allow them to be redeemed and turned into unconsecrated beasts]. That is why they are left to die.*”

C.*An objection was raised by R. Amram, “And let it be eaten, when it has been blemished, by the owner! For what is the difference between this beast and an animal exchanged for a firstling or for a tithed animal, and we have learned in the Mishnah: **The substitute of a firstling or of a beast designated as tithe, their offspring, and the offspring of their offspring, to infinity, lo, they are deemed equivalent to a firstling or to a beast designated as tithe, And they are eaten by the owners after they are blemished** [M. Tem. 3:5A-D].”*

D.Said to him Abbaye, “In this case it falls into the classification of its mother, and in that case it falls into the classification of its mother. In this case it falls into the classification of its mother, for it is classified as an animal that has been substituted for a firstling and a tithed animal, and, as a firstling or a tithed animal are eaten by their owners after they suffered a blemish, so the exchanged animal is eaten under the same conditions. And in the other case, it falls into the classification of its mother. It is called an animal exchanged for a dedicated sacrifice, and, as a dedicated sacrifice which became blemished may not be eaten unless it has been redeemed,. so also an animal exchanged for a dedicated sacrifice is eaten only when it has been redeemed. *But in the present case, it is not available to be redeemed, and that is why it is left to die.*”

- E. *So to it has been taught on Tannaite authority in line with the position of R. Nahman:*
- F. How do we know that the beast declared a substitute of Holy Things that have become unfit is left to die? Scripture says, “Nevertheless these you shall not eat of those who chew the cud, he is unclean for you” (Lev. 11:4) [so there is an animal that is clean but may not be eaten, and it is an animal exchanged for a sacrifice that has suffered a blemish].
- G. *But is that not required to teaching that there are five animals designated to be sin-offerings that are simply left to die [(1) The offspring of a sin offering, (2) the substitute of a sin offering, and (3) a sin offering, the owner of [any ox] which died are left to die. (4) One which was superannuated or (5) one which was lost and turned up blemished, if this is after the owner has effected atonement, is left to die (M. Tem. 4:1A-E)].*
- H. *That derives from the end of the same verse, “of them that divide the hoof, he is unclean to you.”*
- I. *So too it has been taught on Tannaite authority:*
- J. How on the basis of Scripture do we know that there are five classifications of sin-offerings that are simply left to die? Scripture says, “of them that divide the hoof, he is unclean to you.”
- K. *But is not the rule that there are five classifications of sin-offerings that are simply left to die simply a law handed down as tradition? For in any case in which a sin-offering is left to die, in a corresponding case, a guilt offering is left to pasture [until blemished].*
- L. *The fact is that the verse of Scripture refers to the five classifications of sin offering that are left to die, and both the verse of Scripture and the received law serve a purpose. For on the basis of Scripture alone, I might have ruled that they are left to pasture; the received law teaches that they are left*

to starve to death. And with the received law alone I might have said that if, by chance, one had eaten meat from any sin offerings of these five classifications, while he has done what is forbidden, he has not violated a negative commandment. So the Scripture is required to teach that he violates a negative commandment.

- M. *And if you wish, I shall say that the purpose is to establish a grounds for comparing an object the rule of which is derived from the verse, “of those who chew the cub,” with an object the rule of which comes from the verse, “of those who divide the hoof,” so as to teach that, just as in the one case they are left to die, so in the other case they are left to die.*

I.1 analyzes the reasoning behind the opening rule of the Mishnah. II.1 does the same, now extending the implications of the law to an extraneous issue and distinguishing our ruling from that one. III.1 clarifies the case to which the Mishnah refers in order to draw the inference of the Mishnah's law for an extraneous issue. IV.1 has its own range of interests, only tangentially relevant to the Mishnah; but the passage is inserted as part of an exercise of Mishnah-criticism, in that it clarifies the correct reading and meaning before us. V.1 provides the Mishnah with a verse of Scripture. VI.1 searches for the authority behind the Mishnah's rule, so that the implications of the rule can be extended beyond their topical limits. VII.1 asks for the scriptural basis for the Mishnah's rule. No. 2 then picks up and expands on an element of the foregoing. No. 3 carries forward the expansion of No. 1. VIII.1 again finds the scriptural foundation for the Mishnah's rule. IX.1 raises a second case to clarify the situation to which the Mishnah refers. No. 2 is a secondary expansion of the foregoing. It certainly has no bearing upon the elucidation of the Mishnah but develops the question out of the foregoing materials. Nos. 3, 4, 5 expand upon the foregoing.

2:4

- A. **He who receives [under contract to raise and share in the profits] a flock from a gentile on “iron-flock terms”—**
- B. **[16B] the offspring are exempt [from the law of the firstling].**
- C. **But the offspring of the offspring are liable.**

- D. [If the Israelite] had stipulated [that they] should stand in place of their mothers,
- E. the offspring of the offspring are exempt.
- F. And the offspring of the offspring of the offspring are liable.
- G. Rabban Simeon b. Gamaliel says, “Even up to ten generations are they exempt,
- H. “for the right [to lay claim to] them belongs to the gentile.”

2:5

- A. A sheep which gave birth [to an offspring] something like a goat,
- B. or a goat which gave birth [to an offspring] something like a sheep —
- C. it [the offspring] is exempt from the law of the firstling.
- D. But if it bears some of the traits [of the mother], it is liable.

- I.1** A. [He who receives [under contract to raise and share in the profits] a flock from a gentile on “iron-flock terms”— the offspring are exempt from the law of the firstling:] *Does this rule bear the amplification that, since the owner does not take money, the cattle remain the property of the owner? But an objection may be raised from the following: People may not accept responsibility for raising a herd of cattle on iron-flock terms from an Israelite, because this is none other than a usurious arrangement. This proves that the flock is deemed in the ownership of the contractor [and therefore it is as if the one who gives the money in return for waiting for his money receives a share of the offspring, and this is usury; if the money remains in the possession of the giver, it would not be usury].*
- B. *Said Abbaye, “There is no contradiction. In the case of our Mishnah-paragraph, the gentile accepted responsibility on himself for any accidents and for a depreciation in value, while in the cited passage, the owner did not take upon himself the risks of accidents and a fall in the market.”*
- C. *Said to him Raba, “If the gentile accepted responsibility on himself for any acts and a fall in value, then how can such an agreement fall into the category of an iron-flock agreement [which by definition protects the owner’s interest against loss, so the security is as hard as iron; here he has accepted a share in the loss]. Furthermore, where is such a distinction implied? And finally, why does only the second part state, But one may receive from a gentile a flock on iron-flock terms? Why not divide the matter and state it as follows: What does this rule apply? When the owner did not undertake the risks of accidents and a fall in market*

price, but where he undertook the risks of accidents and a fall in market price, it is permitted to make such an arrangement?

- D. *Rather, said Raba, "In both cases the owner did not accept upon himself the risks of accidents and a fall in value. Here, in the case of the firstling [the reason is not that the firstling is held to be in the possession of the gentile, but because it is the pledge with the Israelite], specifically, if the gentile came and wanted the money, and the Israelite did not pay it to him, he would seize the animal, and if he did not find the animal, he could seize the offspring. Therefore the gentile has a share in it, and wherever the gentile has a share in the animal, it is exempt from the law of the offspring."*

II.1 A. [If the Israelite] had stipulated [that they] should stand in place of their mothers, the offspring of the offspring are exempt:

- B. **Said R. Huna, "[He who receives [under contract to raise and share in the profits] a flock from a gentile on "iron-flock terms"] — the offspring are exempt [from the law of the firstling]. But the offspring of the offspring are liable."**
- C. *And R. Judah said, "The offspring of the offspring likewise are exempt. The offspring of the offspring of the offspring are liable."*
- D. *We have learned in the Mishnah: [If the Israelite] had stipulated [that they] should stand in place of their mothers, the offspring of the offspring are exempt. The operative consideration is that he had stipulated what is said, lo, if he had not made such a stipulation, then that would not have been the case. Does this not refute the position of R. Judah?*
- E. *R. Judah may say to you, "That is the rule that applies even though he had not made such a stipulation. The formulation at hand indicates, however, that even if he had stipulated that the offspring stand in the stead of their mothers [so the first generation are mortgaged for the gentile, so that he has no claim on any further generations thereafter], the law still applies, for it is the way of gentiles to seize the offspring if he does not get the mother, so it is as if he had not put the offspring in place of the mothers [so I would have supposed that the later generations of offspring should be exempted as well; so I am informed that that is not the case]." So the offspring of the offspring are exempt, but the offspring of the offspring of the offspring are liable."*
- F. *We have learned in the Mishnah: Rabban Simeon b. Gamaliel says, "Even up to ten generations are they exempt, for the right [to lay claim to] them belongs to the gentile."*

- G. Now from the perspective of R. Judah, who has said that the initial Tannaite authority of our Mishnah descends up to two generations in exempting the offspring because the gentile has a hand in them, **[17A]** that explains why Rabban Simeon b. Gamaliel said to him, **“Even up to ten generations are they exempt, for the right [to lay claim to] them belongs to the gentile.”**
- H. But from the perspective of R. Huna, who has said that the initial Tannaite authority does not descend even to two generations of offspring in exempting them from the law of the firstborn, what is the sense of the language, **“Even up to ten generations”?**
- I. R. Huna will say to you, “Rabban Simeon b. Gamaliel refers to the second clause of the Mishnah, **[If the Israelite had stipulated [that they] should stand in place of their mothers, the offspring of the offspring are exempt. And the offspring of the offspring of the offspring are liable]**, in which case the Tannaite authority does descend into the later generations.”
- J. Come and take note: **He who receives [under contract to raise and share in the profits] a flock from a gentile on “iron-flock terms”— the offspring are exempt [from the law of the firstling]. But the offspring of the offspring are liable. Is this not a refutation of the reading of R. Judah?**
- K. R. Judah may say to you, “Read: ‘They and their offspring....’”
- L. There are those who say, **they are their offspring are exempt from the law of the firstling. Is this not an argument against the position of R. Huna?**
- M. R. Huna will say to you, “Read: **they and their offspring are exempt [from the law of the firstling]. But the offspring of the offspring are liable.**”

- III.1** A. **A sheep which gave birth [to an offspring] something like a goat, or a goat which gave birth [to an offspring] something like a sheep — it [the offspring] is exempt from the law of the firstling. But if it bears some of the traits [of the mother], it is liable:**
- B. R. Oshaia came from Nehardea bearing in hand a Tannaite formulation as follows: **“A sheep which gave birth [to an offspring] something like a goat, or a goat which gave birth [to an offspring] something like a sheep — R. Meir declares liable, and sages exempt.”**
- C. Said R. Hoshia to Rabbah, “When you go before R. Huna, ask him, ‘As to the formulation, “R. Meir declares liable,” to what does he declare the beast liable? If one should say, to the law of the firstling, then does not R. Meir concur in the formulation, ““But the firstling of an ox’ (Num. 18:17) — the law applies only if the sire is an ox and the firstling of an ox”?’ If he means, it is liable to the

requirement of handing over the first fleece to the priest, then does he not concur with that which was stated by the Tannaite authority of the household of R. Ishmael: ‘Lambs whose wool is hard are exempt from the rule of the first fleece, for Scripture says, “and if he were not warmed with the fleece of my sheep’ (Job. 31:20) [only fleece that warms is called fleece, and the fleece of a goat born of a ewe is hard]”?

- D. *He said to him, “Let us see, with what sort of case do we deal here? It is with a case in which **a sheep which gave birth to an offspring something like a goat**, and the sire was a he-goat [and one killed the sire and the offspring on the same day], and at issue is whether the nature of the sire is taken into account in a case in which one kills the mother and the young on the same day. R. Meir takes the view that we do take into account the nature of the sire in a case in which one kills the mother and the young on the same day. And rabbis maintain that we do not take into account the nature of the sire in a case in which one kills the mother and the young on the same day.”*
- E. *If so, then let them take issue on the matter of whether we take account of the nature of the sire in any case at all, as in the dispute of R. Hanania and rabbis. Rather, in point of fact what is under dispute is indeed the law of the firstling, and here, what is at issue? It is a case of a ewe born of a ewe born of a goat. One master [Meir] takes the position that the determinative consideration is the status of the mother, and this does not fall into the classification of an animal that is suspect of looking like a hybrid [and so it is a firstling to be given to a priest], and the other authority takes the view that we invoke the classification of the mother, and the mother of this one is in the classification of a beast that appears to be a hybrid.*
- F. *If you prefer, I shall say that at issue is a ewe daughter of a goat daughter of a ewe. One authority takes the view that the sheep returns to its former status, and the other holds that this sheep does not go back to its former status.*
- G. *R. Ashi said, “We deal with a case in which some of the definitive traits of the mother are present, and who are ‘sages’ in the present context? R. Simeon, who maintains that the definitive traits of the mother must include those of the head and the greater part of the body.”*

III.2. A. Said R. Yohanan, “R. Meir concedes that the goat that is offered on the New Moon must be the offspring of a goat. *How come?* Scripture says, ‘and one he goat’ (Num. 28:15) — one that is distinctive and derives from a line of goats back to the beginning of the six days of creation.”

- B. *But is that the source of his position? Does it not derive from the following proof:*
- C. “A bullock of a sheep” (Lev. 22:27) — excluding a hybrid; “or a goat” — excluding a beast that resembles a hybrid.
- D. *In point of fact, proofs on the foundations of both verses were required, for were proof to derive solely from the latter text, I might have reached the conclusion that that is the rule only when the beast has not reverted to its original species [a ewe born of a goat which was born of a goat is classified as a beast that looks like a hybrid], but in a case in which the beast has reverted to its original species, I might have thought that that beast is not classified as one that appears to be a hybrid; and if the initial text alone served as the source for proof of the proposition, I might have reached the conclusion that the rule pertains only in the case of an obligatory sacrifice, but not where a free will offering is involved, in which instance there would be no prohibition in regard to a beast that appears to be a hybrid. Accordingly, both proofs are necessary.*

- III.3.** A. Said R. Aha bar Jacob, “All concur that if one uses the wool, he does not become liable to a flogging on the count of violating the law against mixed species. For Scripture has said, ‘You shall not wear mingled stuff, wool and linen together’ — (Deu. 22:11) — just as it must be linen without adulteration, so it must be wool without adulteration.”
- B. Said R. Pappa, “All concur that its wool is disqualified for dying with purple blue, for Scripture has said, ‘You shall not wear mingled stuff; you shall make yourself twisted cords’ — just as it must be linen without adulteration, so it must be wool without adulteration.”
 - C. Said R. Nahman bar Isaac, “All concur that the wool is not subject to uncleanness by reason of the skin-ailment [of Lev. 13-14], for it is said, ‘Whether it be a woollen garment or a linen garment’ (Lev. 13:47) — just as it must be linen without adulteration, so it must be wool without adulteration.”
 - D. Said R. Ashi, “We too may say something along these lines: ‘He who trains a vine over a fig-tree — the wine is unfit for libations.’ What is the basis in Scripture? ‘A sacrifice and drink offerings’ (Lev. 23:37) — just as the sacrifice must be without adulteration, so the wine must be without adulteration.”
 - E. *An objection to this proposition was raised by Rabina, “‘He who trains flax to grow over a shrub — does it cease to be unadulterated flax? If this is so, then you cannot invoke the rule that, ‘just as flax must be unadulterated,’ since flax can also be adulterated.’”*

- F. He said to him, “In this case, the smell is adulterated, in that case the smell is not adulterated.”

We begin with the initiative of comparing the premise, as to the contractual agreement under discussion here, with the counterpart premise in another rule altogether. I.1 does not seem to me richly to contribute to Mishnah-exegesis. II.1 clarifies the opening clause of the Mishnah in light of the second clause, as indicated. III.1 focuses upon the clarification of the Mishnah’s rule in the light of pertinent formulations and cases. Nos. 2, 3 are tacked on to No. 1.

2:6

- A. A sheep which had not given birth and which bore two males,
B. and both of their heads emerged simultaneously —
C. R. Yosé the Galilean says, “Both of them belong to the priest,
D. “since it is said, ‘The males [even more than one, e.g., when the two were born simultaneously] belong to the Lord’ (Exo. 13:12).”
E. And sages say, “It is not possible to determine exactly [for there to be simultaneous birth]. But:
F. “One belongs to him and one to the priest.”
G. R. Tarfon says, “The priest selects for himself the better.”
H. R. Aqiba says, “They compromise between them” [with the one who takes the fatter giving the other half the excess value].”
I. And as to the second, it pastures until it becomes blemished.
J. [17B] “And it is liable to the priestly gifts.
K. R. Yosé declares it exempt [from the priestly gifts].
L. [If] one of them died,
M. R. Tarfon says, “Let them divide [the value of the living one].”
N. R. Aqiba says, “He who lays claim against his fellow bears the burden of proof.”
O. [If it bore simultaneously] a male and a female, there is nothing whatsoever for the priest here.
- I.1** A. *A member of the household of R. Yannai said, “Of R. Yosé the Galilean, we have heard the ruling that indicates he maintains the position, ‘It is possible to ascertain simultaneity in natural processes, and all the more so in human actions.’ And as to rabbis, it is impossible to ascertain simultaneity in natural processes, but as to human actions, what is the rule?”*

- B. *Come and take note: A red line went around the altar so as to divide the area for the blood that was to be sprinkled above from the area for the blood to be sprinkled below [M. Mid. 3:1]. Now if you maintain that it is not possible to ascertain simultaneity in human actions, then there will be times that one will put below the drops of blood that are to go above, and that one will put above the drops of blood that are to be sprinkled below the red line!*
- C. *The line is made a bit wide [and was not a thin line, so there would be no reason to miss the proper space].*
- D. *Come and take note: Proof can be adduced from the measurements of the furniture of the sanctuary and those of the altar [and since Scripture says what they are, it is taken for granted that one can be precise in the assessment of human actions].*
- E. *That case is exceptional, for the All-Merciful has said, “Do it, and however you do it it will be fine, as David said, ‘All this the Lord made me understand in writing by his hand upon me’ (1Ch. 28:19).”*
- F. *Said R. Qattina, “Come and take note: If an unclean oven is divided into two parts and the parts are equal, both are deemed susceptible to uncleanness, for it is not possible to measure exactly.”*
- G. *Said R. Kahana, “An earthen utensil is exceptional, because it has holes [and is not level at the break, so the measurement is inexact].”*
- H. *Come and take note: If the neglected corpse is found at exactly the same distance between two towns, both are to bring a heifer [Deu. 21: 1],” the words of R. Eliezer. What is the operative consideration? Is it not that in R. Eliezer’s view it is possible to measure exactly, and the language, “the city that is nearest,” imply, the ones that are nearest?*
- I. *No. R. Eliezer [18A] maintains the principle of R. Yosé the Galilean, who has held, “It is possible to ascertain simultaneity in natural processes, and all the more so in human actions.”*
- J. *May we say that the following Tannaite dispute concerns the same matter:*
- K. *If the neglected corpse is found exactly between two villages, they would not conduct the rite of breaking the neck of a heifer.*
- L. *R. Eliezer says, “Both of them present heifers [one for each village].”*
- M. *Is this not what is at issue between them, that the initial authority takes the view that one cannot measure the matter exactly, while R. Eliezer maintains that it is possible to measure the matter exactly?*

- N. *And is that your reasoning? If the initial authority maintains that it is not possible to measure the matter exactly, then why not have the two towns conduct the rite of breaking the neck of the heifer? Let them bring a single heifer in partnership and present it? But as to these Tannaite authorities, all parties concur that it is possible to ascertain the measure exactly, but at issue between them is whether we interpret the language, “the city that is nearest,” refer, “but not the cities that are nearest,” with the initial authority taking the view that the sense is, “the city that is nearest,” but not the cities that are nearest, and R. Eliezer holds that “the city that is nearest,” may even mean, “the cities that are nearest.”*
- O. *And what is the upshot of the matter?*
- P. *Said R. Hiyya bar Abin said R. Amram, “The Tannaite version is as follows: if the neglected corpse is found exactly between two towns, R. Eliezer says, ‘Each one of them brings a heifer on its own.’ And sages say, ‘They bring a single heifer in partnership and present it.’”*
- Q. *What is the theory between the position of rabbis here? If rabbis take the view that it is possible to determine the matter exactly, and, further, the language “nearest” means also, “the cities that are nearest,” then let them bring two heifers; and if the words “the city that is nearest” mean, “but not the cities that are nearest,” then they should not bring even one heifer? Does this not bear the implication that rabbis take the view that it simply is not possible to determine the matter in an exact way, and that is so even as to human actions?*
- R. *That settles the question.*

II.1 A. R. Tarfon says, “The priest selects for himself the better:”

- B. *What is the operative consideration behind the position of R. Tarfon?*
- C. *He takes the view that the stronger of the two came forth first.*

III.1 A. R. Aqiba says, “They compromise between them” [with the one who takes the fatter giving the other half the excess value]. And as to the second, it pastures until it becomes blemished. And it is liable to the priestly gifts:”

- B. *Said R. Hiyya bar Abba said R. Yohanan, “The priest has to take the weaker of the two.”*
- C. *Said R. Hiyya bar Abba to R. Yohanan, “But lo, have we not learned in the Mishnah the language, **They compromise between them?**”*
- D. *He said to him, “While you were still home in Babylonia eating date-berries, we interpreted R. Aqiba’s statement on the strength of the later part of the same Mishnah-paragraph, where it says, [If] one of them died, R. Tarfon says, ‘Let*

them divide [the value of the living one].’ R. Aqiba says, ‘He who lays claim against his fellow bears the burden of proof.’ *Now if you should imagine that they compromise between them, here too let them divide the living animal between themselves. Rather, what is the meaning of the language, They compromise between them? The fat animal remains to be divided between them, and the Israelite says to the priest, ‘You bring proof that this is a firstling and time it.’*”

- IV.1 A. And as to the second, it pastures until it becomes blemished. And it is liable to the priestly gifts. R. Yosé declares it exempt [from the priestly gifts]:**
- B. *What is the reasoning behind the position of R. Meir [the unnamed authority of the rule at hand]?*
- C. Said R. Yohanan, “Since the priest can lay claim upon the farmer from two different directions, for he may say to him, *‘If it is a firstling, the whole of it is mine, and if it is not a firstling, then give me the priestly parts of the beast that are coming to me as a priest anyhow.’*”
- D. *And as to R. Yosé, what is the operative consideration in his opinion?*
- E. Said Raba, “Rabbis have treated one who has not taken possession in the position of one who has taken possession. *Now even though it had not actually reached his domain, it is as though it had reached his domain, and he sold it to an Israelite when it was blemished [and then the priest received something in return, namely, the other animal; if a priest sold a firstling to an Israelite the beast is exempt from having to provide the gifts of the parts that the priest usually receives].*”
- F. Said R. Eleazar, “All parties concur concerning a beast that may or may not be a firstling, that, since the priest has a beast in its stead, the animal is liable to the provision of the priestly gifts” [Miller & Simon: where for example a female and a male are born and there is doubt as to which is the firstborn, since the priest received nothing in its place, the animal grazes until it is blemished and is liable for the priestly 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 has received nothing in return].
- G. “All parties concur”! *But who is represented if not R. Yosé! And that is then obvious! R. Yosé exempts the beast from priestly gifts only in that case, in which the priest has a beast in its stead, in which case sages treat one who has not taken possession in the position of one who has taken*

possession. But where the priest has nothing in its stead, that is not the rule.

H. *But what might you otherwise have thought? The operative consideration of R. Yosé was that he maintained if you make the farmer liable to give the priestly gifts from this beast, he also may turn out to shear and work with the animal, even in a case in which the priest has nothing in its stead. So he informs us that that is not a consideration.*

I. *But can you come to such a conclusion? And has it not been taught in the further Mishnah-paragraph: R. Yosé did rule: [18B] “Any [animal] the exchange of which is in the hand of a priest is free of the obligation to priestly gifts.” R. Meir declares liable. So the operative consideration is that the priest has a beast in its stead, but if the priest had nothing in its stead, it would be otherwise [and it is explicitly stated that the operative consideration is that the priest has a beast in its stead].*

J. *What might you have thought? It is that R. Yosé stated his position within the premises of R. Meir, in the following way, “From my own perspective, which is that even if the priest has nothing in its stead, he is not liable to separate the priestly gifts, there is no issue; for if you render the farmer liable for the priestly gifts, he may also turn to to shear and work with the animal. But even according to your view, you should at least concede that where the priest has a beast in its stead, sages have treated one who has not taken possession as equal to the one who had taken possession. And to this, R. Meir declined to accede.*

K. And said R. Pappa, “All parties concur concerning a beast that may or may not have been declared tithe of the heard, that it is free of having to give up the priestly parts to the priest.”

L. *All parties concur? But this is only the view of R. Meir. And that is then obvious! R. Meir makes the farmer liable for the priest’s gifts in connection with an animal that may or may not be a firstling, since the priest has a claim from two directions; but in the case of a doubtfully tithed animal, that is not so.*

M. *But you might have assumed that the reason behind the position of R. Meir was concern that the requirement of separating the priestly gifts should not be forgotten, and consequently, even in the case of an animal that may or may not be tithe, the ruling would be the same; so he informs us that that is not the case.*

- N. *But can you come to such a conclusion? And has it not been taught in the end of the same Mishnah-paragraph: R. Yosé did rule: “Any [animal] the exchange of which is in the hand of a priest is free of the obligation to priestly gifts.” R. Meir declares liable.*
- I. *What might you otherwise have supposed? It might be that, so far as R. Meir is concerned, even in the case of an animal that may or may not be tithe, the farmer is liable to separate the priestly gifts, and the reason that they differ in a case in which the priest has a beast in hand in its stead is to indicate how far R. Yosé is prepared to go, since he would then exempt in the case even in which the priest can make his claim from two sides. He therefore informs us that that is not the case.*

V.1 A. [If] one of them died, R. Tarfon says, “Let them divide [the value of the living one]:”

- B. *Why should they divide it up? Rather, let us see, if the fat one died, it belongs to the priest [since we have already said he gets the healthier one], and the survivor is the owner’s. If the thin one died, it is the owner’s, and the survivor is the priest’s!*
- C. Said R. Ammi, R. Tarfon retracted.”

VI.1 A. R. Aqiba says, “He who lays claim against his fellow bears the burden of proof:”

- B. Said R. Hiyya, “To what is the case comparable in the view of R. Tarfon? To the case of two farmers who handed over sheep to a shepherd, and one died; the shepherd leaves the survivor to them both and takes his leave [Miller & Simon: and similarly in the Mishnah we have a case in which the surviving animal, a firstborn subject to doubt, was given to a shepherd and both the owner and priest claim it; we cannot say that the claimant has to produce evidence, since the animal at this moment is not within the domain of either one of them]. To what is the case comparable in the view of R. Aqiba? To the case of someone who left an animal with a householder, [Miller & Simon: who placed it among his herd, one of which died; the owner says that is not his animal that has died, and so claims the other; here since the animal is in the possession of the owner, the priest is the claimant]. One who lays claim against his fellow bears the burden of proof.”
- C. *Then what is at issue here [since the circumstances addressed by each authority differ from those contemplated by the other]? Will R. Aqiba differ that, when one gave two animals to a shepherd, the shepherd abandons the living beast and takes his leave? [Will he here invoke the principle, One who lays claim against his*

fellow bears the burden of proof? *Surely not!]* Will R. Tarfon take issue in the case in which one gave an animal over to a householder?

- D. *Said Raba, and some say, R. Pappa, “All parties concur in the case of two men who left animals with a shepherd, that the shepherd leaves the surviving beast among them and takes his leave; and they concur in the case of one who deposited an animal with a householder that one who lays claim against his fellow bears the burden of proof. They differ only in the case in which the courtyard belongs to the householder, and the shepherd is a priest [Miller & Simon: the surviving firstling is on the ground of the owner, the priest is shepherd of all his animals; the ground acquires chattels in behalf of its owner]. R. Tarfon takes the view that the owner has given possession to the priest on his ground, since he wants the religious duty to be carried out through his property, so we deal with two who gave animals over to a shepherd and the shepherd leaves the living one among them and departs. R. Aqiba takes the view that, since the owner would suffer a loss if the ground belonged to a priest, he does not give over to him ownership of anything, and it is a case similar to one who deposited something with a householder, in which we invoke the principle that one who deposited an animal with a householder that one who lays claim against his fellow bears the burden of proof.”*

I.1 explains the premise of Yosé the Galilean’s ruling, which in any case is to be inferred from sages’. The amplification ranges far and wide in finding other cases that yield the same principle, a common approach to Mishnah-exegesis. II.1 briefly glosses Tarfon’s view. III.1 expounds the language at hand, and does so quite persuasively. IV.1 investigates the premises of Yosé’s position. The articulation is brilliant, because we are able to see the underlying considerations in an entire sequence of rules. V.1, VI.1 provide minor clarifications, remaining well within the limits of Mishnah-commentary.

2:7-8

- A. Two sheep which had not given birth and which bore two males —
- B. one gives both of them to the priest.
- C. [If they bore] a male and a female, the male goes to the priest.
- D. [If they bore] two males and a female, one of them goes to him [the owner] and one to the priest.
- E. R. Tarfon says, “The priest selects the better of them for himself.”
- F. R. Aqiba says, “They compromise between them.”
- G. And as to the second: it pastures until it is blemished.
- H. And it is liable for priestly gifts.

- I. R. Yosé declares it exempt [from priestly gifts].
- J. [If] one of them died,
- K. R. Tarfon says, "They divide it."
- L. R. Aqiba says, "He who lays claim against his fellow bears the burden of proof."
- M. [If they bore] two females and a male or two males and two females,
- N. there is nothing whatsoever for the priest here.

M. 2:7

- A. [Two, of which] one had given birth and one had not given birth, which bore two males —
- B. one is for him and one for the priest.
- C. R. Tarfon says, "The priest selects for himself the better of the two."
- D. R. Aqiba says, "They compromise between them."
- E. And as to the second: it pastures until it is blemished.
- F. And it is liable for the priestly gifts.
- G. R. Yosé declares exempt.
- H. R. Yosé did rule: "Any [animal] the exchange of which is in the hand of a priest is free of the obligation to priestly gifts."
- I. R. Meir declares liable.
- J. [If] one of them died,
- K. R. Tarfon says, "They divide it."
- L. R. Aqiba says, "He who lays claim against his fellow bears the burden of proof."
- M. [If they bore] male and female,
- N. there is nothing whatsoever for the priest here.

M. 2:8

- I.1** A. *All of these cases are required. For if we had the first case [the birth of two males], it might have been thought that it is in that case in particular that R. Aqiba made his rulings, because you have two males from a single ewe, but in a case in which there are two ewes who had never given birth and where two animals came from a single ewe, one male and one female, and one male from the other, I might have said that he concurs with R. Tarfon that the animal that came forth without a twin is the better of the two.*

- B. *And if he had given his ruling only in that latter case, I might have supposed that it is in that case in particular that R. Aqiba held that the claimant has to produce evidence, for neither animal had previously given birth, but in a situation in which one ewe had given birth and the other not and they bore two males, I might have said that he concurs with R. Tarfon. [19A] that the one that had not given birth is the stronger. That is why it is necessary to give all of the cases in which the two differ.*

The Talmud's clarification is a routine and familiar exercise.

2:9

- A. **A beast born from the side and that which comes after it —**
- B. **R. Tarfon says, “Both of them pasture until they are blemished.**
- C. **“And they are eaten by the owner when blemished.”**
- D. **R. Aqiba says, “Both of them are not subject to the law of the firstling:**
- E. **“The first, because it is not that which opens the womb,**
- F. **“and the second, because the other came before it.”**

I.1 A. *What is at issue between them?*

- B. *R. Tarfon treats as a matter of doubt whether a beast that in only one aspect is a firstling constitutes the firstling of which Scripture spoke,*
- C. *while to R. Aqiba is it clear that a beast that is a firstling in only one aspect is certainly not classified as a firstling.*

I.2. A. *Our rabbis have taught on Tannaite authority:*

- B. One can derive a lesson from an encompassing principle that requires particularization, and from a particular rule that requires the specification of an encompassing principle.
- C. How so:
- D. “Sanctify to me all the firstborn” (Exo. 13: 2) —
- E. Might one think that even a female is to be inferred? Scripture says, “male.”
- F. If “male,” might one think that even if a female came forth first?
- G. Scripture states, “that opens the womb” (Deu. 15: 9).
- H. If “opens the womb,” might one think that even if it came forth after a caesarean birth, it still would be the firstborn?
- I. Scripture says, “firstborn.”

I.3. A. *Said R. Sherabbayya to Abbaye, "Since the opening part of the exposition does not introduce 'the firstling,' we see that a firstling in only one aspect is deemed to be classified as the firstling of which Scripture speaks. But since in the last part of the same passage, the Talmud introduces the 'firstling,' it follows that the firstling in only one respect is not classified as the firstling of which Scripture speaks!"*

B. *He said to him, "In point of fact an animal that bears the trait of a firstling in only one aspect is not classified as a firstling, but here is the sense of the opening clause: 'If "male," might one think that that is so if it is born by caesarean section? Scripture states, "that opens the womb" (Deu. 15: 9)."*

C. *Rabina said, "In point of fact, an animal that bears only one trait of a firstling is classified as a firstling, and this is the sense of the latter part of the exposition: 'If you should imagine that a beast that came forth after a caesarean birth still would be the firstborn, what reason does Scripture have for saying, "firstborn"? [19B] It cannot be in order to eliminate a case in which a female came forth first, since this is derived from the element, "the firstborn of the womb." Then draw the conclusion that the additional reference to "firstling" excludes the case of an animal that came forth after one that was delivered through a caesarean section.'"*

D. *Said R. Aha of Difti to Rabina, "If you think that a beast that bears only a single trait of a firstling is classified as a firstling, then we can make sense of the reason that if a male born through caesarean section is followed by a male born from the womb, the latter is not held to be holy, since it is said, 'firstling,' and here we have a firstling in respect to the womb but not a firstling in respect to male offspring. But what about the case of a female that was extracted by caesarean section, followed by a male born from the womb? Should this not be sanctified, as a firstling of males and a firstling of the womb?"*

E. *Rather, the best explanation of the matter accords with
Abbaye.*

I.1 proposes an exegesis to illustrate a principle, but as we see, the exegesis that is given in no way intersects with the proposed exegetical principle. No. 2 introduces an exegesis of the relevant verses, meant to illustrate 2.B, but of course 2.B is forgotten, and No. 3 reverts to the issue of No. 1 by means of analysis of the materials set forth, in their own terms, in No. 2. The problem of 2.B of course is not precipitated by the Talmud but by the framer of the exegesis, and it is insoluble within the limits of the Talmud.