

# I.

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## BABYLONIAN TALMUD

### TRACTATE KERITOT

### CHAPTER ONE

### FOLIOS 2A-8B

The tractate is devoted to the exposition of the penalty of extirpation — premature death, defined as death prior to age sixty — and those subject to that penalty. The penalty is part of a set of three which apply to the same thirty-six For classes of transgressions. The other two penalties are the presentation of a sin-offering and of a suspensive guilt offering. The three are differentiated by the matter of intentionality. If one has deliberately done one of the specified sins or crimes, the liability of extirpation is incurred. If the deed is done not intentionally but under constraint or by accident, the penalty of bringing a sin-offering expiates the sin or crime. If one is not certain whether or not one has done them, he is obligated to present a suspensive guilt offering. The focus of interest in Mishnah-tractate Keritot Chapter One is the thirty-six transgressions. The re-presentation by Bavli-tractate Keritot is summarized in Chapter Seven.

**1:1-2**

**1:1**

- A. [2A] Thirty-six [classes of ] transgressions set forth in the Torah are subject to extirpation:
- B. he who has sexual relations with (1) his mother, and (2) with his father's wife, and (3) with his daughter-in-law;
- C. he who has sexual relations (4) with a male, and (5) with a beast; and (6) the woman who has sexual relations with a beast;
- D. he who has sexual relations (7) with a woman and with her daughter, and (8) with a married woman;
- E. he who has sexual relations (9) with his sister, and (10) with his father's sister, and (11) with his mother's sister, and (12) with his wife's sister, and (13) with his brother's wife, and (14) with his father's brother's wife, and (15) with a menstruating woman (Lev. 18: 6ff.);

- F. (16) he who blasphemes (Num. 15:30), and (17) he who performs an act of blasphemous worship (Num. 15:31), and (18) he who gives his seed to Molekh (Lev. 18:21), and (19) one who has a familiar spirit (Lev. 20: 6);
- G. (20) he who profanes the Sabbath day (Exo. 31:14);
- H. and (21) an unclean person who ate a Holy Thing (Lev. 22: 3), and (22) he who comes to the sanctuary when unclean (Num. 19:20);
- I. he who eats (23) forbidden fat (Lev. 7:25), and (24) blood (Lev. 17:14), and (25) remnant (Lev. 19: 6-8), and (26) refuse (Lev. 19: 7-8);
- J. he who (27) slaughters and who (28) offers up [a sacrifice] outside [the Temple court] (Lev. 17: 9);
- K. (29) he who eats leaven on Passover (Exo. 12:19); and he who (30) eats and he who (31) works on the Day of Atonement (Lev. 23:29-30);
- L. he who (32) compounds anointing oil [like that made in the Temple (Exo. 30:23-33)], and he who (33) compounds incense [like that made in the Temple], and he who (34) anoints himself with anointing oil (Exo. 30:32);
- M. [he who transgresses the laws of] (35) Passover (Num. 9:13) and (36) circumcision (Gen. 17:14), among the positive commandments.

## 1:2

- A. For those [thirty-six classes of transgressions] are people liable, for deliberately doing them, to the punishment of extirpation,
- B. and for accidentally doing them, to the bringing of a sin offering,
- C. and for not being certain of whether or not one has done them, to a suspensive guilt offering [Lev. 5:17] —
- D. “except for the one who imparts uncleanness to the sanctuary and its Holy Things,
- E. “because he is subject to bringing a sliding scale offering (Lev. 5: 6-7, 11),” the words of R. Meir.
- F. And sages say, “Also: [except for] the one who blasphemes, as it is said, ‘You shall have one law for him that does anything unwittingly’ (Num. 15:29) — excluding the blasphemer, who does no concrete deed.”

We begin with Mishnah-criticism. What captures our attention first is the Mishnah’s specification of the number of items contained in its list. Why, the Talmud asks, has the framer of the Mishnah given the enumeration of the items? This then leads to explanations of the same phenomenon in terms of the same theory. That is that the introduction of an enumeration bears implications to be articulated; these vary in character. Sometimes the explicit enumeration bears consequence for the law and how it is enforced, sometimes for debate on the theory of the law, yielding the exclusion of a candidate for a position on the list and hence of an opinion on the law. The composition of No. 1 must be regarded as unitary, though the order of its entries can vary as the item is located adjacent to other Mishnah-passages that are discussed therein.

- I.1 A. [2B]** *For what purpose is an enumeration given in the Mishnah [Thirty-six transgressions...]?*

- B. Said R. Yohanan, “It is to indicate that if one committed all of them within a single spell of inadvertence, he is liable on each count.” [All of the classes of sin or crime listed here are so enumerated as not to be treated as a single action, even though they are subject to the same penalty. The fact that all of them fall into a single classification as to the outcome is treated as null. Specifying the number indicates that each item is always treated in its own terms, as a category unto itself, even though all of them are subject to a shared trait as to outcome. This same point pertains to other classes of actions that fall together in the shared trait that the same penalty applies to each.]
- C. *Further, as to that which we have learned in the Mishnah: **There are forty-less-one generative categories of labor that are forbidden on the Sabbath** [M. **Shab. 7:2**], for what purpose is an enumeration given?*
- D. It is to indicate that if one committed all of them within a single spell of inadvertence, he is liable on each count.  
The formation of the composition has now treated two items that fall together by reason of the single principle that operates in each. We proceed to further items that fall together because they occur in the present Mishnah-tractate.
- E. *Further, as to that which we have learned in the Mishnah: **[There are] four whose atonement is not complete [until they bring an offering]** [M. **Keritot 2:1A**] — for what purpose is an enumeration given?*
- F. *It is to exclude the position of R. Eliezer b. Jacob, who maintains that five classes of persons fall into that category, we have learned in the Mishnah:*
- G. **R. Eliezer b. Jacob says, “A proselyte falls into the category of those whose atonement is not complete until the blood of the sacrifice has been sprinkled in his behalf” [M. **2:1D**]. And that is why the specific enumeration, four, is repeated on Tannaite authority.**
- H. *Further, as to that which we have learned in the Mishnah: **And four bring [an offering] for [a transgression done] deliberately as for [one done] inadvertently** [M. **2:1**] — for what purpose is an enumeration given?*
- I. *It is to exclude the position of R. Simeon, for it is taught on Tannaite authority:*
- J. R. Simeon says, “As to a false oath concerning a bailment, a deliberate violation of the oath is not going to be atoned for [by a sacrifice].” *And that is why the specific enumeration, four, is repeated on Tannaite authority.*
- K. *Further, as to that which we have learned in the Mishnah: **Five bring a single offering for many transgressions** [M. **2:3**] — for what purpose is an enumeration given?*
- L. *It is because the authority of the passage wishes to repeat later on the further case of **a Nazirite who is made unclean many times**. And you find such a case, for instance, in a case in which the Nazirite contracted uncleanness on the seventh day of cleanness and when he went and against contracted uncleanness on the following seventh clean day.*

The present item bears its own expansion, which itself is augmented. Who is the authority to whom L has referred? The answer to that question is not required for a full and complete understanding of No. 1; it is an amplification of an item within that cogent composition.

- I.2.** A. *And who is the authority behind this formulation? It is R. Yosé b. R. Judah who has said, “The counting out of the seven days of the observance in a state of cleanness of the Nazirite vow commences from the seventh day [Porusch: his new defilement on the seventh day is therefore to be considered independent of that which had preceded it].”*
- B. *But if you maintain that it represents the position of Rabbi, who holds, “The counting out of the seven days of the observance in a state of cleanness of the Nazirite vow does not commence prior to the eighth day,” how would you find such a case? If the Nazirite contracted uncleanness on the seventh day and then went and contracted uncleanness on the following seventh day, the whole constitutes a single span of uncleanness, one that is protracted. But if he was to have contracted uncleanness on the eighth day and then went and contracted uncleanness on the eighth day following, since he has passed the time when the obligation to bring the sacrifice became due, he should be liable to bring a separate offering for each act of contracting uncleanness. It must follow that the Mishnah is formulated according to the view of R. Yosé b. R. Judah.*
- C. *And precisely how are the positions of Rabbi and R. Yosé b. R. Judah spelled out? It is in the following passage, that is taught on Tannaite authority:*
- D. *“And [the Nazirite who has contracted uncleanness observes seven clean days and on the eighth day makes an offering, and the priest makes atonement for him, because he sinned by reason of the corpse from which he has contracted corpse uncleanness] shall consecrate [the hair of] his head on that same day” (Num. 6:11) —*
- E. *“this refers to the day on which he brings his offerings,” the words of Rabbi.*
- F. *R. Yosé b. R. Judah says, “It refers to the day on which he cuts his hair [which is the seventh day, not the eighth day, on which he brings his offerings].”*

We now continue our presentation of passages in which the Mishnah-tractate before us not only lists but also enumerates items of a catalogue.

- G. *Further, as to that which we have learned in the Mishnah: **And five bring a sliding scale offering [M. 2:3B]** — for what purpose is an enumeration given?*
- H. *It is because it states in the complementary passage, **And the ruler follows suit [M. Hor. 2:5B]**. The intent then is to exclude the position of R. Eliezer, who says, “**The ruler brings a goat offering**” [M. Hor. 2:7G].*
- I. *Further, as to that which we have learned in the Mishnah: **There are four generative categories of damage [M. B.Q. 1:1A]**, for what purpose is an enumeration given?*
- J. *It is to exclude the position of R. Oshaia, who has said, “There are thirteen generative categories of damages.”*
- K. *And in the opinion of R. Oshaiah, what purpose is an enumeration given?*
- L. *It is to exclude the position of R. Hiyya, who has said, “There are twenty-four generative categories of damages.”*

- M. *And in the opinion of R. Hiyya, what purpose is an enumeration given?*
- N. *It is to exclude the case of a quisling and of one who imparts to an offering the status of that which has been rendered abominable [and to indicate that these do not have to pay an indemnity for what they have done].*

We proceed to amplify another item in the original list, now I.1B. We expound Yohanan's explanation for the enumeration of items at the present Mishnah-paragraph. What is explained is the Mishnah's rule, and hence we classify the following composition as Mishnah-commentary, not expansion of a Talmud-comment on the Mishnah. But "the master has said" very frequently introduces secondary material.

- I.3.** A. The master has said, "If one committed all of them within a single spell of inadvertence, he is liable [to bring an offering] on each count."
- B. *Now, assuredly, it is not possible to say that they are entirely free of any obligation, for it is written, "For whoever shall do any of these abominations — the persons that do them shall be cut off from among their people" (Lev. 18:29). [Hence a person who does a sequence of such actions in a single spell of inadvertence cannot be exempt from all penalty.]*
- C. *But why not say, if one has violated one of the listed rules, he is liable on one count, and if he has transgressed them all in a single spell of inadvertence, he is still liable on only one count? [The items on the list, while differentiated, do share a single taxic trait and therefore should be treated as a single item when not differentiated by distinct spells of inadvertence. At issue then is whether the single outcome produced by a variety of actions suffices to impose upon all a single count, when the actions are not otherwise differentiated.]*
- D. Said R. Yohanan, "It is for that very reason that the penalty of extirpation is specified with reference to having sexual relations with one's sister [Lev. 20:17], specifically so as to distinguish [each item and indicate that violation of each is a count unto itself]." [Scripture itself effects the differentiation as to penalty, by specifying it in a particular item. That means that the happenstance that the same penalty applies to a variety of actions does not bear the implication proposed by C; Scripture has signaled the contrary: a single shared taxic trait does not suffice to produce a common outcome for all the actions on the list.]
- E. *To this R. Bibi bar Abayye objected, "Then why not say that specifically in the case of a violation of the taboo against incest with one's sister, Scripture has singled out that matter, to impose liability on that count alone, but as to the rest of the catalogued transgressions, if these are done within a single spell of inadvertence, one is still liable on only a single count?"*
- F. *But does not R. Bibi bar Abayye concur with that which has been taught on Tannaite authority:*
- G. In the case of any matter that was covered by an encompassing principle but that was singled out from within that encompassing principle for the specification of a given rule, what is specified pertains to not only that particular item but to the entire class of items of which it is a part.

- H. How so? “But the person who eats of the flesh of the sacrifice of the Lord’s peace offerings while an uncleanness is on him — that person shall be cut off from his people” (Lev. 7:20): now were not peace-offerings encompassed within the governing principle of all Holy Things? And why has that class of Holy Things been singled out? It is to draw an analogy from them to all other items of its class, in this manner: just as peace offerings are Holy Things assigned to the altar, and on their account people bear liability to extirpation, so on account of everything that is in the category of Holy Things assigned to the altar, people will bear liability to extirpation. This then excludes that which has been assigned to the upkeep of the Temple house [and not for use on the altar]. [Porusch: and here likewise all cases of incestuous relationships ought to be derived from the reference to “his sister”].
- I. *R. Bibi may say to you, “But from this very passage one can show the opposite: did you not say, This then excludes that which has been assigned to the upkeep of the Temple house [and not for use on the altar]? So in the present case one may argue as follows: just as ‘his sister’ is distinguished in that she falls into the class of incestuous relationships and is never permitted in the lifetime of the man on whose account she is forbidden [namely, her brother, to whom she is always forbidden], so must others [to be liable for an offering on a distinct count] fall into the class of relatives who can never be permitted in the lifetime of those on whose account they are forbidden. This would then exclude the married woman, who can become permitted during the lifetime of the one on whose account she is now forbidden [if she is divorced by her husband].”*
- J. Said R. Jonah, and some say R. Huna b. R. Joshua, “Said Scripture, ‘For whoever shall do any of these abominations — the persons that do them shall be cut off from among their people’ (Lev. 18:29). All other forbidden relationships by reason of incest are treated as analogous to ‘his sister.’ Just as, in the case of incestuous relationship with one’s sister, one is liable on that count by itself, so in the case of all others of the same class, one is liable on each count.”

We now revert to the exposition of the issue introduced by Yohanan. He has introduced a specific case to sustain his generalization. Another reading of the same case is now to be considered; what point does the enumeration-clause of our Mishnah-passage yield, if we do not accept Yohanan’s case?

- K. Now according to the position of R. Isaac, who has said, “All those violations of the law that are punishable by extirpation were subject to a single encompassing statement [“For whoever shall do any of these abominations — the persons that do them shall be cut off from among their people” (Lev. 18:29)], and why was the penalty of extirpation made explicit in particular in the case of his sister? It was to impose in that case the penalty of extirpation and not mere flogging,” — *according to that reading of matters, how does he know that distinct offerings are to be brought on the count of each transgression?*
- L. *It is from the following:* “You shall not approach a woman to uncover her nakedness while she is in her menstrual uncleanness” (Lev. 18:19). This serves to impose the distinction such that one must bring an offering on the count of each such woman [with whom one has had sexual relations during a single spell of inadvertence, e.g., not knowing that it is forbidden to have sexual relations during a woman’s menstrual period].

- M. *And should not rabbis likewise derive the rule governing distinct counts of liability from the verse, “You shall not approach a woman to uncover her nakedness while she is in her menstrual uncleanness” (Lev. 18:19)?*
- N. *Indeed so!*
- O. *Then for what purpose is the particularization of extirpation as the penalty for incest with one’s sister?*
- P. *It is required to indicate that distinct counts requiring offerings are entailed by incestuous relations with one’s sister, the sister of one’s father, and the sister of one’s mother.*
- Q. *Why should it be necessary to distinguish among each of these offenses, for are they not done with persons in different classes and persons who are each a distinct category?*
- R. *Rather, say that the reference to “his sister” as subject to extirpation is so as to indicate that one is liable on distinct counts for one’s sister who is also the sister of his father who is also the sister of his mother.*
- S. *So whence does R. Isaac derive that same rule?*
- T. *He derives the same rule from the conclusion of the same verse: “he has uncovered his sister’s nakedness” (Lev. 20:17).*
- U. *And as to rabbis, how do they interpret the clause, “he has uncovered his sister’s nakedness” (Lev. 20:17)?*
- V. *They require that clause [3A] to address the case of his sister who is the daughter of his father and the daughter of his mother, to indicate that [because this case, which can be derived by an argument a fortiori from the cases of sisters who are related through only one parent, has to be made explicit, it follows that] sanctions are not imposed merely because they are logically correct [but must be made explicit by Scripture itself].*
- W. *And R. Isaac?*
- X. *He takes the view that sanctions indeed are imposed merely because they are logically correct [and need not be made explicit by Scripture itself].*
- Y. *But if you prefer, I shall say that he derives the penalty [of incest with one’s sister from both the same father and the same mother] from the admonition “she is your sister,” Lev. 18:11].*

Now that we have treated the possibility of making a single offering to cover a number of distinct actions, in the case specified by Yohanan, we raise a secondary question. What if at the end of a list of actions, Scripture declares extirpation the penalty for all of them? Isaac has said that where extirpation is made explicit, the purpose is to single out a given action and designate it a class unto itself. Then what about the failure to do the same? Does this mean that a single penalty is paid, that is, a single sin-offering? No, we are now told, that is not the case. Each action is treated on its own, and a sin-offering must be designated on each count. The following now expands on the debate of Isaac and rabbis, and bears its own secondary expansion. The material that joins the composite to our composite is at 4.D-E, and that explains the insertion.

- I.4.** A. Said R. Eleazar said R. Hoshai, “In any case in which two negative commandments are joined within a single specification that extirpation is the



penalty, one designates a specific animal as a sin offering brought for each one of them separately.”

- B. *What would be such a case? **He who compounds anointing oil like that made in the Temple...and he who anoints himself with anointing oil.***
- C. For it is written, “It shall not be poured upon the bodies of ordinary men, and you shall make no other like it in composition; it is holy and it shall be holy to you” (Exo. 30:32). As to the penalty of extirpation, it is written, “Whoever compounds any like it or whoever puts any of it on an outsider shall be cut off from his people” (Exo. 30:33).
- D. *[In line with this way of thinking,] since there is a distinct negative command for each of the forbidden incestuous relations, why was it necessary for Scripture to refer in particular to extirpation with reference to “his sister”?*
- E. *As to R. Isaac, it is as has been stated. As to rabbis, they require that explicit statement of the matter to indicate that sanctions are not imposed merely because they are logically correct [but must be made explicit by Scripture itself].*

**I.5. A.** *Said R. Nahman b. Isaac, “We have also learned the matter on Tannaite authority:*

- B. **“he who (32) compounds anointing oil [like that made in the Temple (Exo. 30:23-33)], and he who (33) compounds incense [like that made in the Temple], and he who (34) anoints himself with anointing oil (Exo. 30-32) —**
- C. *“Now why has the Tannaite authority inserted **and he who (33) compounds incense [like that made in the Temple]** right in the middle? Is this not the inference that he wishes us to draw: just as the matter of compounding incense is a prohibition unto itself on account of which people are liable to extirpation on that count alone, so the matters of **he who (32) compounds anointing oil [like that made in the Temple (Exo. 30:23-33)]...and he who (34) anoints himself with anointing oil (Exo. 30-32)** are prohibitions each unto itself on account of which people are liable to extirpation on each count respectively?”*
- D. *And if you should say [that the reason for this presentation of matters in the Mishnah is] that instances involving the compounding of the incense had to be presented jointly, I shall reply that the Tannaite authority could as well have reversed the order in the following way: **he who compounds incense or compounds anointing oil [like that made in the Temple or anoints himself with anointing oil.** Why then has he separated the laws relating to oil from one another? It is to inform us that distinct sin-offerings are to be brought on each count.*
- E. *That is decisive.*

Since we insist that the enumeration bears a message, as Yohanan has said, we ask how, in light of the item now cited, we can reach the figure of thirty-six at all. The premise is that all items on the list fall into a single classification. The solution to the problem, as we shall see, is to concede that the sole indicator that applies to all item is the matter of extirpation itself; but some of the items are otherwise to be



differentiated from others. So, throughout, the analytical program takes up the problem of how the items on the list are related to one another.

## **II.1 A. he who has sexual relations with a male:**

- B. *[In line with the theory of R. Yohanan, “It is to indicate that if one committed all of them within a single spell of inadvertence, he is liable on each count,” how shall we come up with thirty-four sin-offerings (Rashi) and therefore] with what sort of case does the Tannaite authority of the Mishnah take account [in reaching the figure of thirty-six]?*
- C. *If it is a male, then one must deduct the case of a woman who has sexual relations with an animal, so you end up one short [of thirty-four sin offerings involved for the transgressions enumerated in the Mishnah-paragraph (Porusch)], and if it is a woman, you have to omit the instances of the man who is subjected to sexual relations by an animal or has sexual relations with an animal, and you now lack two.*
- D. *Said R. Yohanan, “In point of fact the Tannaite authority is enumerating with the case of a man in mind, and this is how the passage is to be read: **he who has sexual relations with a male** or who is subjected to sexual relations with a male, and the passage accords with R. Ishmael, who maintains that such a one is liable on two counts.*
- E. *[How can the anonymous rule represent the position of Ishmael, when other components of it conflict with known views of his, as we shall now see?] But since it is taught as a Tannaite rule later on, **he who blasphemes**, and we have assigned that passage to the authorship of R. Aqiba, the opening clause also should represent the view of R. Aqiba. And should you maintain that it indeed is the opinion of R. Aqiba, and in that matter he accords with the view of R. Ishmael, has not R. Abbahu said, “He who has sexual relations with a male or who is subjected to sexual relations by a male — R. Ishmael, who derives the matters from two distinct passages of Scripture, namely, ‘You shall not lie with mankind’ (Lev. 18:22) and ‘Neither shall there be a sodomite of the sons of Israel’ (Deu. 23:18), imposes liability on two counts. But in the view of R. Aqiba, one is liable on only one count, since he derives the rule from a single verse of Scripture, namely, ‘You shall not lie with mankind’ (Lev. 18:22), meaning, ‘you shall not have a man lie with you,’” — [how can you claim that Aqiba is the authority of, or concurs with, the opening clause]?*
- F. *It must follow that the first clause follows the position of R. Ishmael, and, in the matter of **he who blasphemes**, he concurs with R. Aqiba.*
- G. *If that is so, then the Mishnah also should repeat, He who has sexual relations with a beast and he who is subjected to sexual relations by a beast, for lo, Abayye said, “He who has sexual relations with a beast or is subjected to sexual relations by a beast — even in the view of R. Ishmael, he is liable on only a single count, for when Scripture made reference to the matter, it spoke only of men” [not animals, and hence there is only a single prohibition in Scripture].*
- H. *[Responding in a different way to B-C, does our Mishnah-paragraph refer to a man or a woman], R. Eleazar in the name of Rab said, “The Tannaite authority of our passage has in mind the possibility of a single individual’s having to present thirty-three sin-offerings [not thirty-four], and he makes mention of three further*

instances [specifically, those that do not pertain both to man and to woman, those relating to the paschal lamb and to circumcision, so as to complete the list of sins that are subject to the penalty of extirpation. For thus it concludes: **[he who transgresses the laws of] (35) Passover (Num. 9:13) and (36) circumcision (Gen. 17:14), among the positive commandments.** Now as to the matters of the paschal lamb and circumcision, why have they been stated? And if you should say it is to indicate that one has to offer a sacrifice on account of them [that is, a sin offering in case of a violation of the law by reason of an error], does one have to bring a sacrifice on their account at all? Has it not been taught, All of the laws of the Torah are treated as analogous to idolatry, as it has been written, ‘You shall have one law for him who does anything in error...’ (Num. 15:29), ‘but the person who does anything with a high hand’ (Num. 15:30). Just as the law concerning idolatry is a law to be kept by refraining from an action, so all other transgressions fall into the class of laws that are kept by refraining from doing an action [that is prohibited]. Does this not prove, then, that the Tannaite authority catalogues thirty-three transgressions that are committed [by an act of commission that is done] in error, and the other three cases are mentioned only for the purpose of finishing off the entire catalogue of sins that are punishable by extirpation [even though they fall into that other classification just now specified]?”

I. *That proves it.*

At III we pursue precisely the same question that occupied us at II, namely, how we reach the number of thirty-six items. The sole point of interest then explains which items on the Mishnah’s list are included, which omitted, in the Talmud; it further indicates that the exposition of the Mishnah-paragraph takes shape around a single problem and pursues a limited and coherent program, namely, Yohanan’s problem of how to make provision for thirty-six items only.

### **III.1 A. he who profanes the Sabbath day:**

- B. *They said, “With respect to the Sabbath, there are **forty less one classes of labor**” [M. **Shab. 7:1**]. [In line with the position of Yohanan, who has said, “It is to indicate that if one committed all of them within a single spell of inadvertence, he is liable on each count,” if we really deal with a single act of inadvertence in which all of the specified items are carried out, we should then have a catalogue of seventy-four items — not just thirty-six — for the commission of which one would be liable on each count.]*
- C. *Said R. Yohanan, “The Tannaite authority speaks of a case in which the error was made with respect to the very principle of observance of the Sabbath, but the law-violator was entirely knowledgeable of the prohibition of the various kinds of work, so there is liability on a single count only.”*
- D. *For it has been taught on Tannaite authority:*
- E. [With respect to the verse, “If any one sins unwittingly in any one of the things that the Lord has commanded not to be done and does any one of them” (Lev. 4: 2),] How does the language, “these,” yield “one”? [The language of the verse, “any one” “of these” can indicate that the several prohibited acts may be counted as a single transgression, that is, when they result from a single protracted error; but the same language can yield “these out of one,” in the sense that a single law,

concerning the Sabbath, may yield many transgressions, that is, when various acts originate in different errors. Porusch: The former implication is expressed in terms that “‘these’ results in one,” and the latter, “‘one’ results in ‘these.’” Thus if one is in error with respect to the Sabbath, but deliberately performed a variety of actions of the prohibition of which he was informed [that would illustrate Yohanan’s claim that the Tannaite authority speaks of a case in which the error was made with respect to the Sabbath, but the law-violator was entirely knowledgeable of the prohibition of the various kinds of work, *so there is liability on a single count only.*]

- F. *Then let the Tannaite authority repeat matters in this way:*
- G. The deliberate action was in reference to the Sabbath [a single matter], while done in error were a variety of types of work, on which account one is liable to thirty-nine sin-offerings. *For has it not been taught on Tannaite authority:*
- H. “If any one sins unwittingly in any one of the things that the Lord has commanded not to be done and does any one of them” (Lev. 4: 2) —
- I. there are occasions on which one is liable on only a single count for them all, and there are occasions on which one is liable on each and every count.
- J. “One” yields “these” — if one was aware of the Sabbath but in error in respect of the classifications of work. [Thus we have the choice of situations, one involving error concerning the principle of the Sabbath, the other involving the distinct classifications of labor for which one may be severally liable. Why has the Tannaite authority preferred the former situation rather than the latter in calculating his thirty-six counts of extirpation?]
- K. *The Tannaite authority before us found preferable the formulation involving an error in respect to the Sabbath but deliberate violation of the law with respect to diverse types of work, indicating that in any event one has not been exempted from the obligation to bring a sin-offering in such a case.*

**III.2. A.** *You find, too, in respect to idolatry that the Tannaite authority has laid matters out in terms of an error concerning the prohibition of idolatry but deliberate action in respect to a variety of acts of labor in behalf of idolatry.*

- C. *But how do you find a case of error with respect to the prohibition of idolatry? If we say that someone went and stood in a temple of idolatry and thought that it was a synagogue and bowed down on that account, lo, his heart is directed toward Heaven [so his intention was proper, though he was wrong as to the facts, and he has not violated the law anyhow]. Rather, it is that he saw an idol and bowed down to it. Now, if he accepted it upon himself as a god, then he is subject to the penalty of stoning [not extirpation, which is the issue before us], and if he did not accept it upon himself as a god, it is a null action [and no penalty is incurred].*
- D. Rather, we deal with a case in which it was out of his love or fear [that he served an idol].
- E. *Now that explanation poses no problem to the position of Abayye, who has said that under such circumstances one is liable for the sin of idolatry, but from the perspective of Raba, who has said that under such circumstances, one is exempt from all liability, what is to be said?*

- F. **[3B]** It is to be understood to be a case in which one was thinking that the worship of idols was permitted.
- G. *For when Raba raised his question to R. Nahman, is one liable to bring an offering on one count or on two counts, it never entered his mind that one should be altogether exempt on all counts! [One is unaware of both the principle and the applications thereof. Although thinking that idolatry is permitted, the error would be one and the same in respect to the idol and the various forms of worship, there is still liability on a single count.]*
- H. [Reverting to the argument broken off after D and the question of the circumstances from which such a case could arise,] *R. Pappa said, "You would find such a case with a child taken captive by idolaters, who might know that idolatry was forbidden in general, without knowing that these particular idols were forbidden under the same count [not recognizing them as idols]."*
- I. *"If you prefer, I shall say that such a situation may take place even with an adult, who can have erred in the interpretation of the verse, 'You shall not make with me gods or silver or gods of gold' (Exo. 20:20) by thinking that what is forbidden is bowing down to an idol made out of silver or gold, but not those that are made of any other material. Here we would have a case of error in respect to the idol but awareness that various forms of idolatrous worship are forbidden."*

- III.3.** A. [Reverting to the question raised at the outset, III.1, They said, **"There are forty less one classes of labor"** (M. **Shab. 7: 1**), in line with the position of Yohanan, who has said, "It is to indicate that if one committed all of them within a single spell of inadvertence, he is liable on each count," we should then have a catalogue of seventy-four items — not just thirty-six — for the commission of which one would be liable on each count,] *R. Aha b. R. Iqa in the name of R. Bibi said, "The Tannaite authority simply enumerates as a single class all matters within the classification of the Sabbath and all matters within the classification of idolatry. How do we know it? Since the passage says, **he who has sexual relations (7) with a woman and with her daughter, and (8) with a married woman**, and lo, there is the case of a daughter of his who was born from a woman whom he had raped, and this [case, not to be differentiated from those too, also] is omitted in the Mishnah. [It must follow that the Tannaite authority of the passage has simply listed various classifications but not every item therein, and that would then pertain also to the Sabbath or idolatry.]"*
- B. *But I might say that those matters that are explicitly stated by the written Torah are repeated, while those matters that are not explicitly stated in the written Torah are not specified here.*
  - C. *But [this is hardly likely, for] lo there are the cases of the daughter of his wife, the daughter of his daughter, and the daughter of her son, which are made explicit in the Torah but are not repeated in the Mishnah.*
  - D. *So, it must follow, the entire classification of "woman and her daughter" is what is repeated, and here likewise, the entire classification of violations of the Sabbath or the entire classification of violations of the prohibition of idolatry are treated within a single rubric.*
  - E. [But we have evidence to examine that indicates how] *R. Aha b. R. Iqa contradicts himself. For how can R. Bibi b. Abayye say here, "The entire classification of*

*violations of the Sabbath or the entire classification of violations of the prohibition of idolatry are treated within a single rubric”? Has it not been stated:*

- F. He who outside of the Temple offers up limbs of an offering that had been slaughtered inside the Temple is liable. If he offered up outside the Temple limbs of an offering that had been slaughtered outside of the Temple, he is liable. [These are distinct, not reciprocal, counts.]
- G. *In connection with this statement R. Bibi b. Abayye raised this question, “If that is the case, then how can the Mishnah state, **Thirty-six transgressions in accord with the law of The Torah are subject to extirpation?** They ought to be thirty-seven, for there is also the [dual] case of him who outside of the Temple offers up [limbs of an offering that had been slaughtered inside the Temple is liable], and of him who offered up [outside the Temple limbs of an offering that had been slaughtered outside of the Temple]. Now, what is the difficulty that has led him to raise this question, if he could have readily solved the problem by appeal to the argument that the Tannaite authority at hand has treated as a single classification all violations of the law concerning offering up sacrifices only in the Temple! [That would have supplied a perfectly adequate answer to his question, the two forming a single category and therefore in context a single count!]*
- H. [The challenge is null, for] *are the matters truly comparable? The laws of the Sabbath and those concerning idolatry are repeated in their proper places in the Mishnah [in the appropriate tractates and topical contexts], so when they are mentioned in connection with extirpation, it is sufficient to treat the Sabbath and idolatry as simply types. But as to the laws covering not offering up sacrifices outside of the Temple, where is the appropriate passage in the Mishnah at which they ought to have been stated, such that you may reply in the same manner here?*

We have now completed the exposition of Yohanan’s position on the omissions from the Mishnah-paragraph’s enumeration of items that can have been covered, or the inclusions of matters that can have been omitted. We proceed to free-standing composition, one that raises a theoretical question relevant to the principle, now set forth, of treating as a single category a genus covering a variety of species. Now we ask about the status, as to a genus, of distinct counts of extirpation that are stipulated by Scripture through the presentation of only a single negative commandment. That is, can one commandment yield two counts? Introducing this composition is provoked by the solution that has told us two or more commandments can yield a single count for the present list; it is, therefore, a logical analytical initiative. What we have is not Mishnah-exegesis but a free-standing question, framed in its own terms, which is properly situated here as an expansion of what has been said.

- III.4.** A. R. Jeremiah raised the question of R. Zira, “What is the law covering a situation in which two distinct counts of extirpation are covered by only a single negative commandment? [How many offerings are to be brought if two laws penalized by extirpation are broken in a single spell of unawareness?”
- B. He said to him, “Are the matters of slaughtering and then offering up offerings outside of the Temple precincts what you have in mind? But these represent two



*distinct negative commandments [one of them not being explicit]. For the one who derives the prohibition from an argument by analogy will maintain just that, when he says, 'Here we find a reference to 'bringing,' an offering ,and the same is referred to elsewhere [Lev. 17: 4, Lev. 17: 9, in connection with slaughtering and offering up, respectively]. Just as in the latter instance one suffers a penalty only if there has been proper admonition, so in the present case one suffers a penalty only if there has been proper admonition. And as to the one who derives the rule by an argument built upon shared language, Scripture has said, 'There you shall offer your burnt offerings and there you shall do all that I command you' (Deu. 12:14). Scripture thus links the slaughtering of the beast with offering it up. Just as in the case of offering it up, a penalty is incurred only if there has been proper admonition, so in the matter of slaughtering the beast, a penalty is incurred only if there has been a proper admonition. [The question that Jeremiah has raised cannot then pertain to the foregoing.] So perhaps the question that you have in mind is this: a case in which there are two distinct specifications of the penalty of death stated in connection with a single prohibition. And what would be such a case? For instance, the one of the one who divines by a ghost or a familiar spirit [Lev. 20:27]. [Porusch: here the death penalty is stated for these violations, and Lev. 19:31 states the negative commandment. The "or" stated in Lev. 20:27 in connection with the death penalty serves to attach the death penalty to each of these two offenses, and it is regarded as if two separate pronouncements of the death penalty were made, whereas the negative commandment at Lev. 19:31 is general in its implication, serving as a single warning for all the offences enumerated there. Thus the query is whether the fact that there are two pronouncements of death although only one attendant warning makes one liable to two sin offerings for committing these two offenses in one spell of unawareness.]"*

C. *[Zira further] said to him, "In this regard there is a dispute between R. Yohanan and R. Simeon b. Laqish."*

We are now given a complete account of the dispute to which Zira has made reference. This further shows how the query introduced above intersects with the exposition of Yohanan's reading of our Mishnah-passage.

D. *For in respect to the list of those who are stoned, the framer of the passage refers to both one who has a familiar spirit and also a soothsayer [at M. San. 7:7F-G], while at the list of those who are put to death through extirpation, the one who has a familiar spirit is included in the list, but the one who is a soothsayer is omitted from the list. And we found a difficulty in explaining the difference between the list of those who are stoned, where the one who has a familiar spirit is explicitly included, and the list of those who are subject to extirpation, where the one who has a familiar spirit is not specified on the list. [The dispute that takes up the explanation of that fact is now spelled out.]*

E. *Said R. Yohanan, "It is because both of them are encompassed in a single negative commandment [at Lev. 19:31: 'Do not recognize those who have familiar spirits or soothsayers']. Then why not make mention of the soothsayer and not make mention of the one who has a familiar spirit [reversing the matter]? The reason that the familiar spirit is mentioned and the other not is that in Scripture the one who has a familiar spirit is mentioned first."*

- F. R. Simeon b. Laqish said, "The soothsayer is omitted [at M. **Ker. 1:1**] because there is no concrete deed that he does." [Everyone else on the list in the Mishnah-paragraph before us does a concrete deed.]
- G. *And as to R. Yohanan, why did the framer of the passage refer to the one who has a familiar spirit and leave out the other item? It is because it is with that one that Scripture [at Lev. 19:31] began.*
- H. *And as to R. Simeon b. Laqish, why does he not explain matters as does R. Yohanan?*
- I. *Said R. Pappa, "Because the two categories of sorcerer are treated distinctly when it comes to the specification of the death penalty [at Lev. 20:27: 'a man who has a familiar spirit or a soothsayer will surely be put to death,' and the word 'or' distinguishes the two and forms of them separate categories.]"*
- J. *And R. Yohanan? He will say to you, "Deeds that are distinct when they are stated in a verse that prohibits them are regarded as truly distinct, while distinctions in the expression of the death penalty applying to such deeds do not impose an equivalent difference."*
- K. *And why does R. Yohanan not explain matters in accord with the view of R. Simeon b. Laqish?*
- L. *He will say to you, "The Mishnah-paragraph at tractate Keritot represents the position of R. Aqiba, who takes the view that we do not require a concrete deed [to impose the penalty of having to bring a sin offering for an unwitting act of idolatry]. [He includes the blasphemer on the list of M. Ker. 1:1 as against the view of rabbis who would omit the blasphemer because he is one who has not performed a concrete deed.]"*
- M. *And R. Simeon b. Laqish?*
- N. *Granted that R. Aqiba does not require a substantial deed for imposition of liability, he does require some sort of slight action [before he will require the bringing of a sin offering for an inadvertent act of blasphemy].*
- O. *What action is there in connection with the one who has a familiar spirit? The [convulsive] flapping of the arms is deemed an action.*
- P. *And what action is there in connection with one who blasphemes? The curving of the lips is regarded as an action.*
- Q. *In the assumption that the flapping of the arms is considered by rabbis to be a slight action, the following objection may be raised:*
- R. *It has been taught on Tannaite authority:*
- S. **In the case of idolatry, liability is incurred only for a matter that encompasses a concrete deed, e.g., such an action as sacrificing, the offering of incense or a libation or prostration [T. **San. 10:3B-C**].**
- T. *Now it was a problem for us, for prostration is not classified as an action, and R. Simeon b. Laqish said, "Lo, who is the Tannaite authority who stands behind the inclusion of prostration? It is R. Aqiba, who has said that we do not require a concrete deed to impose liability in this classification of transgression."*



- U. *But [in that same context] R. Yohanan said, "You may even maintain that it represents the viewpoint of rabbis, since bending one's body, in view of the rabbis, constitutes a deed."*
- V. *Now it follows from that exchange that in R. Simeon b. Laqish's view of rabbis' opinion, therefore, so far as rabbis are concerned, bending one's body in prostration does not constitute a deed, while flapping one's arms, as done by a person who has a familiar spirit, does constitute a concrete deed! [What difference then can there possibly be between these two obviously similar actions?]*
- W. *Rather, when R. Simeon b. Laqish made his statement that flapping the wings is classified as a deed, that was a minor deed in the context of the statement of R. Aqiba. But in the view of rabbis, it in no way constitutes a deed at all.*
- X. *If so, why does the Tannaite formulation proceed, **"Also: [except for] the one who blasphemes, as it is said, 'You shall have one law for him that does anything unwittingly' (Num. 15:29) — excluding the blasphemer, who does no concrete deed"**? Rather, the passage before us should specify, "...except for the one who blasphemes and the one who has a familiar spirit!*
- Y. *The framer of the passage does not present a case in which a single classification derives from two cases.*
- Z. *Then let the framer of the passage formulate the rule in terms of the one who has a familiar spirit and not make reference to the one who blasphemes!*
- AA. *He found it necessary to make explicit reference to the blasphemer. It might have entered your mind to maintain that since the reference to extirpation that pertains to him is specified by Scripture in the context of the bringing of an offering [Num. 15:30], I might say that he concurs with R. Aqiba's position. So we are informed that that is not the case.*

We revert to the problem that has commenced at L, the necessity of identifying the anonymous law with the opinion of a named authority, rather than with the position of the consensus of sages, as we should prefer. Can we not include all authorities here, specifically, Aqiba as well? We can if we can show that on our list are deeds all of which involve a concrete action. That is what we proceed to do. Hence BB takes up where N has left off.

- BB. *Ulla said, "The Tannaite reference here is to one who has a familiar spirit, who burned incense to a demon [and that involves a concrete action]."*
- CC. *Objected Raba to him, "But if so, then burning incense to a shade constitutes nothing other than an act of idolatry. [That is a separate item on the list and cannot be subsumed within the reference to one who has a familiar spirit.]"*
- DD. *Rather, said Raba, The passage before us refers to one who has a familiar spirit, who has burned incense on the stipulation that it is a charm."*
- EE. *Said Abayye to him, "Burning incense as a charm constitutes merely an act of charming [prohibited at Deu. 18:11, but that does not involve extirpation]."*

- FF. He said to him, "The Torah has said that one who acts as a charmer is put to death through stoning [consequently, for doing so inadvertently, a sin offering is owing]."
- GG. *"And what kind of charm is subject to a mere negative commandment?"*
- HH. *He said to him, "It is as has been taught on Tannaite authority: 'There shall not be found among you...a charmer' (Deu. 18:11) — all the same are the one who charms large objects and the one who charms small objects and even snakes and scorpions."*
- II. *Said Abayye, "Therefore one who seals up wasps or scorpions, using charms to do so, even though he intends only that they not harm anyone, violates a negative commandment. But if they follow him, it is permitted."*
- JJ. *According to R. Yohanan, who holds that in rabbis' view prostrating oneself is regarded as a concrete deed, then why should merely moving [4A] the lips not constitute a concrete action?*
- KK. *Said Raba, "The case of the blasphemer is different, because the issue there is what is in the heart. But in general the curving of the lips is regarded as an action."*
- LL. *R. Zira objected, "A conspiracy of perjurers is excluded [from the list before us, those obligated to a sin offering for an inadvertent offense][ because there is no concrete deed involved in what they have done. Now why should this be the case? Lo, is not the issue there what is in the heart?"*
- MM. *Said Raba, "The case of a conspiracy of perjurers is different, since there is, after all, the matter of an actual act of speech."*

We have now completed the reading of the selected cases in line with the problem of Yohanan. While I have identified the subdivisions of the whole, it seems to me clear that the intent is to set forth a complete and cogent discussion, the references back and forth showing the thread of argument to be unbroken, beginning to end. It follows that the entire discussion from the start of the Talmud at Unit I through Unit III is a single, cogent composition, and while we note its composite character, that is for formal, not intellectual reasons. The power of the document lies not so much in expounding the Mishnah-sentences as in reconstituting them into large-scale problems of thought. My analytical system tends to obscure that fact, which therefore requires underlining.

What follows in no way is to be classified as Mishnah-exegesis. What we have is a theoretical problem. At issue is the question of the relationship of the genus to the species, with special reference to Scripture's distinctions among the species of a genus and the consequence of those distinctions, if any. In this case the theoretical problem of the subdivision of a genus into species is what is at issue. The rule of the Mishnah is of interest only because it supplies the subject-matter for an analytical discussion of the issue.

#### **IV.1 A. he who eats forbidden fat:**

- B. *Our rabbis have taught on Tannaite authority:*
- C. *"'You shall eat no fat of ox or sheep or goat' (Lev. 7:23) — [the specification of each of the species of animals serves] to impose liability on each count," the words of R. Ishmael.*

D. And sages say, "One is liable on only a single count."

If Mishnah-exegesis were at issue, then we should want to know how the position of Ishmael squares with the list of thirty-six items, which ought to reach thirty-eight (ox plus sheep plus goat). Does the Mishnah's anonymous formulation accord only with the position of sages? That would have been Yohanan's problem. But we pursue a different question from that of Mishnah-exegesis, as is made explicit forthwith:

E. *May we say that at issue is the following:*

F. *R. Ishmael maintains that flogging is inflicted in the case of each specification of a prohibition that is stated in collective terms [Porusch: a law joined in the text with others in a single commandment of prohibition], and rabbis take the view that flogging is not inflicted in the case of each specification of a prohibition that is stated in collective terms.*

G. *Not at all. In point of fact R. Ishmael takes the view that flogging is not inflicted in the case of each specification of a prohibition that is stated in collective terms. The present case is exceptional, because the text utilizes more words than it needs. Scripture could have written simply, "You shall eat no fat." Why go on with reference to that "of ox or sheep or goat"? It is to yield the inference that in this case we distinguish one act of the same classification from another act of the same classification.*

H. *And rabbis?*

I. *If Scripture had not written, "ox or sheep or goat," I might have reached the conclusion that also the [permitted] fat of a wild beast was to be covered by the prohibition. It was on account of that false inference that Scripture specified "'ox or sheep or goat," to imply that it is specifically the fat of an ox, sheep, or goat that is forbidden, but that of the wild beast is permitted.*

J. *That is a perfectly valid reply, but this is the scriptural basis for the position of R. Ishmael in the case at hand: he maintains that, if the sages' position were valid, Scripture should have written, "No fat of an ox shall you eat," [for that would have sufficed to make rabbis' point]. Why add sheep or goat? These specifications yield the inference that one must distinguish each case [and flog on every particular beast's count, not only on the count of forbidden fat].*

K. *And rabbis? They take the position that, had Scripture written only, "No fat of an ox shall you eat," I might have reached the conclusion that we should derive the sense of "ox" in this context from the use of "ox" with reference to the Sabbath [Exo. 23:12]. Just as, with reference to the Sabbath, the wild beast and fowl are classified in the same category as the domestic beast [deserving of Sabbath rest], so with reference to the eating of the fat, the wild beast and fowl ought to be classified in the same category as the domestic beast. Accordingly, Scripture found it necessary to state, "'ox or sheep or goat," to imply that these in particular are the beasts the fat of which is forbidden, but that of the wild beast and fowl is permitted.*

L. *That is a perfectly valid reply, but this is the scriptural basis for the position of R. Ishmael in the case at hand: he maintains that, if the sages' position were valid, Scripture should have written, "No fat of a sheep shall you eat," or "no fat of a goat shall you eat," [for that would have sufficed to make rabbis' point]. Why*

*make reference to ox, sheep, and goat? These specifications yield the inference that one must distinguish each case [and flog on every particular beast's count, not only on the count of forbidden fat].*

- M. *And rabbis take the position that, had Scripture written only, "No fat of sheep shall you eat," I might have reached the conclusion that it is the fat of a sheep that is forbidden, but the fat of an ox or a goat are permitted.*
- N. *And if you should say, "Then what makes the fat of a sheep so special," it is because its fat tale is encompassed [among the parts of the beast that are offered on the altar].*
- O. *That is in accord with what R. Hanania taught on Tannaite authority:*
- P. *"Why did the Torah list item by item the sacrificial parts of the ox, item by item the sacrificial parts of the sheep, and item by item the sacrificial parts of the goat, as it is written, 'But the firstling of an ox or the firstling of a sheep or the firstling of a goat you shall not redeem; they are holy. You shall sprinkle their blood upon the altar and shall burn their fat as an offering by fire, a pleasing odor to the Lord; but their flesh shall be yours, as the breast that is waved and as the right thigh are yours' (Num. 28:14)? [While the following is in Aramaic, the language is entirely formulaic and stereotype and occurs, also, in Tannaite documents such as Sifra.] It was necessary to do so. For had Scripture specified only 'ox,' I might have supposed that the rule governing the sheep or goat are not to be derived therefrom. For it would have been possible to raise this question, specifying why the ox is distinctive: the special trait of the ox is that it is accompanied by a large volume of drink offerings [which is not the case with the other beasts]. Then let Scripture make reference only to the sheep, and the rule governing the ox and goat could have been derived from that item. But still, it would have been possible to raise this question: the special trait of the sheep is that it produces a more substantial offering for the fire, through its fat tail. Then let Scripture make specific reference only to the goat, so we may derive the law governing the ox and sheep from that item? But one still could have raised this question: the special trait of the goat is that it is given a substantial assignment with reference to expiating the sin of inadvertent idolatry. Accordingly, on the basis of a single example, we could not have derived the law governing all three. Still, why can Scripture not have supplied two of the three instances and we could have derived the rule governing the third from that covering the first two? But if so, from which ones? Shall we derive the rule governing the ox from that governing the sheep and goat? But the following problem can have been raised: the special trait of the sheep and goat is that they bear special roles with regard to Passover. Then let Scripture not refer to the sheep but let us derive the rule for all three from the cases of the ox and goat? But there is then this problem: the special trait of the ox and goat is that they bear a special role with regard to the expiation of idolatry. And shall we then not make reference to the goat and derive the rule for all three from the cases of the ox and sheep: But here too there is this problem: the special trait of the ox and sheep is that each of them has an aspect in which it bears a larger role [than others]. Therefore it is not possible to derive the rule from any two of them together [and all three have to be made explicit]." [This then does account for the matter raised by sages.]*

- Q. *Have not rabbis replied effectively?*
- R. *That is a perfectly valid reply, and, in point of fact, the scriptural basis for the position of R. Ishmael is as we stated at the outset, specifically, Scripture could have written simply, "You shall eat no fat." It then could have fallen silent. [Why go on with reference to that "of ox or sheep or goat"? It is to yield the inference that in this case we distinguish one act of the same classification from another act of the same classification.] And as to what you have said, that the reason that Scripture made explicit the references to ox and sheep and goat served to permit eating the fat of a wild beast, lo, when Scripture made reference to Holy Things [it made that point, at Lev. 7:25, since wild beasts cannot be consecrated for the altar], and that consideration, therefore, derives from the broader context in which the present matter is treated anyhow.*
- S. *And does it follow that rabbis do not maintain that the context of a statement of the law illuminates the details of that law?*
- T. *That is not at all the case. All parties concur that the context of a statement of the law illuminates the details of that law. But what is at issue in the present setting is the following: R. Ishmael takes the view that, where a negative commandment is at stake, the context illuminates the details of the law, whether the context involves another negative commandment [in which the penalty is merely flogging] or a negative commandment in which the penalty is extirpation. [I omit the bracketed lines in the printed Talmud.] Rabbis by contrast maintain that a law that is subject merely of a negative prohibition is illuminated by its context when the context treats a topic in which a mere negative commandment is involved; but in a case in which we have a law that is subject to a mere negative commandment, it will not be illuminated by a law given in a context in which the negative commandment involves the penalty of extirpation [e.g., Lev. 7:25].*
- U. *If you prefer, I shall offer the following explanation of what is at stake here: The operative consideration of the rabbis [that it was necessary to enumerate individually the various classifications of fat] is in accord with what R. Meri said to R. Zebid, "If so, why should the fat tail of unconsecrated animals not be completely forbidden [since Scripture at Lev. 3: 9 refers to it with the same word that means forbidden fat]?"*
- V. *He said to him, "It is in that connection that Scripture says, 'All fat of ox sheep or goat,' to indicate that we require a prohibition only of the types of fat that these three classes of animals have in common, excluding then the fat tail from any such prohibition. Therefore when the language is used, 'All fat of ox sheep or goat,' it is to make clear that the fat-tail of a beast slaughtered for secular purposes is permitted."*
- W. *And R. Ishmael? He will say to you, "If so, then let Scripture refer merely to 'all fat of ox or sheep.' Why add 'goat'? It is, as I said, to make a distinction among all three [for the purpose given to begin with]."*
- X. *Said R. Hanina, "R. Ishmael concedes with respect to offering that only a single sin-offering is brought on the count of diverse kinds of forbidden fat. How come? This prohibition is not like the one relating to sexual relations with women who stand in an incestuous relationship [where a separate negative commandment is stated with reference to each such class of relationship]."*

We now continue to analyze the same problem, that is, how a given action may yield liability on more than a single count. Here we have an action of a single classification, but because it is performed in distinct spells of inadvertence, liability to a sin offering on more than a single count is incurred. The exposition of the problem shows that the Tannaite statement, A-C, is introduced so as to continue No. 1's discussion. In this way we show that liability may be incurred on distinct counts either of doing the same action in two distinct spells of inadvertence or of doing actions of two distinct classifications in a single spell of inadvertence.

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

- B. ["If any one sins unwittingly in any of the things that the Lord has commanded not to be done and does any one of them" (Lev. 4: 2):] "does one..." and "does...them" — this language serves to impose liability for each count.
- C. Thus if one ate two portions of forbidden fat of the same classification in two spells of inadvertence, he is liable on two counts; if they were of two different classifications within a single spell of inadvertence, he is liable on two counts.

We now raise the obvious question, since we have not been prepared for the second of the two propositions derived from the text at hand.

- D. *Said Rami bar Hama to R. Hisda, "Now there is no problem in understanding the case of several pieces of fat that fall within a single classification eaten in two distinct spells of inadvertence, that one is liable on two counts, since these two spells of inadvertence are treated as distinct from one another, but if one has eaten forbidden fat of two distinct classifications in a single spell of inadvertence, how come one is liable on two counts? Lo, we should require that the spells of inadvertence should be distinct from one another, and that is not the case!"*
- E. *He said to him, "With what sort of a case do we deal here? It is one in which one ate fat of a left-over offering, on account of which one is liable on the counts of eating both left-over sacrificial meat and also forbidden fat."*
- F. *He said to him, "If so, one should be liable also on the count of eating Holy Things [assuming we deal with a non-priest], [thus on three counts, not two]."*
- G. *Rather, said R. Sheshet, "It is a case in which he ate fat of Holy Things and the anonymous formulation represents the position of R. Judah."*
- H. *For it has been taught on Tannaite authority:*
- I. If one ate forbidden fat of carrion, or forbidden fat of Holy Things, one is liable on two counts [the count of forbidden fat, the count of eating either carrion or Holy Things].
- J. R. Judah says, "If it was forbidden fat of Holy Things, he is flogged on three counts." [The forbidden fat of consecrated animals involves two counts, and the non-priest's eating Holy Things imposes guilt on yet a third.]
- K. *In the West [the Land of Israel] they ridiculed this, [with the absurd argument], then why not explain that the passage refers to pieces of forbidden fat that derive from an ox, sheep, and goat, in accord with the position of R. Ishmael, who has said, "One is flogged on three counts"!?!'*
- L. **[4B]** *So why was the passage not explained in accord with R. Ishmael?*
- M. *It is because of what R. Hanina said, "R. Ishmael concurs that in the matter of an offering, one is liable [on only one count and presents only] a single sin offering."*

[Porusch: although several negative commandments, so flogging may be on distinct counts, with reference to expiation by sacrifice, all are regarded as one.]

- N. *Well, then, here too you cannot explain the matter in accord with R. Judah, for lo, R. Eliezer has said, "R. Judah concurs that in the matter of an offering, one is liable [on only one count and presents only] a single sin offering."*
- O. *Rather, said R. Simeon b. Laqish in the name of Bar Teutani, "Here with what sort of case do we deal? With a case in which one ate two portions of forbidden fat out of two distinct dishes, and the rule accords with R. Joshua, who maintains that if we deal with separate dishes, then there is a distinction to be drawn with regard to the offerings involved therein."*

#### **IV.3.** A. *Reverting to the body of the prior text:*

- B. If one ate forbidden fat of carrion, or forbidden fat of Holy Things, one is liable on two counts.
- C. R. Judah says, "If it was forbidden fat of Holy Things, he is flogged on three counts." [The forbidden fat of consecrated animals involves two counts, and the non-priest eating Holy Things is guilty on yet a third.]
- D. *Said R. Shizbi to Raba, "There is no problem in the position of R. Judah, for this is made explicit in three distinct verses of Scripture as follows: 'All fat is the Lord's. It shall be a perpetual statute throughout your generations in all your dwelling places that you eat neither fat nor blood' (Lev. 3:17), 'You shall eat no fat of ox or sheep or goat' (Lev. 7:23), 'An outsider shall not eat of a holy thing' (Lev. 22:10). So there are three negative commandments that are explicitly stated. But what can rabbis possibly cite in Scripture in support of their position?"*
- E. *They maintain, "The negative commandment, 'It shall be a perpetual statute throughout your generations in all your dwelling places that you eat neither fat nor blood' (Lev. 3:17) refers to Holy Things, while the negative commandment, 'You shall eat no fat of ox or sheep or goat' (Lev. 7:23) refers to unconsecrated beasts. And each statement is absolutely required. For had Scripture stated the rule only in connection with Holy Things, I might have thought that Holy Things, which are subject to a very stringent set of rules, produce fat that is prohibited, but concerning unconsecrated animals, I might say, they are not subject to a similar prohibition, and on that account, Scripture had to make explicit, 'You shall eat no fat of ox or sheep or goat' (Lev. 7:23). And had Scripture written only, 'You shall eat no fat of ox or sheep or goat' (Lev. 7:23), I might have concluded that it is only the fat of unconsecrated beasts that is forbidden, because it has not been excluded from the general prohibition of fat; but as to the fat of consecrated beasts, since it has been excluded from the general prohibition [being permitted for the altar, after all!], I might have thought that, since it is subject to an exclusion from the prevailing prohibition, therefore the fat of Holy Things would be permitted. So it was necessary to specify both texts that Scripture gives.*
- F. *"And R. Judah maintains, "When Scripture stated, 'You shall eat no fat of ox or sheep or goat' (Lev. 7:23), that made reference to Holy Things as well."*
- G. *Then are we to infer that rabbis maintain the exegetical principle that a law is not illuminated by its context?*



- H. *No. All parties maintain that a law is illuminated by its context. But this is what is at issue between them: R. Judah [like Ishmael above] takes the view that, where a negative commandment is at stake, the context illuminates the details of the law, whether the context involves another negative commandment [in which the penalty is merely flogging] or a negative commandment in which the penalty is even extirpation. Rabbis by contrast maintain that a law that is subject merely to a negative prohibition is illuminated by its context [only] when the context treats a topic in which a mere negative commandment is involved; but in a case in which we have a law that is subject to a negative commandment, it will not be illuminated by a law given in a context in which the negative commandment involves the penalty of extirpation [e.g., Lev. 7:25]. [I do not translate the material in brackets.]*

The composite proceeds to a re-statement of the same matter; the whole holds together and is seamless; the principle is consistent throughout. The persistent issue is how a single action may involve culpability on a number of counts — precisely the principle that Yohanan has asked us to consider in our analysis of the Mishnah-paragraph.

**IV.4.** *A. It has been taught on Tannaite authority:*

- B. *“It shall be a perpetual statute throughout your generations in all your dwelling places that you eat neither fat nor blood” (Lev. 3:17) — just as in the case of eating forbidden fat, one is flogged on two counts, so in the case of eating forbidden blood, one is liable on two counts to flogging,” the words of R. Judah.*
- C. *And sages say, “There is only one admonition herein [and hence flogging on only one count].”*

The present case has now to be contrasted to the foregoing.

- D. *Then what makes the issue of forbidden fat different, in that one is liable on two counts to a flogging, even though there is no foundation in shared usages among several verses to sustain a division into two counts? The reason is that two distinct verses of Scripture are written in this regard. These are as follows: “All fat is the Lord’s. It shall be a perpetual statute throughout your generations in all your dwelling places that you eat neither fat nor blood” (Lev. 3:17), and “You shall eat no fat of ox or sheep or goat” (Lev. 7:23).*
- E. *With respect to blood, too, even though there is no foundation in shared usages among several verses to sustain a division into two counts, there should be a flogging on two counts, for, after all, two negative commandments are written in this regard as well, specifically, “You shall eat neither fat nor blood” (Lev. 3:17), and “You shall eat no sort of blood, whether of fowl or beast, in any of your dwellings” (Lev. 7:26).*
- F. *Rather, I must state matters as follows:*
- G. *“Just as in the case of eating forbidden fat, one is flogged on three counts, so in the case of eating forbidden blood, one is liable on three counts to flogging,” [the words of R. Judah].*

We repeat the same exercise, in terms of the revised version of the formulation.

- H. *Then what makes the issue of forbidden fat different, in that one is liable on three counts to a flogging?*

- I. *The reason is that in that connection are written two negative commandments that were cited above* ["You shall eat neither fat nor blood" (Lev. 3:17), and "You shall eat no sort of blood, whether of fowl or beast, in any of your dwellings" (Lev. 7:26)], *and in addition, the negative commandment on a non-priest's not eating Holy Things* ["An outsider shall not eat of a holy thing" (Lev. 22:10)]. *So lo, there are three pertinent statements in Scripture.*
- J. *But the same is so of blood!* [Why make the same point twice?]
- K. *In point of fact the proof by analogy is required, for I might otherwise have thought that, since the matter of blood is excluded from the law of sacrilege, so the consideration of the exclusion of the non-priest should also be excluded with respect to the handling of the blood of sacrifices. It is for that reason that the argument by analogy is required.*
- L. *And in the view of rabbis, [in whose opinion the blood of a consecrated language is not covered by the law that excludes the non-priest from utilizing Holy Things], for what purpose does that same proof by analogy come?*
- M. *It is required in line with the following matter that has been taught on Tannaite authority:*
- N. "You shall eat neither fat nor blood" (Lev. 3:17) —
- O. just as what distinguishes fat is that fat is to be distinguished from meat and the two are not deemed to form a common mass with one another [so that culpability for the whole is incurred on a single count only], so blood is to be distinguished from the meat [and then will not form a common mass with the meat where it can be distinguished]. That then excludes the blood of a dead creeping thing, since the blood of a dead creeping thing cannot be distinguished from its meat, and therefore the two form a common mass. [Porusch: While the penalty of extirpation attaches to the blood, the meat of an unclean animal does not carry such a penalty, and consequently blood and meat do not combine even with regard to uncleanness].
- P. *But is this law [having to do with dead creeping things] derived from this verse? In point of fact it derives from the following:*
- Q. "And these are the things that are unclean to you" (Lev. 11:29) —
- R. this teaches that the blood of the dead creeping thing and its meat form a common mass with one another.
- S. *Were it not for the argument given earlier, I might have supposed that the law pertains in particular to the considerations of uncleanness but not as to eating.* [Porusch: the combination of blood and flesh is adopted only with reference to uncleanness, which is more stringent, in so far as the standard quantity is a lentil, while for eating, the measure is an olive's bulk]. *So the argument under consideration informs us that the law pertains also to eating.*
- T. *Said Rabina, "Therefore the blood of a snake and its meat join together."*
- U. *What in the world does he propose to tell us? Have we not just now drawn the inference that that is the very lesson of the argument under discussion?*

- V. *True enough, but we otherwise might have thought that in the case of the dead creeping thing, since the law pertains in regard to uncleanness, it pertains in regard also to eating, but in the case of a snake, since it does not apply in regard to uncleanness, it also does not apply in regard to eating; so [Rabina] informs us that the argument covers every case in which the blood is not distinct from the meat.*

We proceed to a further exposition of secondary materials. We have now considered a variety of verses on the matter of extirpation by reason of improper consumption of blood. We wish to differentiate those verses from one another.

- IV.5.** A. Said Raba, “As to the three times in which the penalty of extirpation has been specified in connection with blood, *what is the purpose of each* [“Whoever eats any blood, that person shall be cut off from his people” (Lev. 7:27), “If any man of the house of Israel or of the strangers that sojourn among them eats any blood, I will set my face against that person who eats blood and will cut him off from among his people” (Lev. 17:10), “For the life of every creature is the blood of it; therefore I have said to the people of Israel, You shall not eat the blood of any creature, for the life of every creature is its blood; whoever eats it shall be cut off” (Lev. 17:14)]? One refers to the blood of unconsecrated beasts, one to the blood of Holy Things, and one to blood that drips.”
- B. *That [view that guilt is incurred only all counts, including the third] poses no problem for R. Judah, for it has been taught on Tannaite authority:*
- C. Dripping blood is subject to a mere prohibition [and flogging].
- D. R. Judah says, “It is subject to the penalty of extirpation.”
- E. *But as to rabbis of the same passage, for what purpose is the third prohibition with reference to blood and the penalty of extirpation? And even in the view of R. Judah, is not the penalty of extirpation derived, rather, from the usage, “all blood”? For it has been taught on Tannaite authority:*
- F. R. Judah says, “‘...blood...’ Why does Scripture say, ‘...all blood...’? I know only that subject to the prohibition and extirpation is blood of Holy Things and blood that marks the departure of life [which is blood that gushes out, not merely dripping], because this is blood that effects atonement. How do we know that blood of unconsecrated animals and dripping blood [which by definition does not mark the departure of life] also is subject to the prohibition? That is why ‘all blood’ is stated.”
- G. Rather, I should say, one verse speaks of the blood of unconsecrated beast, one of the blood of Holy Things, and the third refers to blood that has been covered over [Lev. 17:13, and that too is forbidden].
- IV.6.** A. Said Raba, “As to the five prohibitions stated in connection with blood, *what is the purpose of each* [Lev. 3:17, 7:26, 17:14,

Deu. 12:16, Deu. 12:23]? One prohibits eating the blood of unconsecrated blood, the second, blood of Holy Things, the third, blood that has been covered up, the fourth, blood that has been left in the limbs, and fifth, dripping blood.”

We proceed to yet another case in which there are distinct counts of culpability for a single action,

**IV.7.** A. Said R. Ela, “If [outside of Jerusalem] one ate second tithe that had been separated from grain, wine, and oil, one is liable to flogging on three distinct counts.”

B. *But lo, people are not liable on distinct counts in the case of a prohibition that is stated in general terms [as at Deu. 14:22]!*

C. *This case is different, for the text contains superfluous words. Scripture has stated, “And before the Lord your God in the place which he will choose to make his name dwell there you shall eat the tithe of your grain of your wine and of your oil, and the firstlings of your herd and flock” (Deu. 14:23). This yields the inference that these are to be eaten within Jerusalem, but not outside. Then why does Scripture find it necessary further to state, “You may not eat within your towns the tithe of your grain or of your wine or of your oil or the firstlings of your herd or of your flock or any of your votive offerings that you vow, but you shall eat them before the Lord your God” (Deu. 12:17-18)? This serves to treat each item as a distinct classification subject to its own prohibition. [Hence a flogging is incurred for each item.]*

D. *But [that is not true. For in fact both statements are required on their own terms and bear no such implication,] for if I had in hand only the first of the two verses, I should have said that the requirement is subject of a positive, but not of a negative commandment. [5A] So Scripture had to go on to state as well, “You may not eat within your towns the tithe of your grain or of your wine or of your oil or the firstlings of your herd or of your flock or any of your votive offerings that you vow, but you shall eat them before the Lord your God” (Deu. 12:17-18), so as to make the issue one of a negative commandment as well.*

E. *Still, do we not deal with a prohibition that is stated collectively?*

F. *If that were really so, then Scripture should have said, “You may not eat them within your gates.” For what purpose do I need the specification that is given when the verse says, “[You may not eat within your towns] the tithe of your grain or of your wine or of your oil [or the firstlings of your herd or of your flock or any of your votive offerings that you vow, but you shall eat them before the Lord your God]” (Deu. 12:17-18)? This serves to single out the eating of each one of the specified items.*

We go on to another case in which the same principle operates.

**IV.8.** A. Said R. Isaac, “If [prior to the offering of the first sheaf of barley required at Lev. 23:10-11, which permits people to eat the new crop of the growing season] one should eat bread, parched corn, and fresh ears [of the new crop], he is flogged on three counts.”

B. *But lo, people are not liable on distinct counts in the case of a prohibition that is stated in general terms!*

- C. *This case is different, because the pertinent verse contains extra words [“When you come into the land which I give you and reap its harvest, you shall bring the sheaf of the first fruits of your harvest to the priest, and he shall wave the sheaf before the Lord...and you shall eat neither bread nor grain parched or fresh until this same day, until you have brought the offering of your God” (Lev. 23:10, 14)]. Now Scripture could as well have specified only “bread,” and we could easily have derived the rule for parched grain and fresh ears of corn from that case. [Why include references to the other classes of productive? It is to make the point just now set forth.]*
- D. *But one may raise this question: the distinctive quality affecting bread is that there are further rules that affect it, e.g., as in the matter of dough offering!*
- E. *But then let Scripture specify only the case of parched corn, and not specify bread, and we could have derived the rule governing bread from the rule for parched corn.*
- F. *We could not have derived the rule governing bread from that for parched corn, for as a matter of fact, parched corn is ready at hand, while bread is not ready at hand [but has to be prepared].*
- G. *Fresh ears of grain, moreover, cannot be derived from the rule governing parched grain, because parched grain has the particular trait that it is fit for meal offerings, but fresh ears are not fit for meal offerings.*
- H. *Then how about deriving the rule for all from fresh ears to cover also bread and parched corn?*
- J. *Fresh ears are subject to a distinctive trait, in that they always retain their original character.*
- K. *It follows that we cannot derive the rule for all three from a single item. But how about deriving the rule for one item from that which governs the other two? For instance, let Scripture not make explicit reference to bread, and we might then derive the rule for bread from parched corn and fresh ears?*
- L. *But in that case we might have raised this question: The distinctive trait of both parched corn and fresh ears is that they are ready at hand [requiring no further preparation].*
- M. *Then let Scripture not make reference to fresh ears and let us derive the rule from the cases of bread and parched corn.*
- N. *Here too one might raise a question: the particular quality that governs the cases of bread and parched corn is that both of them bear special aspects in regard to meal offerings [but that is never the case for fresh ears of grain].*
- O. *R. Isaac will say to you, “Let Scripture not make explicit reference to parched corn, and let us derive the rule from bread and fresh ears of corn? And what weakness can you find in this proposal? If you raise the question, the distinctive trait of bread is that it bears a special and additional quality in that dough offering is removed from it, then fresh ears of corn will prove the contrary [there being no such further obligation]. And if the consideration is that fresh ears of corn are not changed from their natural state, then bread will prove the country. Therefore one is flogged on each count on the strength of the superfluous words that are used in the verse at hand.”*

- P. *But why not say that the word parched corn is superfluous, hence on that count one would bear a distinct liable, and as to the others, one would bear a distinct liability on the rest altogether?*
- Q. *If so, Scripture should have stated, “bread, fresh ears, and parched corn,” or, “parched corn, bread, and fresh ears.” Why did Scripture place “parched corn” right in the middle? This is the sense of Scripture: “for bread, as for parched corn, one is liable on a single count, and for fresh ears, just as much as for parched corn, one is liable on a single separate count.”*

We have now completed our exposition of the problem at hand. We now turn to a different exegetical principle from the one just now spelled out. It is that two distinct passages may be shown connected if the same formula occurs in both, that is, the argument by analogy of the use of the same word in two distinct passages. Nos. 9-12 form a cogent composite in which the same point is repeated made. The reason the whole is included here is found at No.9,10 and 12, the matter of extirpation; No. 12 moreover brings us back to Nos. 5-6, the repetition of language concerning blood and the conclusions to be drawn therefrom. The composite obviously has taken shape around its own concern, and then the whole was inserted here for reason important to the framer of our Talmud.

### **The Argument by Analogy and its Importance**

- IV.9.** A. Said R. Yannai, “Never let an argument by analogy — the use of the same word in two distinct passages to establish the analogical character of both passages, with the result that the rule that pertains to the one applies to the other as well — be treated lightly by you, for lo, the consideration of sacrificial meat being made abominable by the improper intention of the officiating priest to eat at an improper time [that is, the priest while slaughtering the animal sacrifice states that he plans to eat the meat after the period of time that is assigned for eating it], which is absolutely one of the fundamental pillars of the Torah, has been presented by Scripture only through an argument by analogy of the use of the same word in two distinct passages.”
- B. *For said R. Yohanan, “Zabeda bar Levi taught the following on Tannaite authority:*
- C. “In one passage we read, ‘Everyone who eats it shall bear his iniquity’ (Lev. 19: 8), and here we find, ‘And the soul that eats it shall bear his iniquity’ (Lev. 7:18). Just as at the passage that deals with disqualification of sacrificial meat by an improper intention to eat the meat in the wrong place] involves the penalty of extirpation, so here too, the penalty [for eating meat that has been subject to the priest’s improper intention as to the time of eating the meat] is extirpation.”
- IV.10.** A. Said R. Simai, ““Never let an argument by analogy of the use of the same word in two distinct passages be treated lightly by you, for lo, the law prohibiting the eating of meat that has been left over, which is absolutely one of the fundamental pillars of the Torah, has

been presented by Scripture only through an argument by analogy of the use of the same word in two distinct passages.”

- B. What is this argument by analogy of the use of the same word in two distinct passages?
- C. It is the common use of the word “holy” in the following: “Everyone who eats it shall bear his iniquity because he has profaned the Holy Thing of the Lord” (Lev. 19: 8, and extirpation is the penalty) and “You shall burn the left over meat with fire, it shall not be eaten, because it is holy” (Exo. 29:34).

**IV.11.** A. Said Abayye, ““Never let an argument by analogy of the use of the same word in two distinct passages be treated lightly by you, for lo, the law concerning the daughter of a man by a woman he has raped which is absolutely one of the fundamental pillars of the Torah, has been presented by Scripture only through an argument by analogy of the use of the same word in two distinct passages.”

- B. *This is in line with what Raba said, “R. Isaac b. Abdimi told me, ‘As to the prohibition, it derives from the appearance of the word ‘they are’ with reference to incest [at Lev. 18:17, on intercourse with a woman and her daughter, whether both of them are his wives or not, and at Lev. 18:10, prohibiting intercourse with one’s granddaughter, understood as the granddaughter born of a woman he has raped and not of one who is legally married to him; so one’s grand-daughter from the woman he has raped is forbidden; the daughter of a woman he has raped is not explicitly mentioned, but the common use of the same word establishes the analogy between a married woman and a woman he has raped, and as in the first case the daughter and granddaughter are on the same footing, so in the second the rule is the same (Porush)]. And as regard to the penalty of burning [in that case], it derives from the fact that the word ‘lewdness’ occurs [at both Lev. 18:17 and 20:14].”*

**IV.12.** A. Said R. Ashi, ““Never let an argument by analogy of the use of the same word in two distinct passages be treated lightly by you, for lo, death by stoning as a penalty for various transgressions which is absolutely one of the fundamental pillars of the Torah, has been presented by Scripture only through an argument by analogy of the use of the same word in two distinct passages.”

- B. *For so it has been taught on Tannaite authority:*
- C. Here we find the language, “their blood is upon them” and the same expression occurs with regard to the one who has a familiar spirit and a charmer, “their blood be upon them” [Lev. 20:11, 12, 13, 16] Just as stoning is specified as the penalty in that case, so the same penalty applies here.

We have now completed our exposition of the cited topic. Yohanan’s interest in the matter of the number of counts for which a given action may incur liability has



predominated throughout. The next exercise focuses on the topic, rather than the hermeneutical problem that Yohanan has set for himself.

**V.1 A. he who compounds anointing oil like that made in the Temple:**

- B. *Our rabbis have taught on Tannaite authority:*
- C. If one compounds the anointing oil for the purpose of learning through it, or to hand it over to the community, he is exempt. If it is to anoint with it, he is liable.
- D. **He who anoints himself with it is exempt, for the liability on account of the anointing oil like that made in the Temple is solely in connecting with anointing oneself with anointing oil such as Moses himself compounded [T. Makkot 4:3].**

The first of the two Tannaite statements introduces into the issue of culpability the matter of intentionality; one may perform the action with contradictory consequences, depending on one's intention in doing the deed, so C. Then D refines C. What follows is secondary exposition of the facts just now given.

- E. A master has said, "If one compounds the anointing oil for the purpose of learning through it, or to hand it over to the community, he is exempt." *What is the Scriptural basis for this rule?*
- F. The rule derives from the use of the same word, "according to its composition," that is mentioned at Exo. 30:32 in connection with the anointing oil, and at Exo. 30:37, in connection with incense. For it is written with reference to the incense, "You will not make for yourselves" (Exo. 30:37), meaning, it is for yourselves that it is forbidden, but to hand it over to the community [it is permitted, so one is] exempt from penalty for doing so. *Therefore, with respect to anointing oil, it is for yourselves that it is forbidden, but to hand it over to the community [it is permitted, so one is] exempt from penalty for doing so.*

Here is another example of establishing an analogy between two passages by reason of the occurrence of the same words in both. We now refine matters and ask why the road that links one to the other is not a two-way street.

- G. *But why not reverse matters concerning incense and derive the governing rule from oil:* just as in the case of oil, if one compounded half of the requisite quantity, he is exempt, *so also* if in the case of incense one compounded only half of the requisite quantity, he should be exempt.
- H. *But if so, how come* Raba said, "In the case of incense, if one compounded half of the requisite quantity, he is liable, while in the case of anointing oil, if one compounded half of the requisite quantity, he is exempt"?
- I. *Raba will answer you, "In respect to the anointing oil, it is written, 'you shall not make any like it according to the composition thereof' (Exo. 30:32), meaning, any that is like it is what is forbidden, but making half of the requisite volume poses no problem. But with reference to incense, it is written, 'and the incense which you shall make (Exo. 30:37), meaning, the rule covers the making of incense of any volume whatsoever, since it is possible to offer up half of the incense in the morning and the other half at dusk."*

We have completed our analysis of the Tannaite complement to the topic. We proceed to a composite that is devoted to the topic, now without respect to the context established by the Mishnah.

## **The Anointing Oil**

### *The Composition of the Anointing Oil*

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

- B. This is the composition of the anointing oil: five hundred shekels of flowing myrrh, five hundred of cassia, five hundred of sweet cinnamon, two hundred fifty of sweet calamus, together one thousand seven hundred and fifty shekels.
- C. *What does the Tannaite framer of the passage mean to imply by giving us the sum total?*
- D. *This is what was troubling the Tannaite authority: one might say that sweet calamus is subject to the same rule as sweet cinnamon. Just as with sweet cinnamon the figure of two hundred fifty that is specified is only half of the prescribed quantity, so also with reference to the sweet calamus, the requisite weight is the same, in which case the total weight would be two thousand.*
- E. *So might I say that that is indeed the fact?*
- F. *If so, Scripture would have specified, “sweet cinnamon and sweet calamus, half so much of each, even two hundred and fifty shekels” [Cf. Exo. 30:34: “And the Lord said to Moses, Take sweet spices, stacte and onycha and galbanum, sweet spices with pure frankincense, of each shall there be an equal part, and make an incense blended as by the perfumer, seasoned with salt pure and holy”].*

**V.3.** A. Said R. Pappa to Abayye, “When one weighs the incense, does one weigh it with an overweight or is it done with precision?”

- B. He said to him, “Scripture has said, ‘of each shall there be an equal part,’ and do you say ‘with an overweight’?!”
- C. But has not R. Judah said, “The Holy One, blessed be he, recognizes overweights [in incense, and rewards them],” *therefore an overweight is indeed taken into account.*
- D. *Rather, said R. Judah, “Why are the five hundred shekels of sweet cinnamon taken in two portions of two hundred and fifty each, for, since the total is to be five hundred, why not bring the whole of it all at once [as is done with the first two items that are listed]? It is to be inferred from the fact that the sweet cinnamon is brought in two portions that there was an overweight each time, and the Holy One, blessed be he, takes note of the overweight.”*
- E. *What is the meaning of “of each shall there be an equal part”?*
- F. Said Rabina, “It is that one should not weigh the first with the weight and use the weighed amount to serve as the weight for the second quantity.”

## *The Anointing Oil Used in the Wilderness*

### **V.4.** A. *Our rabbis have taught on Tannaite authority:*

- B. “The anointing oil that Moses made in the wilderness was boiled with the roots of the spices,” the words of R. Judah.
- C. Said to him R. Yosé, “But the oil would not have been sufficient even to smear the roots, so what did he do? He boiled the roots in water [so that they were saturated with liquid and did not absorb much of the oil when it was poured over them (Porusch)], then he poured the oil over them, which absorbed the scent, and then he wiped the oil off the roots.”
- D. Said to him R. Judah, **[5B]** “Is this the sole miracle that took place in the matter of the anointing oil? Were there not miracles in that connection from start to finish? For there were only twelve logs of that oil, and yet with it were anointed the tabernacle and its utensils, Aaron and his sons throughout the seven days of consecration, the high priest and kings, and yet it remained whole for the age to come: ‘This shall be the holy anointing oil for me throughout your generations’ (Exo. 30:31), and the numerical value of ‘this’ is twelve, which is to say, the quantity in hand.”

### **V.5.** A. *Our rabbis have taught on Tannaite authority:*

- B. “And Moses took the anointing oil and anointed the tabernacle” (Lev. 8:10):
- C. R. Judah says, “As to the anointing oil that Moses made in the wilderness, many miracles were done through out from the beginning to the end. To begin with, there were only twelve logs. How much of it must have been absorbed in the boiling, how much in the roots of the spices, how much was burned by the fire, and yet with that same volume of oil were anointed the tabernacle and its utensils, Aaron and his sons throughout the seven days of consecration, the high priest and kings. And even a high priest the son of a high priest has to be anointed, while a king who is the son of a king does not have to be anointed. Now if you should say, on what account did they anoint Solomon, it was because of the dispute with Adonijah; Jehoash was anointed because of Athaliah’s claim to the throne; Jehoahaz because of the claim of his brother, Jehoiakim, who was two years older.”

### **V.6.** A. A master has said, “And even a high priest the son of a high priest has to be anointed, while a king who is the son of a king does not have to be anointed.”

- B. *What is the scriptural basis for this rule?*
- C. “And the anointed priest who shall be in his stead from among his sons” (Lev. 6:15).
- D. *Now the verse could have stated, “and the priest that shall be in his stead from among his sons.” Why specify, “anointed”? It is to indicate that even from among his sons, only the one who is anointed can be high priest, but one who is not anointed cannot be high priest.*

- V.7.** A. A master has said, “A king who is the son of a king does not have to be anointed.”
- B. *What is the scriptural basis for this rule?*
- C. Said R. Aha bar Jacob, “As it is written, ‘That he may prolong his days in his kingdom, he and his children, for all days’ (1Ch. 3:15) — as an inheritance.”

- V.8.** A. On what account did they anoint Solomon? It was because of the dispute with Adonijah.
- B. *How do we know that if there is a dispute for the throne, it is necessary to have a rite of anointing oil, and it is not enough for the king to hand over dominion to anyone whom he wants?*
- C. Said R. Pappa, “Said Scripture, ‘In the midst of Israel,’ meaning, only if there is peace in Israel [is it an inheritance (Porusch)].”

### *Anointing Various Kings of Israel and Judah*

- V.9.** A. It was taught on Tannaite authority:
- B. Jehu, son of Nimshi, was anointed only because of the conflicting claim on the throne by Joram son of Ahab.
- C. *Why is this the reason? Rather derive the reason from the fact that he was the first king of his line?*
- D. *The version contains a lacuna, and this is how it is to be read:*
- E. The kings of the house of David are anointed, the kings of Israel are not anointed. And if you say, then how come they anointed Jehu, son of Nimshi, he was anointed only because of the conflicting claim on the throne by Joram son of Ahab.

- V.10.** A. A master has said, “The kings of the house of David are anointed, the kings of Israel are not anointed.”
- B. *How on the basis of Scripture do we know this?*
- C. It is written, “Arise, anoint him, for this is he” (1Sa. 16:22) — he is the one who requires anointing, but not the others.

- V.11.** A. A master has said, “Jehoash was anointed because of Athaliah’s claim to the throne.”
- B. And on account of the dispute of Joram son of Ahab, should we commit sacrilege with the anointing oil?
- C. *[It was not really the oil,] as R. Pappa said, “It was with pure balsam oil,” and here too, it was with pure balm.*

- V.12.** A. “Jehoahaz because of the claim of his brother, Jehoiakim, who was two years older.”
- B. *But was he really older? And has it not been written, “And the sons of Josiah: the first born, Yohanan; the second, Jehoiakim, the third, Zedekiah, and the fourth, Shallum” (1Ch. 3:15)? And in this connection R. Yohanan said, “Yohanan was the same as Jehoahaz, and Zedekiah the same as Shallum” [so Jehoahaz was the firstborn].*

- C. *Indeed Jehoiakim was older, but the other was called first born because he was first in the line of succession to the throne.*
- D. *But can one give preference to the younger over the elder son in that context? Is it not written, “And the kingdom he gave to Jehoram for he was firstborn” (2Ch. 31: 3)?*
- E. *That one had followed in his father’s footsteps [but the one who did not do so had no right of firstborn].*

**V.13.** A. A master has said, “Zedekiah the same as Shallum.”

- B. *But lo, they are specified by ordinal numbers [so these cannot be identical]!*
- C. *Zedekiah is called “the third” because he was the third among the sons, and why fourth? because he was fourth in line to the throne, because Jeconiah ruled before him; Jehoahaz was the first successor, then came Jehoiakim, then Jeconiah, then Zedekiah.*

**V.14.** A. *Our rabbis have taught on Tannaite authority:*

- B. Zedekiah is the same as Shallum, and why is he called Shallum? Because he was whole and complete in all his deeds.
- C. Another explanation: he was called Shallum, because the kingdom of the house of David came to its completion and conclusion in his days.
- D. But what was his real name? It was Mattaniah, as it is written, “And the king of Babylonian made Mattaniah, his father’s brother, king in his stead, and he changed his name to Zedekiah” (2Ki. 24:17).
- E. For [Nebuchadnezzar] said to him, “May God deal in strict justice with you if you rebel against me.”
- F. So it is written, “And he brought him to Babylonia” (2Ch. 33:10), “and he also rebelled against king Nebuchadnezzar, who had made him swear by the Lord” (2Ch. 36:13).

**V.15.** A. [But, continuing in line with No. 12, above, when Jehoahaz was anointed,] *did they really have anointing oil then? Has it not been taught on Tannaite authority:*

- B. When the ark was hidden away, the jar of manna was hidden away, so too the flask of the anointing oil, the rod of Aaron with its almonds and blossoms, the ark that the Philistines had sent as a present to the God of Israel.
- C. So it is written, “And put the jewels of gold, which you return him for a guilt offering, in a coffer by the side thereof” (1Sa. 6: 8).
- D. Who hid it? It was Josiah, king of Judah, who hid it away: “And he said, put the holy ark in the house that Solomon, son of David,

built; it shall no more be a burden upon your shoulders” (2Ch. 35: 3).

- E. *[As to the other items mentioned,] said R. Eleazar, “We may infer their disappearance because the same words occur in context, specifically, ‘there’ in connection with the ark at Exo. 30:36 and manna at Exo. 15:33; generations in connection with the manna and with the oil at Exo. 30:31, and guard in connection with the manna and with the rod of Aaron at Num. 17:25).” [Porusch: Thus manna is derived from the ark, and the other two articles from manna. In any case, there was no oil in the time of Jehoahaz.]*
- F. *Said R. Pappa, “It was with pure balsam oil.”*

### *Anointing the Priests*

#### **V.16.** *A. Our rabbis have taught on Tannaite authority:*

- B. They anoint priests by drawing a kind of crown on the head of the priest with the oil, and priests by drawing a mark in the form of a chi.
- C. Said R. Menashia, “It is the Greek letter chi that is meant here.”
- D. *One Tannaite authority repeated, “At the outset one pours oil on his head, and then one puts oil between his eyelids.”*
- E. *Another Tannaite authority repeated, “To begin with one puts oil between his eyelids and then one pours the oil on his head.”*
- F. *This represents a dispute among Tannaite tradents.*
- G. *One holds that anointing the oil, smearing it on the forehead, has preference, and the other, pouring the oil takes preference.*
- H. *What is the verse of Scripture that sustains the position of him who holds that pouring the oil takes precedence? It is as follows: “And he poured from the anointing oil upon Aaron’s head and anointed him to sanctify him” (Lev. 8:12) [so pouring is said first].*
- I. *And the one who takes the view that anointing is preferred maintains that this was the method used in connection with anointing the utensils for the ministry [Lev. 8:10-11].*
- J. *But is it not written, “he poured” and then “anointed”?*
- K. This is the sense of the matter: why did he pour the oil? because he had already anointed him to sanctify him.

#### **V.17.** *A. Our rabbis have taught on Tannaite authority:*

- B. “Behold, how good and pleasant it is for brothers to dwell together in unity. It is like the precious oil upon the head, running down upon the beard, upon the beard of Aaron, running down on the collar of his robes, it is like the dew of Hermon which falls on the mountains of Zion” (Psa. 133: 1-3) —
- C. Two drops of oil, like pearls, were hanging down from Aaron’s beard.
- D. *Said R. Kahana, “It was taught by a Tannaite authority: ‘When Aaron was talking, the drops would ascend and set on the roots of his beard. On this account Moses our rabbi was worried, “...lest — God forbid — I*



might have committed sacrilege against the anointing oil.” But an echo came forth and said, “It is like the precious oil upon the head, running down upon the beard, upon the beard of Aaron, running down on the collar of his robes, it is like the dew of Hermon which falls on the mountains of Zion.” Just as dew is not subject to sacrilege, so the oil that drips down on the beard of Aaron is not subject to sacrilege.

- E. ““Still Aaron was worried: “Maybe Moses hasn’t committed sacrilege, but I may have committed sacrilege!”
- F. ““An echo came forth and said, “Behold, how good and pleasant it is for brothers to dwell together in unity” (Psa. 133: 1). Just as Moses has not committed sacrilege, so you have not committed sacrilege.””

### *Anointing Kings Beside a Spring. (And Other Omens)*

**V.18.** A. *Our rabbis have taught on Tannaite authority:*

- B. Kings are anointed only at the side of a spring, so that their rule may be prolonged: “And the king said to them...and bring him down to Gihon, and anoint him there” (1Ki. 1:32-34 pass.).

**V.19.** A. *Said R. Ammi, “One who wants to know whether or not he will live out the year should bring a burning lamp during the ten days between the New Year and the Day of Atonement, and put it in a house in which there is no breeze. If the lamp burns to the end, he will know that he will live out the year.*

- B. *And someone who wants to do business and wants to know whether he will make out or not, — let him get a cock and feed it. If the cock gets fat and sleek, he will know that he will succeed.*
- C. *Somebody who is going to take a trip and wants to know whether or not he will return him — let him go into a darkened room. If he can perceive [6A] he reflection of his shadow, he will know that he will get back home. But this is not really a valid procedure, for someone may get discouragement and ruin his luck.”.*
- D. *Said Abayye, “Now that you have said that omens are consequential, people should make it a habit on the New Year to eat pumpkin, fenugreek, leek, beets, and dates.”*

**V.20.** A. *Said R. Mesharshiyya to his sons, “When you want to go to learn before your master, first of all review your studies in the Mishnah, and then go to your teacher.*

- B. *“And when you are in session before your teacher, watch the mouth of your teacher: ‘But your eyes shall see your teacher’ (Isa. 30:20).*
- C. *“When you study any teaching, do it by the side of water. Just as water goes on and on, so may your learning may go on and on. Stay on the garbage dumps of Mata Mehasia rather than in the palaces of Pumbedita, eat a rotten fish rather than a bread pudding that breaks rocks.”*

**V.21.** A. “And Hannah prayed and said, My heart exults in the Lord, my horn is exalted” (1Sa. 2: 1) —



- B. “my horn” is exalted, but not “my jar is exalted.”
- C. David and Solomon were anointed out of a horn, so their rule went on and on; Saul and Jehu were anointed out of a jar [1Sa. 10:1, 2Ki. 9:1,3], and their rule did not go on and on.

The exposition of the next clause of the Mishnah-paragraph proceeds along the same lines as the foregoing, that is, introducing distinctions as to culpability, of which the Mishnah-rule knows nothing.

## **VI.1 A. and he who compounds incense like that made in the Temple:**

- B. *Our rabbis have taught on Tannaite authority:*
- C. He who compounds incense in order to learn about it or in order to hand it over to the community is exempt. But if he does so in order to sniff it, he is liable. But he who actually sniffs it is exempt from liability, even though he has committed an act of sacrilege.

The distinction in respect to intentionality has introduced a further clarification: the act of sniffing the compound is culpable. This detail is now clarified.

- D. *But is an act of sacrilege committed merely through smelling something that is consecrated?*
- E. And did not R. Simeon b. Pazzi said R. Joshua b. Levi said in the name of Bar Qappara, “Hearing, seeing, and smelling things that are consecrated are not acts of sacrilege.”
- F. [This refers to] smelling once the pillar of incense has gone upward [and burned up], in which case there is no consideration of sacrilege. For there is no classification of substance to which sacrilege pertains once the religious duty assigned to that substance has been carried out. [Sacrilege applies so long as the substance is sanctified, but once the substance has carried out its purpose and is no longer sanctified, an act of sacrilege does not pertain.]
- G. *Really now! And lo, there is the case of the taking up of the ashes [that are taken off the altar and set beside the altar], in which case the religious duty to be done with the substance has already been carried out, and yet the law of sacrilege does apply to it.*
- H. *The reason is that* the taking up of the ashes and the garments of the high priest [used on the Day of Atonement, cf. Lev. 16:23-24] form two verses of Scripture that intersect, and where you have two verses of Scripture that intersect, they do not yield any inferences. [The explicit instances to which the law pertains are deemed to exhaust the cases to which that law applies., so there is no generalizing beyond the specified cases.]
  - I. *That poses no problem to the position of rabbis, but as to that of R. Dosa, what is there to be said?*
  - J. *For it has been taught on Tannaite authority:*
  - K. “And he shall place the garments there” (Lev. 16:23) —
  - L. this teaches that they have to be hidden away [and not used again; they are subject to sacrilege even after they have been utilized].
  - M. R. Dosa says, “They are valid for use by an ordinary priest. Then what is the meaning of Scripture when it states, ‘And he shall place the garments

there'? It means that they should not be used on another Day of Atonement.

- O. [Shifting the ground of argument, therefore, we proceed:] The operative consideration then is that the taking up of the ashes from the altar and the rule concerning the heifer whose neck is broken [in the case of an unsolved homicide] form two verses of Scripture that intersect, and where you have two verses of Scripture that intersect, they do not yield any inferences. [The explicit instances to which the law pertains are deemed to exhaust the cases to which that law applies., so there is no generalizing beyond the specified cases.]
- P. *What is the pertinent passage covering the taking up of the ashes from the altar?*
- Q. *It is in accord with that which has been taught on Tannaite authority:*
- R. "He shall place it by the side of the altar" (Lev. 6: 3) — this teaches that they have to be hidden away [and not used again; they are subject to sacrilege even after they have been utilized].
- S. *What is the pertinent passage covering the taking up of the heifer whose neck is to be broken?*
- T. *It is in accord with that which has been taught on Tannaite authority:*
- U. "And he shall break the heifer's neck there in the valley" (Deu. 21: 4) — this teaches that it is to be buried [and not used again; the corpse then is subject to sacrilege even after they have been utilized].
- V. To him who says that two verses of Scripture that where you have two verses of Scripture that intersect, they do yield any inferences, here they most assuredly yield no lessons that would pertain to other instances, *because you have two exclusionary traits in reference to the taking up of the ashes.* It is written, "he shall place it" — *it and not anything else;* and with reference to the heifer whose neck is to be broken, it is written, whose neck is broken — *only the one whose neck is broken and not anything else.*

### *The Mixture for the Incense*

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

- B. The mixture for the incense [consisted of the following:] balm, onycha, galbanum, and frankincense, each in the quantity of seventy manehs; myrrh, cassia, spikenard and saffron, each sixteen manehs by weight; costus, twelve; aromatic rind, three; cinnamon, nine manehs; lye of leeks, nine qabs; Cyprus wine, three seahs and three qabs; if Cyprus wine is not in hand, old white wine may be used instead; salt of Sodom, a fourth of a qab; and of smoke-raiser, a minute quantity.
- C. R. Nathan says, "Also a minute quantity of Jordan resin."
- D. If one put in honey, he has invalidated the compound.
- E. If one left out any of all of the required ingredients, he is liable to death.
- F. R. Simeon says, "Balm is no more than a resin that exudes from the wood of the balsam tree."
- G. Lye of leeks was rubbed over the onycha to beautify it, and Cyprus wine was used for steeping the onycha to intensify its odor.

- H. Is it not the case that urine would be good for that purpose? But urine is not brought into the sanctuary.
- I. *This supports the view of R. Yosé b. R. Hanina, who has said, “...it is holy and it shall be holy to you’ (Exo. 30:32) means, everything that pertains to it should be located only within the sanctuary [and that explains why urine cannot be used for steeping the onycha, since that process would have then to be done outside of the sanctuary].”*
- J. An objection was raised from the following:
- K. **He who sanctifies his property, and included in it were items suitable for use for public offerings — “they are to be given to the craftsmen for their salary,” [the words of R. Aqiba. Said to him Ben Azzai, “That method is not correct in this case. But they set apart from it materials to be used for the wages of the craftsmen, and they render what has been designated deconsecrated in exchange for the money that is due to the craftsmen, and they pat it over to the craftsmen as their salary, and then they go and buy it back from them out of the new heave offering of the sheqels that have been paid for the support of the Temple”] [M. Sheq. 4:6].**
- L. *Now what can be meant by items suitable for use for public offerings? If what is meant are cattle and beasts, that has already been specified, and if what is meant are wine, oil, and flour, that too has been specified. So what is under discussion here must be frankincense [which proves that one may compound the frankincense outside of the Temple, under secular conditions, and then consecrate it to the Temple].*
- M. Said R. Oshaiah, “It refers to that which is given to the craftsmen for their wages [that is, the remnant of frankincense left over from the preceding year; what was bought with money paid in the prior year was not used in the new year. The left over would be used in this way.]”
- N. *For it has been taught on Tannaite authority:*
- O. **The surplus of the frankincense left over from the prior year — what did they do with it? They set it aside for paying the wages of the craftsmen, and after they declare it unconsecrated in exchange for the wages of the craftsmen, they hand it over to the craftsmen as their salary. And they go and buy it back from them with money taken up from the fresh heave offering of the sheqels. If the new funds came in due time, they buy it back with money from the new heave offering of the sheqels, but if not, they buy it back with money from the old [M. Sheq. 4:5].**
- P. *R. Joseph objected, “But in connection with all surpluses, the language is used, ‘and then it is bought back again with money from the new sheqel offering,’ while in connection with this teaching that phrase does not appear! [So at issue cannot be surplus materials]!”*
- Q. Rather, said R. Joseph, “It refers only to one of the ingredients of the frankincense [before the mixing, not to the already compounded incense].”

**VI.3.** A. *Our rabbis have taught on Tannaite authority:*

- B. The frankincense was made of three hundred and sixty-eight manehs, three hundred and sixty-five for the days of the solar year, three for the high priest to take as handfuls into the Holy of Holies on the Day of Atonement.
- C. The surplus was paid to the craftsmen for their wages from the Temple treasury.
- D. *So we have learned on Tannaite authority:* What was done with the surplus? From it they designated the wages of the craftsmen, and the remnant was then exchanged for this money and bought back from them again with money of the Temple chamber.

**VI.4.** A. **[6B]** *Our rabbis have taught on Tannaite authority:*

- B. “Because of the build up of surplus frankincense, once in every sixty or seventy years they mixed only half the quantity. Therefore, if someone should compound half of the requisite quantity, he is culpable under the law,” the words of Rabban Simeon b. Gamaliel, who reported this in the name of the prefect of the priests.
- C. “But as to making a third or a fourth of the volume, I have heard nothing.”
- D. And sages say, “Every day he would prepare frankincense for that day according to the relative proportions of the composition [divided up into the number of days covered by the whole], and he offered that up that day.”
- E. *This supports the position of Raba, for* Raba has said, “If one compounded half of the quantity of frankincense, he is liable, for it is written, ‘and the incense that you shall make’ (Exo. 30:37) — whatever quantity you make, *and lo, it is possible to make half for the dawn offering and half for the dusk offering.*”

**VI.5.** A. *Our rabbis have taught on Tannaite authority:*

- B. “They would put the incense back into the mortar [to improve its smell] twice a year. During the sunny season it is scattered so that it does not rot, and during the rainy season it is heaped up, so that its fragrance does not diffuse.
- C. “And when he pounds it in the mortar, he says, ‘Pound well, pound well,’” the words of Abba Yosé b. Yohanan.
- D. And the three remaining manehs, from which the high priest on the Day of Atonement separates his handfuls, are put back into the mortar on the eve of the Day of Atonement and pounded very well, so that the incense is the best of the best.
- E. *So it has been taught on Tannaite authority:*
- F. Why does Scripture say, “beaten small” (Lev. 16:12), since it is already stated, “and you shall beat some of it very small” (Exo. 30:36)?
- G. It means that it is to be the best of the best.

**VI.6.** A. A master has said, “And when he pounds it in the mortar, he says, ‘Pound well, pound well.’”

- B. This supports the view of R. Yohanan, for R. Yohanan has said, “Just as speech [talking during the process] is bad for wine, so it is good for spices.”

- VI.7.** A. Said R. Yohanan, “Eleven kinds of spices [not only the four that are mentioned at Exo. 30:34] were specified to Moses at Sinai.”
- B. Said R. Huna, “*And what is the verse of Scripture that proves it? Take to you sweet spices’ — two; ‘stacte, onycha, galbanum,’ now five; ‘sweet spices,’ another five, thus ten; ‘with pure frankincense,’ one, thus eleven.*”
- C. Why not say “‘sweet spices’ at the outset is an encompassing statement, “stacte, onycha, and galbanum” then serve as an amplification in specific terms, with “sweet spices” at the end another encompassing statement; that would yield a generalization followed by an amplification in specific terms following by another generalization, with the result that only the things that share in the traits of what is made explicit may be derived. The upshot is, just as the several items that are specified by name are substances the smoke of which ascends straight up and the fragrance of which diffuses, so every substance the smoke of which ascends straight up and the fragrance of which diffuses should be included.
- D. *And if you should say, if so, in this case only one item that has been specified had to be made explicit, I shall answer, no, all three are necessary. For if “stacte” alone had been written, I might have said, “Only things that come from a tree are to be used, but not what grows out of the ground.” So it was necessary to mention onycha. And if onycha alone had been mentioned, I might have said, “Only things that grow from the ground are used, but not things that come from the tree.” So it was necessary also to refer to stacte. And as to galbanum, that too was required on its own, since it has a bad smell [and therefore without being told that item, I never would have been likely to include it].*
- E. But if [the purpose of counting out the items to expound the verse by appeal to the principle that a generalization followed by an amplification in specific terms following by another generalization, with the result that only the things that share in the traits of what is made explicit may be derived,] *then the phrase, “take unto you” could have served as a generalization, without adding the word “spices”! Rather, why not interpret “sweet spices” that appears at the end of the verse to speak of two, just as “sweet spices” in the beginning of the verse speaks of two [not five].*
- F. *Then it should have stated the two “sweet spices” side by side, then give “stacte, onycha, and galbanum.”*
- G. *So it was taught by the Tannaite authority of the household of R. Ishmael: “‘Sweet spices’ is a generalization, ‘stacte, onycha, galbanum,’ an amplification in specific terms, and ‘sweet spices’ again is a general and encompassing statement. When you have a generalization, an amplification in specific terms, and another encompassing generalization, one can derive only things that share the qualities of what has been made explicit. Just as the several items that are specified by name are things the smoke of which ascends straight up and the fragrance of which diffuses, so everything the smoke of which ascends straight up and the fragrance of which diffuses should be included.” [Porusch: Ishmael’s school resorts both to the principle of generalization and to the exposition of Huna, with the former teaching that the components must be such as yield ascending smoke and diffusing fragrance, the latter tells the number].*

H. But perhaps that is not the sense, rather, take the generalization with the first generalization, the amplification with the first amplification? Say: this cannot be; hence you must not expound according to the latter version but rather according to the former.

**VI.8.** A. A master has said, “But perhaps that is not the sense, rather, take the generalization with the first generalization, the amplification with the first amplification? Say: this cannot be; hence you must not expound according to the latter version but rather according to the former.

B. *What is the problem here? This is the difficulty.*

C. *This is the difficulty: let the “sweet spices” that occur in the latter part of the verse mean “two,” just as the “sweet spices” in the former part of the verse mean “two.” And he replied as was stated earlier. Then it should have stated the two “sweet spices” side by side, then give “stacte, onycha, and galbanum.”*

D. *What is the meaning of, “the amplification with the first amplification”?*

E. *This is what was bothering him: things that come from a tree derive from stacte, things that come from the ground derive from onycha, so why not derive from “pure frankincense” everything that has a single quality in common with it, that is, that their fragrance diffuses, even though their smoke does not ascend upwards [Porusch: and thus the question is, perhaps the last specification is to be taken in conjunction with the first, and the others that precede the second generalization].*

F. *He replied, “If so, ‘pure frankincense’ should have been written along with the others, so that you could make use of that in deriving the rule.”*

G. *But if “pure frankincense” were written among the others, then we would have twelve species [for the second use of “sweet spices” doubles the number of spices that have been enumerated, which are now six, not five].*

H. *“Pure frankincense” should have been written among the other, and “galbanum” at the end.*

I. *R. Simeon b. Laqish said, “From the word itself it can be inferred: ‘frankincense’ refers to something the smoke of which rises upwards.”*

**VI.9.** A. Said R. Hana bar Bizna said R. Simeon the Pious, “Any fast in which are not participating sinners among the Israelites is no fast.

B. “For lo, as to galbanum, the odor stinks, and yet it was included among the spices for the incense.”

C. Abayye said, “That is proved from here: ‘and hath founded his vault upon the earth’ (Amo. 9: 6).”

We proceed to clarify the next item of the Mishnah’s list. The clarification has no bearing on the large question of extirpation. Rather, it concerns the specific action that is not penalized, and that clarification carries its own point of interest. The main point is that the anointing oil must be used in some way analogous to its correct cultic function. If it is used in a way totally outside of its cultic purpose — the anointment of an Israelite — then the utilization of the oil is not culpable. We do not take account of using oil in a way outside of the natural and normal manner.



## **VII.1 A. and he who anoints himself with anointing oil:**

- B. *Our rabbis have taught on Tannaite authority:*
- C. He who pours anointing oil on cattle or utensils is exempt from liability; if he does so over gentiles or corpses, he is exempt from liability.
- D. *Now there are no problems with the case of cattle or utensils, for it is written, “upon the flesh of an Adam it shall not be poured” (Exo. 30:32), and utensils and cattle are not classified as an Adam. And even with respect to the dead, there is no problem, one is not culpable, for after death one is called a corpse, not an Adam. But how can one be exempt in the case of gentiles, for are they not in the classification of an Adam?*
- E. No, they are not; it is written, “and you my sheep, the sheep of my pasture, are an Adam” (Eze. 34:31) — and gentiles are not classified as an Adam.
- F. But is it not written, “And the Adam were sixteen thousand” Num. 31:40, speaking of the Midianites]?
- G. *He said to him, “That is used to exclude beasts.”*
- H. But is it not written, “And should I not have pity on Nineveh, that great city, wherein are more than six hundred thousand Adam” (Jon. 4:11)?
- I. *That too serves to exclude beasts.*
- J. *But if you prefer, I shall work out the matter in line with what a Tannaite authority repeated before R. Eleazar: “Whoever is subject to the prohibition ‘he shall not pour’ is subject to the law, ‘it shall not be poured over him,’ but who is not subject to ‘he shall not pour’ is not subject to ‘it shall not be poured over him’ [so the prohibition of using the holy oil for ordinary purposes pertains only to Israelites].”*

## **VII.2. A. Our rabbis have further taught on Tannaite authority:**

- B. He who anoints with the holy oil cattle, utensils, gentiles, or corpses is exempt from culpability; if it uses it for kings and for priests —
- C. R. Meir declares him liable.
- D. R. Judah declares him exempt.
- E. And what volume of oil must he use in order to incur culpability?
- F. R. Meir says, “Any amount at all.”
- G. R. Judah says, “About an olive’s bulk.”
- H. *But R. Judah just said that he is exempt anyhow!*
- I. *R. Judah declares one exempt in the case of kings and priests, but if it is an ordinary person, he declares one liable [for using the holy oil for anointing such a person].*
- J. *What is at issue between R. Meir and R. Judah?*
- K. *Said R. Joseph, “This is what is at issue between them. R. Meir maintains, ‘It is written, “Upon the flesh of man it shall not be poured” (Exo. 30:32), and further, “or whoever puts of it upon a stranger” (Exo. 30:33). Just as the prohibition of anointing applies to any amount at all, so the prohibition of putting it upon a stranger involves that some minute volume of oil.’ And R. Judah takes the view that we derive the meaning of ‘putting the oil on a stranger’ from the rule of ‘putting’ that is used in other contexts; just as ordinary, ‘putting’ involves at least*

*an olive's bulk, so here too that is the requisite volume to incur culpability. But as regards pouring anointing oil for kings and priests, both concur that any volume at all suffices."*

- L. *And said R. Joseph, "What is at issue between R. Meir and R. Judah in respect to kings and priests? R. Meir takes the view that 'or whoever puts of it upon a stranger' applies, and in this context, king and priest now constitute strangers; R. Judah holds that to be culpable, the one who is deemed a stranger has always to have been a stranger, but kings and priests are not always considered strangers [for there was a time in which they had to be anointed, even though now that is not the case]."*
- M. *Said R. Iqā b. R. Ammi, "They are consistent with views expressed elsewhere. For it has been taught on Tannaite authority."*
- N. **[7A] "The daughter of a priest who was married to an Israelite and nonetheless ate priestly rations must pay compensation for the principal but does not have to pay compensation for the added fifth; and should she incur the death penalty, it is by burning; if she was married to one of those who are unfit for the marriage into the priesthood, however, if she eats priestly rations, she has to pay compensation for the principal and also the added fifth, and she is subject to the death penalty of strangulation,"** the words of R. Meir.
- O. **And sages say, "All the same are this and that classification of priest's daughter: she repays the principal but not the added fifth, and should she incur the death penalty for licentiousness it is with burning" [M. Ter. 7:2].** [Porusch: Meir does not take into consideration the fact that she was once fit for the priesthood, while sages hold she has the status of the priest's daughter by reason of her former inclusion in the priestly caste. The arguments are similar to those underlying the previous dispute.]
- P. *Said R. Joseph, "The dispute concerns only putting oil of anointing and as just now spelled out; but in other cases all concur that 'placing' involves a volume of at least an olive's bulk."*

### **VII.3.** A. *Reverting to the body of the prior text:*

- B. *A Tannaite authority repeated before R. Eleazar: "Whoever is subject to the prohibition 'he shall not pour' is subject to the law, 'it shall not be poured over him,' but who is not subject to 'he shall not pour' is not subject to 'it shall not be poured over him' [so the prohibition of using the holy oil for ordinary purposes pertains only to Israelites]."*
- B. *He said to him, "Quite so. It is written, 'it shall not be poured,' but read 'he shall not pour.'"*

### **VII.4.** A. *R. Hananiah repeated on Tannaite authority in session of Raba, "How on the basis of Scripture do we know that if a high priest took some of the anointing oil on his head and rubbed it on his belly, he is liable? As it is said, 'on the flesh of a man it shall not be poured.'"*

- B. *Said R. Aba b. Raba to R. Ashi, "How is it different from the case treated in the following Tannaite statement: 'A priest who rubbed anointing oil may allow*

**may allow his daughter's son, who is in the Israelite caste, rub against him without concern [T. Ter. 9:8]?"**

- C. He said to him, "There it is written, 'and die therein, if they profane it' (Lev. 22: 9) — *one it has been rendered profane, it remains so, but with regard to the anointing oil it is written, 'for the consecration of the anointing oil of his God is upon him' (Lev. 21:12) — since Scripture thus refers to it as anointing oil even though it is on him, it has not been rendered common [having been used for its assigned purpose].*"

We proceed to the exposition of the dispute between Meir and sages as to exceptions to the rule of the Mishnah, and the language is clarified.

**VIII.1 A. For those [transgressions] are people liable, for deliberately doing them, to the punishment of extirpation, and for accidentally doing them, to the bringing of a sin offering, and for not being certain of whether or not one has done them, to a suspensive guilt offering [Lev. 5:17] — "except for the one who imparts uncleanness to the sanctuary and its Holy Things, because he is subject to bringing a sliding scale offering (Lev. 5: 6-7, 11)),**" the words of R. Meir. And sages say, "Also: [except for] the one who blasphemes, as it is said, 'You shall have one law for him that does anything unwittingly (Num. 15:29)' — excluding the blasphemer, who does no concrete deed:"

- B. *It thus is taught, "except for the one who imparts uncleanness to the sanctuary and its Holy Things, because he is subject to bringing a sliding scale offering (Lev. 5: 6-7, 11)),*" the words of R. Meir.
- C. *On what basis does he exclude the specified item?*
- D. *This is the sense of the passage: except for the one who imparts uncleanness to the sanctuary, in that he does not present a suspensive guilt offering [for such is offered only in cases comparable to those in which, if one is certain that one has unwittingly transgressed, he brings a sin offering of fixed value. For making the sanctuary unclean, an offering of variable value is required.]*
- E. *But then the passage should include also, "except for one for whom, in the interval, the Day of Atonement has gone by, who does not present a suspensive guilt offering either, [for the Day of Atonement effects atonement for sins of which one is in doubt]"?*
- F. *Said R. Simeon b. Laqish, "When the passage is formulated, the authority in hand addresses only cases in which a sin offering is what is at issue [that is, where one knows for certain one has made a transgression, though this was done inadvertently], but the All-Merciful has exempted someone from bringing a suspensive guilt offering in case of doubt; but when the Day of Atonement has gone by, then no sin offering is required, for the sin has already been atoned for."*
- G. *R. Yohanan said, "Reference is to a rebellious person, who maintains that the Day of Atonement does not effect atonement. Now if he repents after the Day of Atonement has passed, he is liable to a suspensive guilt offering. R. Simeon b. Laqish, for his part, maintains that the Day of Atonement effects atonement even for someone who rebels and maintains that the Day of Atonement does not effect atonement."*

**VIII.2.** A. *This dispute runs along the same lines as the following:*

- B. He who says, “My sin offering will not effect atonement for me” —
- C. Abayye said, “It does not effect atonement.”
- D. Raba said, “It nonetheless effects atonement.”
- E. *In a case in which one has said, “Let it not be offered,” all parties concur that it does not effect atonement for him. That is because it is written, “He shall bring it with consent” (Lev. 1: 3). Where there is a dispute, it concerns a case in which he says, “Let it be offered, but let it not effect atonement [for me].”*
- F. Abayye said, “It does not effect atonement,” *for lo, he has said, “Let it not attain atonement for me.”*
- G. Raba said, “It nonetheless effects atonement, since he has said, ‘Let it be offered,’ *the atonement comes pretty much automatically.*”

**VIII.3.** A. *But Raba retracted, in accord with the following teaching on Tannaite authority:*

- B. Might one suppose that the Day of Atonement should attain attainment both for those who repent and those who do not repent? But against that proposition is a matter of logic. For a sin offering and a guilt offering attain atonement, and the Day of Atonement attains atonement. Just as in the case of a sin offering and a guilt offering, attain atonement only for those who repent, so the Day of Atonement should provide atonement only for those who repent.
- C. No, if you cite the cases of the sin offering and the guilt offering, which do not attain atonement for the one who sins deliberately in the way in which they do for the one who sins inadvertently, will you say the same for the Day of Atonement, which attains atonement for the one who sins deliberately as much as for the one who sins inadvertently. Since that day effects atonement for the one who sins deliberately as much as for the one who sins inadvertently, it also should attain atonement both for those who repent and those who do not repent.
- D. Scripture states, “but...” (Lev. 23:27), which serves to distinguish [those who repent from those who do not].
  - E. *What is the meaning of “to distinguish [those who repent from those who do not]”?*
  - F. If we say, “those who repent” means that the sin has been done in error, and “those who do not repent” means that the sin has been deliberately, has it not been stated, “No, if you cite the cases of the sin offering and the guilt offering, who do not attain atonement for the one who sins deliberately in the way in which they do for the one who sins inadvertently, will you say the same for the Day of Atonement, which attains atonement for the one who sins deliberately as much as for the one who sins inadvertently. Since that day effects atonement for the one who sins deliberately as much as for

the one who sins inadvertently, it also should attain atonement both for those who repent and those who do not repent”?

- G. Rather, it is in accord with the following statement of Ulla, who said that R. Yohanan said, “If someone ate forbidden fat, and designated an animal for an offering, and then gave up his faith, but then repented, once the designated animal has been rejected, it remains rejected [and cannot be used for a sacrifice].” [Porusch: An apostate’s sacrifice may not be offered on the altar. In accord with this dictum “those that do not repent” signifies people who have apostatized between the separation of the sacrifice and its being offered up.]
- H. *Now even though the animal has been rejected, the man himself remains fit for atonement [and gains the atonement provided by the Day of Atonement].*
- I. So, therefore, “those who repent” are the ones who say, “My sin offering shall attain atonement for me,” and those who do not repent” are those who say, “My sin offering shall effect no atonement for me.”
- J. *That is decisive proof.*
- K. An objection was raised:
- L. Might one say that the Day of Atonement attains atonement only for one who afflicts himself and does not work on it and calls it a holy convocation, but if one did not afflict himself on it and did work on it and did not call it a holy convocation, might one suppose that the Day of Atonement should not effect atonement for him? Scripture states, ““It is the Day of Atonement” (Lev. 23:27) — under all circumstances.
- M. Now these two statements [the one just quoted, and the one that says, “Might one suppose that the Day of Atonement should attain attainment both for those who repent and those who do not repent? But against that proposition is a matter of logic. For a sin offering and a guilt offering attain atonement, and the Day of Atonement attains atonement. Just as in the case of a sin offering and a guilt offering, attain atonement only for those who repent, so the Day of Atonement should provide atonement only for those who repent. No, if you cite the cases of the sin offering and the guilt offering, who do not attain atonement for the one who sins deliberately in the way in which they do for the one who sins inadvertently, will you say the same for the Day of Atonement, which attains atonement for the one who sins deliberately as much as for the one who sins inadvertently. Since that day effects atonement for the one who sins

deliberately as much as for the one who sins inadvertently, it also should attain atonement both for those who repent and those who do not repent. Scripture states, “but...” (Lev. 23:27), which serves to distinguish [those who repent from those who do not] are given anonymously [therefore as authoritative] in Sifra but they contradict one another!

- N. *Said Abayye, “There is no real contradiction. The one represents the view of Rabbi vis à vis the position of R. Judah, the other, the position of Rabbi in his own account.”*
- O. *For it has been taught on Tannaite authority:*
- P. Rabbi says, “For all of the transgressions that are listed in the Torah, whether one has repented or not repented, the Day of Atonement attains atonement, except for one who breaks the yoke [of the kingdom of heaven from himself, meaning, denies God] and one who treats the Torah impudently, and the one who violates the physical mark of the covenant. In these cases if one has repented, the Day of Atonement attains atonement, and if not, the Day of Atonement does not attain atonement.”
- Q. *Raba said, “Both versions represent the position of Rabbi in his own account. But Rabbi concurs that in the case of transgressions having to do with the Day of Atonement itself, the Day does not attain atonement. For if you do not say this, then, in Rabbi’s opinion, how could the penalty of extirpation inflicted for violating the laws of the Day of Atonement ever be inflicted, since, on that day, atonement is continuous.”*
- R. *But what is the problem? One might have done work by night and died at dawn, so that there was no day to effect atonement for him.*
- S. *Well and good for the penalty of extirpation for what is done by night, but how are you going to find a case involving the penalty of extirpation for what is done by day?*
- T. *But what is the problem? One might have been eating a meal and been choked by a lump of meat and died, so that there was no time during the day for the atonement to take effect for him; or when he was working right before sunset; or when he was working he cut off his thigh with an axe and died; so that there was no time during the day to atone for him.*

The clarification of the next item involves attention to the formulation of the Mishnah-rule, specifically, the sense of the word “also,” which bears the implication of continuity within a single classification.



**IX.1** A. And sages say, “Also: [except for] the one who blasphemes, as it is said, ‘You shall have one law for him that does anything unwittingly’ (Num. 15:29) — excluding the blasphemer, who does no concrete deed:”

- B. *What is the meaning of “Also: [except for] the one who blasphemes”? [The “also” cannot link this item to the immediately preceding one, which refers to suspensive guilt offerings that are brought for sins that may or may not have taken place.]*
- C. *Rabbis had heard concerning R. Aqiba that he had repeated in the category of sins listed in the Mishnah, which, if done in error, may be expiated with a sin-offering the case of the one who has a familiar spirit but not the soothsayer. So they said to him, “What makes the other exceptional, that he does not bring an offering? It is because it involves no concrete action. The blasphemer too performs no concrete action.”*

We are now given the composition to which reference has just been made.

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

- B. “One who blasphemes brings an offering, for extirpation is stated by Scripture in that regard,” the words of R. Aqiba.
- C. And Scripture further says, “He will bear his iniquity” (Lev. 24:15).
- D. *Now is it an encompassing rule that in any context in which Scripture has specified the penalty of extirpation, one may bring an offering [as in the present context]? Lo, there is the matter of Passover and circumcision, in both of which areas of the law extirpation is specified by Scripture as the penalty, and yet there is no provision for bringing an offering!*
- E. **[7B]** *This is the sense of the matter:*
- F. “One who blasphemes brings an offering, since in that context extirpation is mentioned in connection with the bringing of an offering [cf. Num. 15:30: ‘But the person who does anything with a high hand...reviles the Lord...that person shall be cut off from among his people,’ in the context of Num. 15:27: ‘If one person sins unwittingly, he shall offer a female goat a year old for a sin offering’], “the words of R. Aqiba.
- G. *In his mind is the theory that, since, if Scripture had wanted, it could have made reference to extirpation on its own, but it has made mention of extirpation in a context in which offerings are involved, it follows that such a one brings an offering.*
- H. And Scripture further says, “He will bear his iniquity” (Lev. 24:15) — *this is in connection with the position of rabbis.*
- I. *And this is what rabbis said to R. Aqiba, “You hold that the blasphemer is liable to an offering, because the Torah has made mention of extirpation in a context in which offerings are involved, so it follows that such a one brings an offering. So you assume that when Scripture speaks of ‘one who blasphemes,’ it is one who blasphemes the name of the Lord. But ‘one who blasphemes’ refers in particular to one who worships idols. And as to the Mishnah’s statement, **And sages say, ‘Also: [except for] the one who blasphemes,’ this is the sense of the matter: ‘Also, one who blasphemes the name, which you call a blasphemer.’***

- J. “And how do you know that extirpation is the penalty for one who blasphemes the name [since Num. 15:30 speaks of idolatry]?”
- K. “In connection with blasphemy we read, ‘He will bear his iniquity’ (Lev. 24:15), and in connection with the second Passover, we read, ‘He will bear his iniquity’ (Num. 9:13). Just as in the latter case, extirpation is the sanction, so in the former case, extirpation is the sanction.”

We proceed with a secondary matter, the exposition of Num. 15:30, to which reference has just been made.

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

- B. “[But the person who does anything with a high hand]...reviles the Lord...[that person shall be cut off from among his people]” (Num. 15:30)  
—
- C. Isi b. Judah says, “It is like someone who says to his fellow, ‘You have scraped the dish and diminished it,’” so the word refers to one who curses the Name of God.
- D. R. Eleazar b. Azariah says, “It is like someone who says to his fellow, ‘You have scraped the dish but you have not diminished it,’” so he holds that the word refers to one who worships idols.
- E. *Our rabbis have further taught on Tannaite authority:*
- F. “But the person who does anything with a high hand...reviles the Lord...that person shall be cut off from among his people” (Num. 15:30)  
—
- G. R. Eleazar b. Azariah says, Scripture speaks of one who worships an idol.”
- H. Sages say, “It serves solely to assign the penalty of extirpation to one who curses the Name.”

Let us review the construction of the whole. I.1 begins with a fine piece of rhetorical analysis, explaining why, in a variety of cases, an enumeration is provided prior to a list of species of a common genus. No. 2 then addresses a detail introduced at No. 1 and expands the discussion of that important item. No. 3 goes forward with the same issue as No. 2, and the whole explains why there are distinct counts of extirpation for such a large variety of actions that can, in point of fact, be subsumed within a single classification and hence be penalized on a single count. No. 4 continues No. 3. II.1 moves us to another distinct item, showing that a systematic exegesis of all entries is underway, since once again we begin with Yohanan’s conception of the reading of the Mishnah-paragraph as a whole. III.1 repeats the same inquiry, which shows us that a single plan has defined the problematic to which our Mishnah-paragraph’s exegesis would be directed. No. 2 simply goes its own way, tacked on to the former because of the congruity of the problem of defining a parallel case to the one of the Sabbath. No. 3 reverts to the problem of No. 1, providing a fine solution to it. No. 4 develops the foregoing. No. 5 then moves on to a speculative law, building on the preceding discussion. It has its own focus of interest, however, which is the comparison of our Mishnah-paragraph with M. **San. 7:7F-I**, and much of the discussion is verbatim at B. San. 65A-B/7:7F-I/I.A-MM.

The exposition of IV.1 appeals to begin with to a Tannaite amplification of the rule. At issue once more is the subdivision of classes of offenses (for which the sin offering is owing in case of an inadvertent transgression), which is the natural next question flowing from the Mishnah's classification and enumeration. But we see that the discussion has its own generative considerations and hardly concerns the issues that occupy us; at stake are hermeneutic principles of argument, not the law for our case. This entire discussion can have been worked out entirely outside of the framework of our Mishnah-paragraph. No. 2 moves right onward from the concluding point of No. 1, which completes the discussion of the number of counts on which one may be liable in the case at hand. The composition is distinct from the foregoing, but the composite flows very smoothly from No. 1 to No. 2. No. 3 continues No. 2, and No. 4, No. 3. No. 5 continues a discussion inaugurated in No. 4, No. 6, No. 5. No. 7 seems to me to open new territory, but the basic issue is the well-established one: how we know on how many counts a person is liable to flogging. Not only so, but the specific concern is identical to the foregoing composite. No. 8 of course carries forward precisely the same problem. It is identical in everything but subject-matter. What can we say of Nos. 9-12, on not treating lightly the specified hermeneutical principle of forming an analogy between two or more passages based on words that are common among them? My best sense is that the prior appeal to the notion that Scripture must make explicit reference to certain words, which cannot have been omitted, persuaded the compositor of the whole to add this beautiful exercise in showing how essential certain formulations are to the framing of the law of the Torah. But that seems a rather flimsy pretext for inserting a composite that in no way intersects with the prior, and clearly fundamental, components of the treatment of the passage of the Mishnah at hand. Still, it seems to me perfectly self-evident, Nos. 1-8 form a sustained and wholly connected discussion, a magnificent accomplishment, since what holds the whole together is not the exegesis of the Mishnah but the interest in how Scripture is properly to be read and interpreted in a variety of contexts but in a single coherent manner.

It may be worth noting that V.1 immediately goes over precisely this same sort of proof of a proposition based on the use of the same word in two distinct passages, but it would seem to me odd that the wonderful composite at hand has been inserted here as preparation for what is to follow; I cannot point to any similar case. V.1 works on a Toseftan complement to our Mishnah-passage. No. 2 goes on to yet another Tannaite teaching. It is introduced simply because it was thematically relevant; here we have no advance on the reading of our Mishnah's clause. The thematic composite continues through Nos. 3-21, running on from item to item, but until nearly the end the sequence proves very coherent throughout. It is easy enough to identify smaller groups that were formed, then joined, prior to the formation of the whole. But the flow is topical and smooth. VI.1 follows the familiar pattern of commencing with the analysis of a thematically-pertinent Tannaite rule. Obviously, a mere catalogue of entries — and that is how our Mishnah-paragraph is read — provokes no sustained analysis of theory or method. The upshot is the formation of entries that simply give more information on a subject introduced by the catalogue at hand. Following the earlier pattern, No. 2 provides further Tannaite factual information on the

established theme. Nos. 3, 4, and 5 simply follow the pattern of No. 1, with a further complement of Tannaite material on the stated theme. No. 6 expands on a detail of No. 5. I take it the reference to a statement of Yohanan concerning the topic at hand at No. 6 accounts for the expansion of a further statement of his at No. 7. No. 8 explains an obscure statement in No. 7. No. 9 is tacked on for obvious reasons. VIII.1 begins with a more familiar kind of Mishnah-exegesis, in which the language of the passage itself is addressed with great care. For the text of Lff., I follow Porusch/Rashi. No. 2 provides a pertinent complement of information. IX.1, 2 follow the established pattern of beginning with Tannaite materials that are thematically pertinent to the item on the list that is under discussion. This composite too has hardly been made up to serve the analytical interests of an exegete of the Mishnah-paragraph before us. Nos. 3, 4 elaborate on the foregoing.

### 1:3

- A. (1) There are women who bring a [sin] offering [after childbirth], and it is eaten [by the priests], (2) and there are women who bring an offering, and it is not eaten, (3) and there are women who do not bring [an offering].
- B. These [women after childbirth] bring an offering, and it is eaten:
- C. (1) "She who aborts something which is like a beast or a wild animal or a bird," the words of R. Meir.
- D.. And sages say, "[She does not bring an offering] unless it bears human appearance."
- E. She who aborts (1) a sandal or (2) an afterbirth or (3) a fully fashioned foetus or (4) an offspring which is cut up [during delivery].
- F. And so a slave-girl who gives birth brings an offering, and it is eaten.

### 1:4

- A. These bring [an offering], but it is not eaten:
- B. (1) She who aborts, and it is not known what it is that she has aborted;
- C. and so: two women who aborted, one [producing] something which is exempt [from the requirement of bringing an offering], and one [producing] something which is liable [to an offering].
- D. Said R. Yosé, "Under what circumstances? When this one went east and that one west. But if the two of them are standing together, they [together] bring [one] offering, and it is eaten."

### 1:5

- A. These are those who do not bring [an offering at all]:
- B. She who aborts a foetus (1) filled with water, (2) filled with blood, (3) filled with variegated matter;
- C. she who aborts something shaped like (1) fish, (2) locusts, (3) abominable things, or (4) creeping things;
- D. she who aborts on the fortieth day.
- E. And [she who produces] that which comes forth from the side.

**F. R. Simeon declares liable in the case of [producing] that which comes forth from the side.**

**I.1 A. How on the basis of Scripture do we know the law on the slave-girl [And so a slave-girl who gives birth brings an offering, and it is eaten]?**

B. *It is in accord with that which our rabbis have taught on Tannaite authority:*

C. “Speak to the children of Israel: if a woman conceives and bears a male child...she shall bring...” (Lev. 12: 2ff.) — on the basis of this statement, I know only that the requirement to bring an offering which is eaten applies to the children of Israel. How do I know that it applies also to a woman convert and to a slave-girl?

D. Scripture states, “if a woman” — [thus, of any sort].

**I.2. A. And what is the meaning of And so?**

B. *It might have entered your mind that one might think, when we say, all the religious obligations for which a woman is liable, a slave is liable, that is the case when the law applies to both men and women, but as to the laws that deal with a woman after child birth, which apply to women and not to men, I might have thought that the woman slave is not subject to the rule. So we are informed by the Mishnah, which mentions a slave-girl, that the slave-girl is subject to the rule.*

The Mishnah now is clarified by an explanation of the procedure that is followed, since we are told which procedure is not followed.

**II.1 A. These bring [an offering], but it is not eaten [Said R. Yosé, “Under what circumstances? When this one went east and that one west. But if the two of them are standing together, they [together] bring [one] offering, and it is eaten]:**

B. *What do they do? They in common bring a burnt offering in partnership and a sin offering of a bird, subject to doubt, and they make the stipulation [that the one that is certainly a sin offering is assigned to her who owes it, and the other to her who is uncertain of her situation].*

C. *And does R. Yosé concede that one can make such a stipulation? And have we not learned in the Mishnah: A piece of meat of unconsecrated food and a piece of meat consisting of forbidden fat — [if] one ate one of them, and it is not known which of them he ate — he brings a suspensive guilt offering. [If] he ate the second, he brings a sin offering. [If ] one person ate the first, and another came along and ate the second, this one brings a suspensive guilt offering and that one brings a suspensive guilt offering. R. Simeon says, “Both of them bring a single sin offering.” R. Yosé says, “Two do not bring a single sin offering” [M. 5:5]. Therefore R. Yosé does not concede the principle that one can make such a stipulation.*

D. Said Raba, “R. Yosé concedes that that is to be done in the case of one who requires an offering to complete a process of atonement [as in our instance].”

E. *And so when Rabin came he said in the name of R. Yohanan, “R. Yosé concedes that that is to be done in the case of one who requires an offering to complete a process of atonement [as in our instance].”*

F. *What is the operative consideration? There [in the cited passage of the Mishnah, below], someone has to know what sin he has done, since it is written, “If his sin*

be known to him” (Lev. 4:28), so therefore there can be no stipulation, but here, when women bring an offering, it is so that they will be permitted to eat Holy Things, even as has been stated at the concluding clause of that same passage of the Mishnah: **R. Yosé says, “Any sin offering which is brought on account of sin — two people do not bring it “ [M. 5:8H].**

**III.1 A. These are those who do not bring [an offering at all]:...R. Simeon declares liable in the case of [producing] that which comes forth from the side:**

- B. *What is the scriptural basis for the position of R. Simeon?*
- C. Said R. Simeon b. Laqish, “It is written, ‘and if she bear a girl-baby’ (Lev. 12:50 [and not merely ‘if it is a girl-baby’] — this serves to encompass another mode of giving birth, and what is it? It is giving birth through the side.”
- D. *And as to sages, what is the scriptural basis for their view?*
- E. Said R. Mani bar Patish, “It is written, ‘if a woman conceive and give birth’ (Lev. 12: 2) — only where the birth takes place where conception has taken place.”

The clarifications of the Mishnah’s rules and language are episodic and familiar. The persistent interest is one and the same: proof on the basis of Scripture for positions presented by the Mishnah.

**1:6**

- A. **She who produces an abortion on the night [prior to the dawn] of the eighty-first day —**
- B. **The House of Shammai declare [her] exempt from bringing an offering.**
- C. **The House of Hillel declare [her] liable.**
- D. **Said the House of Hillel to the House of Shammai, “What is the difference between the night [prior to the dawn] of the eighty-first day from the eighty-first day itself [when she certainly would be liable]?”**
- E. **“If it [the night] is equivalent to it [the day] in respect to uncleanness, should it not be equivalent to it in respect to an offering?”**
- F. **Said to them the House of Shammai, “No. If you have said so [that a woman is liable] in the case of the woman who aborts on the eighty-first day, at which point it [the abortion] went forth at a time at which it is fitting to bring an offering, will you say so of the one who aborts on the night of the eighty-first day, at which point it [the abortion] did not go forth at a time at which it is fitting to bring an offering?”**
- G. **Said to them the House of Hillel, “And lo, she who produces an abortion on the eighty-first day which coincides with the Sabbath will prove [our case].**
- H. **“For it did not go forth at a time at which it is fitting to bring an offering. Yet she is liable to bring an offering.”**
- I. **Said to them the House of Shammai, “No. If you have said so in the case of her who aborts on the eighty-first day which coincides with the Sabbath, at which time, even though it is not fitting to bring an individual’s offering, it is fitting to bring the community’s offering, will you say so in the case of her who aborts on the night of the eighty-first day, for the night is not a time**



fitting for bringing either an individual's offering or the community's offering.

J. "Her blood [uncleanness] does not prove the matter.

K. "For she who produces an abortion during the days of purifying, her blood is unclean. And she is free of the obligation to bring an offering."

**I.1** A. [8A] *It has been taught on Tannaite authority:*

B. The House of Hillel said to the House of Shammai, "Lo, Scripture says, 'or for a daughter' (Lev. 12: 6), which serves to encompass the eve of the eighty-first day."

**I.2.** A. *R. Hoshaia would frequently come before Bar Qappara. He deserted him and came before R. Hiyya instead. One day he met Bar Qappara and asked him, "If a person afflicted with flux [in line with Lev. 15] produced three new issues of flux during the night of the eighth day [in which case, in line with Lev. 15:14, he should be unclean so as to require seven clean days, with an offering on the eighth], in the view of the House of Hillel, what is the law? Is the operative consideration of the House of Hillel in the case of the abortion produced on the night of the eighty-first day that it is written, 'or for a daughter,' — but in the case of a person afflicted with flux, there will be no sacrifice, there being no redundant verse of Scripture to prove the point? Or perhaps they see no difference between the two cases?"*

B. Bar Qappara said to him, "What did the Babylonian [Hiyya] have to say in this matter?"

C. *R. Hoshaia was silent and said nothing.*

D. *Bar Qappara said to him, "Now do we still have to rely on what Iyya says!"*

E. "Let us return to that which has been stated above:

F. "Lo, Scripture says, 'or for a daughter' (Lev. 12: 6), which serves to encompass the eve of the eighty-first day."

**I.3.** C. *May we say that at issue is a point subject to dispute among Tannaite authorities?*

D. "If a person afflicted with flux [in line with Lev. 15] produced three new issues of flux during the night of the eighth day [in which case, in line with Lev. 15:14, he should be unclean so as to require seven clean days, with an offering on the eighth],

E. *one Tannaite authority says, "He nonetheless brings an offering."*

F. *And another Tannaite authority says, "He does not bring an offering."*

G. *Does this not then appear to be another Tannaite dispute on the same principle, for lo, it has been taught on Tannaite authority, "One brings an offering," in the theory that the night of the eighth day does not mark a period in which time is lacking, and the other who holds that he is exempt maintains that the night is a period wanting in time [the new issues are regarded as falling within the period of seven days resulting from the former uncleanness; no new offering is therefore required]?*

H. *Said R. Huna bar Aha said R. Eleazar, "All authorities of Tannaite status maintain that the night renders a period wanting in time, but the one who holds that he is liable to bring an offering treats a person who has suffered two fluxes,*

and the one who teaches that he is exempt from bringing an offering [supposes that he] deals with a person who has suffered three fluxes.”

- I. *But what is the point in specifying the case of the one who has suffered two issues of flux?*
- J. *This is what we are told: it is in particular if he produced the flux on the eighth night [that the rulings pertain], but if it was on the seventh day, he is not liable, for he holds that any issue that disrupts a period of cleanness on its own does not render one liable to an offering.*
- K. *Said Raba, “Why assign this passage, in the case of the one who says, ‘one does not bring an offering,’ to the case of one who has suffered three fluxes, when, as a matter of fact, it has not been listed in connection with the Mishnah-paragraph, **Five bring a single offering for many transgressions [M. 2:3A]?**”*
- L. *The reason is that that rule does not encompass every possible case [for there are times at which one is liable even for issues on the night of the eighth day, e.g., if two issues were perceived on the eighth day, the issue of the prior night combines with these and imposes liability for a new offering (Porusch)].*
- M. *For R. Yohanan said, “If one saw a flux by night and two on the next day, he brings an offering. If he saw two by night and one the next day, he does not bring an offering.”*
- N. *Said R. Joseph, “You may know that it is the rule that if he saw one by night and two the following day, he brings an offering, for lo, the first issue is regarded as a mere discharge of semen, but if two more issues are produced, they combine with one another.” [So the first is null, but two more matter.]*
- O. *[To the contrary,] said R. Sheshet b. R. Idi, “What value do you see in this argument? The first flux of the man afflicted by flux took place at a time that was suitable for offerings, but when you have the case of ‘one by night,’ where the issue was at a time that was not fit for the bringing of offerings, if R. Yohanan had not maintained for us that they do combine with one another, I should have thought that they do not combine.”*
- P. *But does R. Yohanan really hold the view that the night renders a period wanting in time for he holds, [for two issues during the night and one during the day, he is exempt from bringing an offering(Porusch)]? And has not Hezekiah said, “If a Nazirite became unclean by day on the eighth day, he has to bring a second offering; if it was on the night of the eighth day, he does not have to bring an offering.” But R. Yohanan says, “Even if the uncleanness took place on the night of the eighth day, he has to bring an offering” [Porusch: obviously this opinion cannot agree with the principle that the night renders the period wanting in time].*
- Q. *When R. Yohanan made the statement that if there were two by night and one by day, he does not have to bring an offering, this was in accord with the position of the one who says that the night renders the period wanting in time.”*
- R. *But in his view is this not obvious?*
- S. *The case of one flux by night and two by day had to be made explicit, for I might otherwise have thought that since one issue was produced not at a time at which offerings are made, there is no combining that issue with the other two; thus we are told that that is not the case.*

I.1-3 go over the scriptural proof for the position of the House of Hillel. The extension at No. 3 draws our case abreast of a parallel. I do not claim to have done full justice to the details here.

### 1:7

- A. The woman who is subject to a doubt concerning [the appearance of] five fluxes,
- B. or the one who is subject to a doubt concerning five miscarriages
- C. brings a single offering.
- D. And she [then is deemed clean so that she] eats animal sacrifices.
- E. And the remainder [of the offerings, A, B] are not an obligation for her.
- F. [If she is subject to] five confirmed miscarriages,
- G. or five confirmed fluxes,
- H. she brings a single offering.
- I. And she eats animal sacrifices.
- J. But the rest [of the offerings, the other four] remain as an obligation for her [to bring at some later time] -
- K. M'SH S: A pair of birds in Jerusalem went up in price to a golden denar.
- L. Said Rabban Simeon b. Gamaliel, "By this sanctuary! I shall not rest tonight until they shall be at [silver] denars."
- M. He entered the court and taught [the following law]:
- N. "The woman who is subject to five confirmed miscarriages [or] five confirmed fluxes brings a single offering.
- O. "And she eats animal sacrifices.
- P "And the rest [of the offerings] do not remain as an obligation for her."
- Q. And pairs of birds stood on that very day at a quarter-denar each [one one-hundredth of the former price].

**I.1** A. *Our rabbis have taught on Tannaite authority:*

- B. If a woman produced five confirmed births and five that were subject to doubt, or five issues that were confirmed and five that were subject to doubt, she brings two pairs of birds, one to cover the confirmed [births or fluxes], the other, the ones that were subject to doubt. The bird offered for the confirmed items is eaten, and the remaining offerings are incumbent upon her as an obligation. The one that is brought for the matter subject to doubt is not eaten, but the remaining offerings are not incumbent upon her as an obligation.
- C. R. Yohanan b. Nuri says, "Concerning the confirmed, she should say, 'It is for the last of the occurrences' [Porusch: for if it was offered for one of the previous occurrences, those followed would appear to be unatoned for, and this could lead to misunderstanding, in that on future, similar occasions the woman would assume that offerings were not required]. As for the cases that are subject to doubt, if there is among them an occurrence that is confirmed, she should say, 'It is for the one that is confirmed,' and she is exempt for the rest,

but if not, she should say, 'If is for one of them,' and she will be exempt as to the rest."

- D. **R. Aqiba says, "Whether with respect to what is confirmed or what is subject to doubt, she should say, 'It is for one of them,' and she is exempt for the rest" [cf. T. Ker. 1:10]**
- E. *Said R. Nahman bar Isaac to R. Pappa, "Let me tell you, in the name of Raba, concerning what principle these Tannaite authorities are in dispute. [It concerns the governing analogy to be adduced to decide the case,] for R. Yohanan b. Nuri compares these occurrences to those of sin-offerings. Just as one liable to five sin offerings, until he brings all of them, is not atoned for, so is his position here. R. Aqiba takes the view that they are comparable to acts of immersions [e.g., if one contracted uncleanness five times]. One who is liable to immerse five times, once he has immersed only once, has been purified. Here too there is no difference. [Bringing one offering covers all occasions.]"*
- F. *Said to him R. Pappa, "If you really think that R. Yohanan b. Nuri compares the matter to the case of a sin offering, why is it that in the case of doubt, she may say, 'It is for one of them,' and be exempt for the rest? For in the case of somebody who was liable for [8B] five suspensive guilt offerings, if he brought one of them, would he be exempt from the rest? Has it not been taught on Tannaite authority: This is the encompassing principle. Whenever there are distinctions to be made among sin offerings, there also are distinctions to be made among guilt offerings [in which case distinct sacrifices are to be required].*
- G. *"In point of fact both parties compare the case to one involving an obligation to a multiple number of immersions. What is at issue is whether or not we take account of the possibility of negligence. R. Yohanan b. Nuri takes the position that we do take account of the possibility of negligence, and R. Aqiba says that we do not take account of the possibility of negligence."*

The amplification of the Mishnah draws attention to a Tannaite passage that amplifies the rule on how we deal with multiple obligatory offerings. The point of intersection is in not at the governing principle but at the case.