

# I.

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## BAVLI TEMURAH CHAPTER ONE

### FOLIOS 2A-13B

#### 1:1A-E

- A. [2A] All effect a valid substitution [that is, through a statement of consecration of a secular beast propose to substitute that beast for one they have first designated as a sacrifice, so that, by making a statement of substitution, that second beast enters the status of the originally-consecrated one] —
- B. all the same are men and women.
- C. Not that a person in any event is permitted to effect a substitution. [For it is forbidden to make such a statement of substitution of a now-secular beast for one already consecrated.]
- D. But if one has effected a substitution, it [that which is designated instead of the beast already consecrated] is deemed a substitute [and also consecrated].
- E. And the person [who does so moreover] incurs the penalty of forty stripes.

The vast Talmud before us, running on to 7B, twelve pages of sustained analytical thought, is mostly an essay on a general problem, a kind of large-scale exposition of a theme. The issue is, what is the law governing the consequence of performing an action that, on its own, is illegal and null? Does a person bear the sanctions for an action that produces no legal effects? Or do we maintain that, since the action is null, there is no penalty for the consequences? That issue, of course, is active in the Mishnah-paragraph before us, and the achievement of the framer of this mighty passage is to show how broad and deep are the implications of the rather simple question, settled before us in an uncompromising way. But the composite over all, with an enormous centerpiece, No. 18, has in no way been framed to serve the purposes of Mishnah exegesis. If I had to compare what we have to contemporary writing, I would classify most of our Talmud as a disquisition on a legal principle that extends over a vast variety of cases but remains essentially simple and uniform.

- I.1 A.** *The very statement of the Mishnah's rule contains an internal contradiction. You first say, All effect a valid substitution, which means, [that they may effect a valid substitution] to begin with. But then you go on, But if one has effected a substitution, it [that which is designated instead of the beast already*

**consecrated] is deemed a substitute [and also consecrated], and that means, only after the fact [is the act of substitution a valid and effective one]!**

- B. *But do you think that **All effect a valid substitution**, means, to begin with? [If that is your reading, then] instead of raising your problem to the formulation of our Mishnah-passage, address it to the formulation of Scripture, for it is written, “[If it is an animal such as men offer as an offering to the Lord, all of such that any man gives to the Lord is holy.] He shall not substitute anything for it or exchange it, a good for a bad or a bad for a good; and if he makes any exchange of beast for beast, then both it and that for which it is exchanged shall be holy” (Lev. 27: 9-10).*
- C. *Rather, said R. Judah, “This is the sense of the Mishnah-passage: **All** can be involved so as to **effect a valid substitution [substitute a beast for one they have first designated as a sacrifice for that the second beast enters the status of the originally-consecrated one]** — all the same are men and women. **Not that a person is permitted to effect a substitution. But if one has effected a substitution, it [that which is designated instead of the beast already consecrated] is deemed a substitute [and also consecrated]. And the man [who does so] incurs the penalty of forty stripes.***

The clarification of the sense of the Mishnah clears the way for an exegesis that is familiar. Once the Mishnah’s framer uses the word “all,” it is understood that he intends to cover classifications of persons not specified in so many words, and so we immediately ask, who else is covered under the rule? That is the next step in our progress of Mishnah-exegesis; we have not yet reached the theoretical problem deemed to inhere in the Mishnah-paragraph; that is coming below, at unit 10.

## **I.2. A. All effect:**

- B. *What does the language, “all,” serve to encompass?*
- C. *It serves to encompass the heir [of the owner of a beast, who effects a substitution while the owner of the beast, e.g., the father, is still alive. He does not yet own the beast, and only the owner of a beast can designate it as holy. For a person may not consecrate property that he does not himself own. But he is presumed to be heir and therefore future owner of the beast. The legal effect of his presumptive ownership then is at issue.]*
- D. *That is not in accord with the position of R. Judah. For it has been taught on Tannaite authority:*
- E. *“The heir of the owner of a beast may lay on hands, and the heir of the owner of a beast may effect a valid substitution,” the words of R. Meir.*
- F. *And R. Judah says, “The heir of the owner of a beast may not lay on hands, and the heir of the owner of a beast may not effect a valid substitution.”*
- G. *What is the reasoning behind the position of R. Judah?*
- H. *It is that R. Judah draws an analogy from the end of the act of consecration for the beginning of the act of consecration. Just as, in the final act, the presumptive heir of a beast cannot lay on hands [but only the actual owner of the beast does so], so at the beginning of the act of consecration, the presumptive heir cannot effect a valid substitution.*
- I. *Then how do we know the rule governing the laying on of hands anyhow?*

- J. *We find a reference to “his offering” three times [Lev. 3: 1, “and if his offering is a sacrifice of a peace offering;” Lev. 3: 6, “and if his offering for a sacrifice to the Lord be of the flock;” Lev. 3: 7: “and if he offer a lamb for his offering”]. [All are deemed exclusionary.] One bears the sense, “his offering,” and not the offering of a gentile; one bears the sense of, “his offering,” and not the offering of somebody else; and the third bears the sense of, “his offering,” and not the offering of his father.*
- K. *And so far as R. Meir is concerned, who has said, “A presumptive heir lays on hands,” do we not have written, “his offering”?*
- L. *[He is well aware of the exclusionary usages at hand, but he interprets them differently.] He requires that to make the point that all members of a partnership that owns a beast must lay hands on the beast.*
- M. *And does R. Judah not concur that all members of a partnership that owns a beast must lay hands on the beast? How come?*
- N. *It is because their offering is not designated [to belong specifically to any one of the several partners, so the language “his offering” does not pertain].*
- O. *If you prefer, I shall say, in point of fact he does concur [that all members of a partnership that owns a beast must lay hands on the beast], but he derives the rule governing both the offering of a gentile and the offering of one’s fellow from the same verse, leaving over a reference that serves to make the point that all partners in the ownership of a beast that is to be sacrifices lay hands on the beast.*
- P. *And R. Meir, who maintains that a presumptive heir does not lay on hands — what is the scriptural basis for his position?*
- Q. *He will say to you, “‘if he makes any exchange of beast for beast, then both it and that for which it is exchanged shall be holy’ serves to encompass the presumptive heir of the beast.’ [2B] One then infers from the initial act of dedication the rule governing the final act of consecration [done just before the animal is killed]. Just as, at the initiation of the process of consecration, the presumptive heir may effect a valid act of substitution, so at the end of the process of consecration, the presumptive heir may lay on hands.”*
- R. *And as for R. Judah, how does he deal with the verse, “if he makes any exchange of beast for beast, then both it and that for which it is exchanged shall be holy”?*
- S. *It serves to encompass within the law the power of a woman, and that is in accord with that which has been taught on Tannaite authority:*
- T. *Since the entire passage [governing the act of substitution] speaks only of men, as it is said, “[If it is an animal such as men offer as an offering to the Lord, all of such that any man gives to the Lord is holy.] He shall not substitute anything for it or exchange it,” how do we know that a woman is subject to the same law? Scripture says, “if he makes any exchange of beast for beast,” which serves to encompass a woman.*
- U. *And as for R. Meir, how does he know that a woman is subject to the law?*
- V. *He derives that fact from the language, “and if....”*
- W. *And how does R. Judah deal with that possible proof?*
- X. *He derives no lesson from the language, “and if....”*

Y. Now so far as both R. Meir and R. Judah are concerned, the operative consideration is that Scripture has served expressly to include the case of a woman, but if the woman had not been encompassed by Scripture, then I might have reached the conclusion that, if she made a statement of substitution of a secular beast for an already-consecrated one, [while the former may be deemed consecrated], she does not incur the penalty of a flogging.

Z. But has not R. Judah said Rab said, and so too has a Tannaite authority of the household of R. Ishmael stated, “‘When a man or a woman commits any sin that men commit’ (Num. 5: 6). In this language, Scripture has treated the woman as comparable to the man for the purpose of all the penalties that are imposed by the Torah.”

AA. [The explicit proof in the present instant] is required. For what might you have thought? These words pertain to a sanction that is equivalent for either an individual or the community, but here, since we deal with a penalty that is not equivalent for everybody, as we have learned, **A congregation and partners do not produce a substitute, since it is said, “He shall not change it” (Lev. 27:10). The individual produces a substitute, and neither a congregation nor partners produce a substitute,**

BB. in consequence of which, a woman also, should should do such a deed, would not be flogged. So we are informed that she would be flogged.

We proceed from inclusionary to exclusionary considerations: who is omitted by the rule? The answer concerns whether or not a minor may issue a valid act of substitution.

**I.3.** A. Rammi bar Hama raised the question, “What is the law as to a minor’s effecting a valid act of substitution?”

B. What circumstances are contemplated by this question? If we say that we deal with a minor who has not reached the age at which he may validly make a vow, then there should be no problem for you, since he cannot effect a consecration, shall I then maintain that he can effect a valid act of substitution?

C. Rather, when the question is raised, it concerns a minor who has reached the age of making vows. Do we maintain that, since [as] a master has said, “[Scripture could have stated, ‘when a man shall take a vow of persons.’] Why does Scripture say, ‘If a man shall clearly take a vow...’? It serves to encompass a person who is not fully defined as to status, who is close to being a man, indicating that an act of consecration on his part is valid, and, since he is capable of making a valid act of consecration, I should say that he also is able to make a valid act of substitution? Or perhaps, such a minor is not subject to sanctions, he also cannot get involved in making a valid act of exchange [for which a specific sanction is specified]?

D. And if you take the position that a minor can make a valid act of substitution, since he will eventually reach the status of being subject to the sanctions of the Torah, what is the law as to a gentile’s effecting a valid act of substitution? Should one say that, since he can validly effect an act of consecration, — since it has been taught on Tannaite authority, “A man, a man [of the house of Israel]” (Lev. 17: 8) — why does Scripture repeat the word “a man”? It serves to encompass gentiles, who, consequently, take vows and pledge thank-offerings like an Israelite — so too I should say that gentiles also may make a valid act of

*consecration? Or perhaps, since gentiles never enter the category of those who are subject to sanctions, if a gentile should make an act of substitution, he has not effected the consecration of the substituted beast?*

- E. *Said Raba, "Come and take note of a case. For it has been taught on Tannaite authority."*
- F. *"As to things declared holy by gentiles, people are not to derive secular benefit from those things, but the laws of sacrilege do not apply to them, and on account of the meat of such beasts, people are not liable for violating the laws of improper intention on the part of the officiating priest to eat his portion of the beast at the wrong time or in the wrong place, leaving over sacrificial meat beyond the proper time, and protecting the meat from cultic contamination. Gentiles also cannot effect a substitution, and they do not bring drink offerings, but drink-offerings are required with their offerings," the words of R. Simeon.*
- G. *R. Yosé said, "In all instances I prefer to impose the more strict rule."*
- H. *[The statement at F] pertains only to Holy Things that are designated for the altar, but as to Holy Things that are designated to the upkeep of the Temple house, the laws of sacrilege do apply.*
- I. *[Raba continues,] "Now, in any event, the Tannaite authority has stated explicitly, Gentiles also cannot effect a substitution."*
- J. *And [then, what does] Rammi b. Hama [who asked the question to begin with, in the face of an explicit statement] on Tannaite authority [have to say for himself]?*
- K. *[He answers in the following way:] "What I asked concerned the case not of a gentile who consecrated a beast for making atonement for himself, [since in such a case a gentile cannot effect a substitution, for he will never come into the category of sanctions], but rather, a case in which a gentile consecrated a beast so that an Israelite may gain atonement by the sacrifice. Do we adopt as our criterion the status of the person who makes the act of consecration [the gentile] or the person who is beneficiary of the atonement that the animal will effect [the Israelite, who is called not the sacrificer, the one who dedicates the beast, but the sacrificer, the one who is beneficiary of the offering but not necessarily the donor thereof]?"*
- L. *Solve the problem by reference to what R. Abbuha said.*
- M. *For R. Abbuha said R. Yohanan said, "He who consecrates [something for the Temple and then proposes to pay the value of the object and redeem it from the Temple] must add a fifth to the actual value of the object when he redeems it, and one for whom atonement is made is the one who can effect a valid act of substitution for the beast designated for his atonement, and one who designates a portion of the crop for the priestly ration out of his own [3A] grain in behalf of untithed grain belonging to someone else — the power of designating what priest gets the specified part of the crop belongs to him who did the act of separation."*
- N. *[The statement, one for whom atonement is made is the one who can effect a valid act of substitution for the beast designated for his atonement, then explicitly responds to Rammi's question. So we wonder how Rammi could have raised such a question.] And Rammi b. Hama [who here too faces an explicit answer long available to a question he thinks he has invented for the occasion]?*

O. *He will say to you, “In the case to which reference has just been made, the dedication was brought about by the act of an Israelite, so we follow the status of the one for whom atonement is made, and that is the case both at the beginning and at the end of the process [that is, the consecration of the animal, the sacrificing of the animal for atonement]. But here, this is what I am asking: do you impose the requirement that both the beginning and the end of the process of consecration and sacrifice long in the hand of the one who can validly effect an act of substitution or is that not the case? [It was a gentile who consecrated the beast, an Israelite who got the atoning benefit of the blood, so the exchange may or may not be holy.]”*

P. *That question stands.*

We now turn to a systematic exegesis of the statement introduced in evidence, glossing the principal parts in their own terms and framework. The following form an appendix, not advancing the discussion but filling in gaps in statements already made: footnotes or appendices, as the size may dictate.

**I.4.** A. The master has said, “As to things declared holy by gentiles, people are not to derive secular benefit from those things, but the laws of sacrilege do not apply to them:”

B. “people are not to derive secular benefit from those things” — *by reason of the authority of rabbis.*

C. “but the laws of sacrilege do not apply to them” — *on the authority of the Torah.*

D. *What verse of Scripture stands behind that ruling? The following verse: “If a soul commits a trespass and sin through ignorance” (Lev. 5:15). We then draw an analogy between the meaning of the word “sin” used in connection with priestly rations and the meaning of the word “sin” used here. What is said with reference to sin in connection with priestly rations is, ““children of Israel” (Num. 18:28) — and not gentiles. [And the same applies here.]*

**I.5.** A. ... “and on account of the meat of such beasts, people are not liable for violating the laws of improper intention on the part of the officiating priest to eat his portion of the beast at the wrong time or in the wrong place, leaving over sacrificial meat beyond the proper time, and protecting the meat from cultic contamination:”

B. *For it is written in connection with uncleanness, “Speak to Aaron and his sons that they separate themselves from the holy things of the children of Israel and not profane my holy name” (Lev. 22: 2).*

C. *And the rule governing what is left over from the reference to profanation, and the rule covering profanation from the rule covering uncleanness.*

D. *With reference to uncleanness it is written, “The children of Israel...that they not profane...,” and with reference to what is left over, “Therefore everyone who eats it shall bear his sin because he has profaned the holy things of the Lord” (Lev. 19:8 [and just as the law of cultic uncleanness does not pertain to the offering of a gentile, since Scripture refers to “children of Israel,” so the law of left overs does not apply to what a gentile has consecrated].*

E. And we derive the rule governing a sacrifice made abominable by improper intention on the part of the officiating priest to eat his portion of the beast at the wrong time or in the wrong place from the recurrent use of the word “sin.” In



reference to a sacrifice made abominable by improper intention on the part of the officiating priest to eat his portion of the beast at the wrong time or in the wrong place, it is written, “And the soul that eats of it shall bear its iniquity” (Lev. 7:18), and with respect to what is left over, “Therefore everyone who eats it shall bear his iniquity, for he has profaned the hallowed things of the Lord” (Lev. 19: 8).

F. So in all of these, the rule pertains to what belongs to Israelites but not to gentiles.

**I.6.** A. ... “Gentiles also cannot effect a substitution:”

B. *For it is written, “He shall not substitute anything for it or exchange it, a good for a bad or a bad for a good; and if he makes any exchange of beast for beast, then both it and that for which it is exchanged shall be holy” (Lev. 27: 9-10).*

C. *And prior to this it is written, “Speak to the children of Israel and say to them, when a man shall clearly utter a vow of persons” (Lev. 27: 2). [Israelites, but not gentiles, are the subject of the law.]*

D. Another version of the same matter: ... “Gentiles also cannot effect a substitution:”

E. *What is the scriptural basis for that rule? An analogy is to be drawn between the act of substitution of a beast and the tithing of beasts, and there is an analogy between tithing animals and tithing grains. In respect to tithing grains, it is written, “But the tithes of the children of Israel that they offer to the Lord” (Num. 18:24) — the children of Israel, not gentiles.*

**I.7.** A. ... ““and they do not bring drink offerings, but drink-offerings are required with their offerings,’ the words of R. Simeon:”

B. *What is the source for this opinion?*

C. *As rabbis have taught on Tannaite authority:*

D. “All who are native shall do these things in this way, in offering an offering by fire, a pleasing odor to the Lord” (Num. 15:13) — but then a gentile does not present drink-offerings.

E. Might one suppose that his burnt-offering will not require drink offerings?

F. Scripture states, “...in this way....”

**I.8.** A. ... “R. Yosé said, ‘In all instances I prefer to impose the more strict rule:”

B. *What is the scriptural basis for his position?*

C. What is written is “to the Lord” (Lev. 22:18), [and that is in connection with what is consecrated by gentiles].

**I.9.** A. ... “[The statement at F] pertains only to Holy Things that are designated for the altar, but as to Holy Things that are designated to the upkeep of the Temple house, the laws of sacrilege do apply:”

B. *What is the basis for this position?*

C. *When we derive the rule concerning sacrilege from the analogy made available by the recurrence of a reference to “sin” in that context and also in the context of heave-offering, there must be a resemblance to the traits of heave-offering, which itself is made holy. But as to what is made holy only for sale and use in the upkeep of the Temple house, in which instance what is sanctified is value but not the thing itself, that is not the case.*

The main event now commences, the investigation of the general principle that governs in a case in which an action is prohibited to begin with: do we take

account of the effect of such a prohibited, and penalized, action, or do we hold that, since the action is prohibited, it also produces null consequence?

**I.10. A.** [In regard to the statement, **Not that a person in any event is permitted to effect a substitution. (For it is forbidden to make such a statement of substitution of a now-secular beast for one already consecrated.) But if one has effected a substitution, it [that which is designated instead of the beast already consecrated] is deemed a substitute [and also consecrated],** said R. Judah said Rab, “In the case of every prohibition that is mentioned in the Torah in which one transgresses through an affirmative and is punishable by a flogging, if one does not carry out an action in that regard, one is exempt from a flogging.”

The rule before us provides an example of the operation of the contrary principle, that even though one does not actually do a deed, he may well be flogged. Our case involves a statement that produces no affect upon the beast that is supposedly removed from its status of sanctification by means of the substitution, and yet the person is flogged. So the relevance of the entire composite on the problem at hand is clear, and the composite has been correctly chosen for this particular talmud. In a moment, moreover, we shall see how prior components of the present composite had to be set forth before the dialectic at hand could get underway; D, below, calls upon results already established. That underscores the unity of the entire composite.

- B. *And is this intended as a governing principle, that in the case of a prohibition in which one does not actually carry out an action, one is exempt from flogging? Then lo, there is the case of effecting a substitution, in which there is a prohibition but no concrete action is involved, and yet one is flogged, for it is taught in the Mishnah: **Not that a man is permitted to effect a substitution. But if one has effected a substitution, it [that which is designated instead of the beast already consecrated] is deemed a substitute [and also consecrated]. And the man [who does so] incurs the penalty of forty stripes.***
- C. *Rab will say to you, “Lo, who is the authority behind this rule? It is R. Judah, who has said, ‘In the case of a prohibition that does not involve a concrete action, one incurs the penalty of a flogging.’”*
- D. *But can you really assign the authorship of this Mishnah-paragraph to R. Judah? Lo, we have already established the fact that the opening clause does not concur with the view of R. Judah, for it is taught on Tannaite authority, **All effect** — What does the language, “all,” serve to encompass? It serves to encompass the heir [who effects a substitution while the father is still alive. He does not yet own the beast, and only the owner of a beast can designate it as holy. But he is presumed to be heir and therefore future owner of the beast. The legal effect of his presumptive ownership then is at issue.] That is not in accord with the position of R. Judah.*
- E. *The Tannaite authority who has framed this passage concurs with R. Judah in one point, which is that in the case of a negative commandment in which no concrete action is involved, one nonetheless may incur a flogging, but he differs with R. Judah in one aspect, for while R. Judah takes the position that a presumptive heir does not law on hands and does not effect a valid act of substitution, our Tannaite*



*authority maintains that a presumptive heir does lay on hands and does effect a valid act of substitution.*

- I.11.** A. Said R. Idi bar Abin said R. Amram said R. Isaac said R. Yohanan in the name of R. Yosé the Galilean, "In any prohibition that is listed in the Torah, if one has actually done the deed, one is flogged; if there is no deed to be done in connection with violating that prohibition, one is exempt from a flogging except for three matters: [1] taking an oath, [2] effecting an act of substitution, and [3] cursing one's fellow with the divine name, in all three instances of which even though one has not done a concrete deed, he still will be flogged."
- G. [Rabbis] in the name of R. Yosé b. R. Hanina said, "Also one who designates produce as heave-offering before identifying the first fruits [since the correct order is first the designation of first fruits and then the food in the status of heave-offering]."
- H. How do we know in the case of taking an oath that one is flogged even though he has not done a deed?
- I. Said R. Yohanan in the name of R. Meir, "Said Scripture, 'For the Lord will not hold him guiltless who takes his name in vain' (Exo. 20: 7), which means that the court on high **[3B]** will not hold him guiltless, but the court down here will flog him and then hold him guiltless."
- J. *Said R. Pappa to Abbaye, "But perhaps one might suppose that he will not be punished by the court down here at all?"*
- K. *He said to him, "If so, Scripture should have written, '...will not hold him guiltless,' and then stop! Why add 'the Lord';? It is to indicate that the court on high will not hold him guiltless, but the court down here will flog him and then hold him guiltless."*
- L. *We therefore have found a proof covering the vain oath, but what about the flogging of someone for taking a false oath?*
- M. *R. Yohanan in his own name said, "'...in vain...' is stated twice [at Exo. 20:7], and if it does not deal with a vain oath, then let it pertain to a false oath, so indicating that that too is subject to flogging."*
- N. *R. Abbahu objected, "Now what can be an example of a false oath? Shall we say, if he said, 'I will not eat' and did eat [that is a false oath without a deed such as is subject to the proof at hand]? But there we have a concrete deed that the man has done. What if he said, 'I will eat,' and then did not eat? Would he be flogged? Has it not been stated, 'By an oath! I shall eat this bread today' and the day passed and he had not eaten it, — R. Yohanan and R. Simeon b. Laqish say, 'He is not flogged.' R. Yohanan says, 'He is not flogged, for it is a negative commandment that does not involve a concrete deed, and any negative commandment that does not involve a concrete deed does not bear the sanction of flogging. And R. Simeon b. Laqish said, 'He is not flogged, because this is a matter of his having been given only a doubtful warning' [since we do not know whether or not he has received a warning, for he has plenty of time through the day, and in the end he may not have been subject to a valid admonition at all]."*

- O. Rather, said R. Abbahu, “Let the case of a false oath be one in which he says, ‘I have eaten,’ or ‘I have not eaten’ [with reference to what has happened in the past. Here there is no action involving in violating the oath.]”
- P. *And what distinguishes the case of a man’s saying, “I have eaten,” or “I have not eaten” from one in which he says, “I shall eat” or “I shall not eat”?*
- Q. Said Raba, “The Torah has explicitly treated a false oath as comparable to a vain oath, so that just as a vain oath speaks of what has happened in the past, so a false oath refers to what has happened in the past.”
- R. *An objection was raised by R. Jeremiah, [citing the following passage of the Mishnah:] “[He who states the language,] ‘By an oath! I will not eat this loaf of bread!’ By an oath! I will not eat it!’ and then ate it — one is liable only on a single count. And this is the rash oath, on account of the deliberate violation of which one is liable to a flogging, and on account of the inadvertent violation of which one is liable to an offering of variable value” [M. Shabuot 3:7A-E]. [R. Jeremiah continues,] “Now what is the language, ‘this is,’ meant to exclude? Is it not meant to exclude the usage, ‘I have eaten,’ or ‘I have not eaten,’ in which case one is not flogged?”*
- S. No, the sense is as follows: “**And this is the rash oath, on account of the deliberate violation of which one is liable to a flogging,**” but when one says, ‘I have eaten,’ or ‘I have not eaten’ [with reference to what has happened in the past. Here there is no action involving in violating the oath], *one brings no offering at all. And in accord with whom is this ruling? It is R. Ishmael, who has said, ‘One is liable to bring an offering for a rash oath only concerning what is going to happen in the future.’*”
- T. *But surely he must be flogged, for note the next clause: “**And this is the rash oath, on account of the deliberate violation of which one is liable to a flogging, and on account of the inadvertent violation of which one is exempt from bringing an offering.** And what is this is meant to exclude? Is it not to exclude the case of one’s saying, “I have eaten,” or “I have not eaten” — in which case one is not flogged?*
- U. No, the sense is, “**And this is the rash oath, on account of the deliberate violation of which one is liable to a flogging, and on account of the inadvertent violation of which one is exempt,** *but as to the case of one’s saying, “I have eaten,” or “I have not eaten” — one does bring an offering. And who is the authority of that position? It is R. Aqiba, who has said, “People may be required to bring an offering for an oath that has referred to what has happened in the past.”*”
- V. *But lo, you have said that the first clause represents the opinion of R. Ishmael [who maintains that a sacrifice may be required only when the oath speaks of what will happen in the future]? Rather, since the second clause represents the position of R. Aqiba, the first clause also must represent his position, in which case, the first clause will not exclude the case of one who says, “I have eaten,” or “I have not eaten,” but it will exclude the case of one who says, “I will eat,” or “I will not eat.”*

- W. *And what is the difference between these two usages?*
- X. *When one speaks of the future, it excludes something relating to the future ["I will eat," and he did not eat," but where the language speaks of the future, will it exclude something relating to the past ["I have not eaten" "I have eaten"]].*

**I.12.** A. "effecting an act of substitution:"

- B. *Said R. Yohanan, to the Tannaite authority of this passage: "Do not repeat the language, 'and one who effects an act of substitution,' because by his very act of speech, he has done a deed."*

**I.13.** A. "and cursing one's fellow with the divine name:"

- B. *How on the basis of Scripture do we know this?*
- C. *Said R. Eleazar said R. Oshaia, "Said Scripture, 'If you will not observe to do all the words of this law that are written in this book, that you may fear this glorious and awful name...' (Deu. 28:58); and further, 'then the Lord will bring on you and your offspring extraordinary afflictions, afflictions severe and lasting, and sicknesses grievous and lasting' (Deu. 28:59). Now I do not know of what this 'extraordinary' character consists. But Scripture states, '...then if the guilty man deserves to be beaten, the judge shall cause him to lie down and be beaten in his presence with a number of stripes in proportion to his offense' (Deu. 25: 2). [The word for 'beaten' uses some of the consonants that appear also in the word for 'extraordinary,] which shows that the 'extraordinary' punishment refers to a punishment with flogging."*
- D. *But why not say that reference is made even to an oath that is true [so that if one takes an oath using God's name, even if it is a true oath, one is warned against the penalty of a flogging]?*
- E. *Explicitly it is written, "Then the oath of the Lord shall be between them" (Exo. 22:10) [so Scripture itself provides for an oath involving the name of the Lord].*
- F. *But might I not say that that oath is provided so that one may appease one's fellow, but he nonetheless is flogged?*
- G. *You cannot say so, for is it not written, "You shall take an oath by his name" (Deu. 6:13)?*
- H. *That is required to make the point of Rab, for Rab Giddal said Rab said, "How on the basis of Scripture do we know that people may take an oath that they will carry out the religious duties? As it is said, 'I have sworn and I will perform it that I will keep your righteous judgments' (Psa. 119:106). [Miller: And therefore there is need for the text, 'and you shall swear by his name,' to inform us that one may even utter the name in an oath that is taken to observe religious duties.]*
- I. *But is not another verse of Scripture written in that same regard, namely, "And to him you shall cling and by his name you shall take an oath" (Deu. 10:20)?*
- J. *Then what purpose does the verse serve, "If you will not observe to do all the words of this law that are written in this book, that you may fear this glorious and awful name..." (Deu. 28:58) and further, 'then the Lord will bring on you and your offspring extraordinary afflictions, afflictions severe and lasting, and sicknesses grievous and lasting' (Deu. 28:59)?*

- K. It is that cursing one's fellow with the divine name is penalized with a flogging.
- L. *And might I say that it refers to one who pronounces the divine name frivolously [but if one curses one's fellow with the divine name, flogging is not incurred]?*
- M. Is one who curses his fellow with the divine name any less than one who pronounces the Lord's name frivolously?
- N. *This is the question that we had in mind: why not maintain that for one who pronounces the divine name frivolously gets sufficient punishment by being flogged, but if one curses his fellow with the divine name, committing two forbidden acts, first, pronouncing the divine name frivolously and also harassing his fellow, punishment of flogging is not enough?*
- O. **[4A]** *You may not take that position, for it is written, "You shall not curse the deaf" (Lev. 19:14) [Miller: whether or not with the divine name, and the verses, "If you will not observe to do" and "Then the Lord will..." tell us that there is punishment of flogging for one who curses his fellow with the divine name.]*
- P. *And if you prefer, I shall state matters in the following terms:*
- Q. *There is no problem if the cited verse ["If you will not observe to do all the words of this law that are written in this book, that you may fear this glorious and awful name..." (Deu. 28:58) and further, 'then the Lord will bring on you and your offspring extraordinary afflictions, afflictions severe and lasting, and sicknesses grievous and lasting' (Deu. 28:59)] refers to one who curses his fellow with the divine name, for the admonition in that case would derive from here, namely, "You shall not curse the deaf." But if you maintain that the cited verse ["If you will not observe to do all the words of this law that are written in this book, that you may fear this glorious and awful name..." (Deu. 28:58) and further, 'then the Lord will bring on you and your offspring extraordinary afflictions, afflictions severe and lasting, and sicknesses grievous and lasting' (Deu. 28:59)] refers to one who speaks the divine name frivolously, then where do we find the admonition?*
- R. *Why not [find such a text of admonition]? Is it not written, "You shall fear the Lord your God and serve him" (Deu. 6:13) [and surely that means one cannot speak the divine name frivolously]?*
- S. That presents an admonition only in positive terms [and not an admonition in the true since, on account of which the verse, "If you will not observe to do all the words of this law that are written in this book, that you may fear this glorious and awful name..." (Deu. 28:58) and further, 'then the Lord will bring on you and your offspring extraordinary afflictions, afflictions severe and lasting, and sicknesses grievous and lasting' (Deu. 28:59)] refers to one who curses his fellow with the divine name and not to one who uses the divine name frivolously].
- I.14.** A. [Rabbis] in the name of R. Yosé b. R. Hanina said, "Also one who designates produce as heave-offering before identifying the first fruits [since the correct order is first the designation of first fruits and then the food in the status of heave-offering]."
- B. *What is the scriptural basis for the rule of R. Yosé b. R. Hanina?*
- C. Scripture has said, "You shall not delay offering the fulness of your harvest and the outflow of your presses" (Exo. 22:28).

- D. “the fulness of your harvest” refers to first fruits, “and the outflow of your presses” refers to heave-offering [also translated: priestly rations], and Scripture has said, “You shall not delay [so that is the proper sequence in which the various portions of the crop are to be designated, respectively, as firstfruits and as heave-offering].

**I.15.** A. *It has been stated:*

- B. If one has given precedence to the separation of heave-offering over the designation of firstfruits —
- C. R. Eleazar and R. Yosé b. R. Hanina —
- D. One said, “He is flogged.”
- E. The other said, “He is not flogged.”
- F. You may draw the conclusion that it is R. Yosé b. R. Hanina who has said, “He is flogged,” since R. Yosé b. R. Hanina has said, “Also one who designates produce as heave-offering before identifying the first fruits.”
- G. *To the contrary, draw the conclusion that it is R. Eleazar who has said, “He is flogged, for we have learned in the Mishnah:*
- H. **If there were before him two baskets of untithed produce, and he said, “The tithes of this one are in that one,” the first one is tithed [so he may eat from it, and separate tithes for it from the second basket]. If he said, “The tithes of this one are in that one, and the tithes of that one are in this one,” the first one is tithed but not the second. If he said, “Their tithes are designated so that the tithes of each basket are in the other, he validly has designated tithes for both of them [M. Dem. 7:6A-G].**
- I. And in this connection it has been said, R. Eleazar said, “He is flogged, since he has given precedence to the designation of the second tithe in the basket over the designation of the first tithe that is in the other basket.”
- J. You may indeed draw that conclusion.
- K. *Then it is R. Yosé b. R. Hanina who has held that he is not flogged, so may we say that there is a contradiction between one ruling of R. Yosé b. R. Hanina and another of his rulings?*
- L. *No, R. Yosé b. R. Hanina [4B] exempted him from flogging [and his statement refers to the initial Tannaite authority, who takes the view that violating a negative prohibition that does not involve an action is not punishable with flogging. He declares that if one who designated heave offering before tithes, he is not flogged for the same reason. This then is contrary to the view that Yosé held him to be liable to a flogging (Miller)],*
- M. *and this is the sense of the passage: in the case of violating a negative commandment without taking a concrete action, one is not flogged. [Rabbis] in the name of R. Yosé b. R. Hanina said, “Also one who designates produce as heave-offering before identifying the first fruits [is not flogged].”*
- N. *And how come, then, that one who effects a substitution is flogged? It is because by his very word, he has carried out an action.*
- O. *Then one who gives precedence to heave-offering over first fruits also should be flogged, because by his very word, he has carried out an action!*

- P. *Said R. Abin, "That case is different [namely, giving precedence to heave-offering over first fruits], for we deal there with a negative commandment the violation of which can be remedied by a positive action later on. For it is written, 'Out of all your gifts you shall offer every heave offering' (Num. 18:29)."*
- I.16. A.** *R. Dimi was in session and discussing this tradition [that one is not flogged for giving precedence to heave-offering over first fruits, for we deal there with a negative commandment the violation of which can be remedied by a positive action later on.]*
- B. *Said Abbaye to him, "And is it the fact that in the case of every negative commandment the violation of which can be remedied by a positive action later on, there is no flogging? And lo, there is the case of one who effects a substitution of an unconsecrated animal for a consecrated one, and that is a negative commandment the violation of which can be remedied by a positive action later on, and yet one is flogged for doing so, as we have learned in the Mishnah: **Not that a man is permitted to effect a substitution. But if one has effected a substitution, it [that which is designated instead of the beast already consecrated] is deemed a substitute [and also consecrated]. And the man [who does so] incurs the penalty of forty stripes.**"*
- C. *There you have two negative commandments [he shall not alter or change it"] and one positive commandment ["then it and the exchange for it shall be holy": (Lev. 27:10)], and a single positive commandment cannot come and set aside two negative ones.*
- D. *And lo, there is the case of one who rapes a woman, in which case there is one negative commandment ["he may not put her away all his days" (Deu. 22:29)], and one positive commandment ["and she shall be his wife" (Deu. 22:29)], and here the positive commandment does not set aside the negative one. For it has been taught on Tannaite authority:*
- E. *He who raped a woman and then after marrying her divorced her, if he is an Israelite, remarries her and is not otherwise punished, but if he is a priest, he is punished [with a flogging]. [Miller: you have a difficulty for one who maintains that violating a negative commandment that is remediable by a positive commandment is not punishable with lashes.]*
- F. *Do you raise the case of the priest? That case is different, for the Torah has endowed them with additional sanctity.*

This long secondary exposition is now complete, and we return to the issue with which we started our discussion, that of No. 11. We note that there is no signal in the Talmud that we revert to the principal issue of the composite; it is taken for granted that readers know we have completed the exposition and returned to the main problem.



- I.17.** A. [Whether or not transgression of a negative commandment that involves no actual deed is penalized with a flogging represents] *a dispute among Tannaite authorities:*
- B. *For it has been taught on Tannaite authority:*
- C. “And you shall let nothing remain of it until the morning, and that which remains of it until the morning you shall burn with fire” (Exo. 12:10):
- D. “Scripture comes to set forth an affirmative commandment after a negative one, so as to indicate that on that account, one does not incur flogging,” the words of R. Judah.
- E. R. Jacob says, “That is not the pertinent consideration here, but rather it is because we deal with a negative commandment that does not involve the commission of an actual deed, and in the case of any negative commandment that does not involve a concrete deed, flogging is not incurred.”
- F. *That yields the inference that R. Judah takes the position that, on such an account, a flogging is incurred.*
- G. *And as to R. Jacob, how does he deal with the verse, “And you shall let nothing remain of it until the morning, and that which remains of it until the morning you shall burn with fire” (Exo. 12:10)?*
- H. *He requires it to serve the case of that which we have learned in the Mishnah:*
- I. **Bones, sinews, and that which is left over and not eaten within the stated limits are to be burned on the sixteenth of Nisan. If the sixteenth of Nisan coincides with the Sabbath, they are to be burned on the seventeenth. For burning them does not override the prohibitions either of the Sabbath or of a festival day [M. Pes. 7:10A-C].**
- J. *And said Hezekiah, and so did the Tannaite authority of the household of Hezekiah, “What is the Scriptural basis for this ruling? Scripture has said, ‘And you shall let nothing remain of it until the morning, and that which remains of it until the morning you shall burn with fire’ (Exo. 12:10). The intent of the verse is to make available a second morning for burning the leftovers.”*
- I.18.** A. *Said Abbaye, “Any action that the Torah has said one should not do, if one does it, it produces an effect of legal consequence, for if you should imagine that it does not produce an effect of legal consequence, then why should one by flogged?”*
- B. *Raba said, “It produces no legal effect at all, and the reason that one is punished with a flogging on account of doing such an action is that one has violated a statement of the Torah.”*
- C. **[5A]** *An objection was raised: He who raped a woman and then after marrying her divorced her, if he is an Israelite, remarries her and is not otherwise punished, but if he is a priest, he is punished [with a flogging].*
- D. *Now if you maintain that, since he has violated a statement of the Torah, he is to be flogged, here too he has violated a statement of the Torah and should be flogged, and that represents a refutation of the position of Raba.*
- E. *Raba will say to you, “That case is exceptional, for Scripture has said, ‘All his days’ (Deu. 22:29), which bears the meaning, all his days if he has divorced her he remains subject to the obligation of bringing her back.”*

- F. *And Abbayye?*
- G. *If the Torah had not said, “all his days,” I might have reached the conclusion that he has violated a prohibition, but if he wishes he can take her back and if he wishes, he needs not take her back. When the text says, “all his days,” it tells me that that is not so [and he has no choice about the matter].*

A different version of the same component of the foregoing composition now is presented, but the upshot is the same.

- H. *Another version of the same matter:*
- I. *An objection was raised: He who raped a woman and then after marrying her divorced her, if he is an Israelite, remarries her and is not otherwise punished, but if he is a priest, he is punished [with a flogging].*
- J. *Now the Tannaite authority has stated, if he is an Israelite, remarries her and is not otherwise punished, and that represents a refutation of the position of Abbayye.*
- K. *That case is exceptional, for the Torah has said, “all his days.” All his days he remains subject to the obligation of bringing her back.*
- L. *And Raba will say to you, “If the Torah had not said, “all his days,” I might have reached the conclusion that he is to be flogged and must remarry her anyhow, for he is subject to a negative command that is without further qualifications, since it is written, ‘He may not put her away all his days.’ But Scripture says, ‘all his days,’ to subject the one who is a rapist to a negative commandment that is joined to an affirmative one, on account of which one is not flogged.”*

Now we revert to the basic point at issue, which is the dispute on Abbayye’s view, “Any action that the Torah has said one should not do, if one does it, it produces an effect of legal consequence, for if you should imagine that it does not produce an effect of legal consequence, then why should one be flogged?” as against Raba’s contention: “It produces no legal effect at all, and the reason that one is punished with a flogging on account of doing such an action is that one has violated a statement of the Torah.”

- M. But lo, there is the case of one who separates heave offering from inferior produce to cover the obligation of superior produce, and Scripture has said, “of all the best thereof” (Num. 18:29), he must bring heave-offering from the best and not from what is inferior.
- N. *And have we not learned in the Mishnah:*
- O. **One may separate heave offering from the more choice for the less choice, but not from what is less choice for what is more choice, but if one has done so, that which he has separated is valid heave-offering [M. Ter. 2:6H].**
- P. *Now here we have an action that the Torah has said one should not do, if one does it, it produces an effect of legal consequence, and that represents a refutation of the position of Raba.*
- Q. *Raba will say to you, “That case is exceptional, for it accords with the position of R. Ilai.”*
- R. For, said R. Ilai, “How on the basis of Scripture do we know that **but if one has separated heave-offering from what is less choice for what is more choice, that which he has separated is valid heave-offering?** As it is said, ‘you shall bear no sin by reason of it when you have raised from it the best of it’

(Num. 18:32). Now if the portion of the crop designated as heave-offering is not sanctified, then what issue of bearing sin on its account is in play? So we see that **if one has separated heave-offering from what is less choice for what is more choice, that which he has separated is valid heave-offering.**"

- S. *And Abbayye? If Scripture had not said, "you shall bear no sin by reason of it when you have raised from it the best of it" (Num. 18:32), I should have reached the conclusion that this is the sense of Scripture: carry out a religious duty in the finest possible manner, but if you have not done so, it is not classified as a sin. So we are informed to the contrary.*

Now comes another case in which at issue is whether or not an action that the Torah has prohibited, if done, produces an effect of legal consequence. A sequence of cases is now getting underway. The fecund character of the discussion derives from the numerous available cases in which the issue is addressed in so many words, just as it is in our Mishnah-paragraph.

- T. And lo, there is the case of separating heave offering from one species in behalf of produce that is of a different species, and Scripture has said, "All the best of the oil and all the best of the wine" (Num. 18:32), indicating that he must give as heave offering the highest quality for the one and the highest quality of the other, *and yet we have learned in the Mishnah, They do not designate heave offering from one species for produce that is not of the same species, and if one has so designated a portion of the crop as heave offering, that portion is nonetheless not in the status of heave offering [M. Ter. 2:4A-B]. That represents a refutation of the position of Abbayye, since this is a violation of a negative prohibition that does not produce legal consequences.*
- U. *Abbayye will say to you, "That case is exceptional, for Scripture has said, 'The first part of them' (Num. 18:12), meaning, the first quality of this and the first quality of that.*
- V. And so did R. Ilai say, "The first part of them...."
- W. *And as to Raba? If Scripture had not said, "The first part of them....," I might have thought, since Scripture has made explicit reference to wine and oil, when it says, "All the best of the oil and all the best of the wine" (Num. 18:32), all other species would be subject to the rule, They do not designate heave offering from one species for produce that is not of the same species, but as to oil and wine, since both in Scripture fall in the category of "the best," if one should designate heave-offering from the one for the other, he would not be flogged. So Scripture has stated, "The first part of them....," to indicate that one must designate "the best" of the one and "the best" of the other.*
- X. *Another version of the same matter:*
- Y. Lo, there are wine and grain, in regard to which "the best" is only mentioned once. May one then designate heave offering from the one to serve for the other? Scripture says, "The first part of them."

Here comes another case through which the same principle may be explored.

- Z. *And lo, there is the case of devoted things, concerning which Scripture has said, "Nonetheless, no devoted thing that a man may devote to the Lord of all that he*

has, whether of man or beast or of the field of his possession, shall be sold or redeemed” (Lev. 27:28).

AA. *And we have learned in the Mishnah: **Things that are declared devoted for the priests are not subjected to redemption but are given to the priests [M. Ar. 8:6A].***

BB. *Therefore we have a case in which a prohibited action has no legal effects, a refutation of the position of Abbayye [“Any action that the Torah has said one should not do, if one does it, it produces an effect of legal consequence”].*

CC. *Abbayye will say to you, “That case is exceptional, because Scripture has said, ‘As to every devoted thing it is most holy to the Lord’ (Lev. 27:28), meaning that it will remain as is.”*

DD. **[5B]** *And from the perspective of Raba, the language, “it is” serves to exclude from the rule the case of the firstling.*

EE. *For it has been taught on the authority of Tannaites:*

FF. With respect to a firstling, Scripture states, “You shall not redeem” (Num. 18:17), bearing the implication that it may be sold [if the animal is blemished, the owner may sell it as a firstling to a priest, since Scripture only forbids redeeming it but not selling it (Miller)].

GG. Scripture states with respect to an animal that has been designated as tithe, “You shall not redeem” (Lev. 27:28), that that means, it may not be sold alive or dead, unblemished or blemished [and the analogy governs the animal designated as tithe and the animal that has been dedicated. Just as in the latter case, redemption and selling the beast are forbidden, so is the rule in the case of the former (Miller)].

Now comes yet another case in which the position of Abbayye or Raba is contradicted in concrete terms.

HH. But is there not the case of an act of substitution, concerning which Scripture states, “He shall not alter or change it” (Lev. 27:10), *and yet we have learned in the Mishnah: **Not that a man is permitted to effect a substitution. But if one has effected a substitution, it [that which is designated instead of the beast already consecrated] is deemed a substitute [and also consecrated]. And the man [who does so] incurs the penalty of forty stripes. Here then is a forbidden act violation of which produces legal consequences, and that refutes the position of Raba.***

II. *Raba will say to you, “That case is exceptional, for Scripture has said, ‘Then it and the exchange thereof shall be holy’ (Lev. 27:10), — it remains holy.”*

JJ. *And Abbayye? If Scripture had not said, “Then it and the exchange thereof shall be holy” (Lev. 27:10), I might have concluded that the consecrated animal leaves the status of sanctification, and the exchanged animal gains that status. So we are informed that that is not the case.*

We proceed to another example that challenges one or another of the positions before us.

LL. But is there not the case of a firstling, concerning which the Torah has said, “But the firstling of a cow or the firstling of a sheep or the firstling of a goat you shall not redeem” (Num. 18:17), *and we have learned in the Mishnah: **And they are subject to redemption, and their substitutes are subject to redemption, except for the firstling and tithe [M. Tem. 3:5G] — which refutes the position***

of Abbayye [*“Any action that the Torah has said one should not do, if one does it, it produces an effect of legal consequence”*], since this forbidden act has no legal effect [*in the case of the blemished firstling or the blemished animal that has been designated as a tithe*].

- MM. Abbayye will say to you, *“This case is exceptional, for Scripture has said, ‘Then it and the exchange thereof shall be holy’ (Lev. 27:10), — they will remain as is.”*
- NN. *And how does Raba deal with the reference here to “they”?*
- OO. They are to be offered up, but animals designated as substitutes for them are not to be offered up.
- PP. *And how does Abbayye derive this same thesis?*
- QQ. From the verse, “whether it be an ox, sheep, it is for the Lord” (Lev. 27: 6), meaning, it is offered up, but not the beast designated as a substitute for it.
- SS. *And Raba? He concurs that the rule does derive from that verse.*
- TT. *Then what use does he make of the text that underlines, “They are”?*
- UU. It indicates that if a firstling’s blood or the blood of a beast designated as tithe should be mixed up with the blood of any other offerings, the mixture is offered on the altar.
- VV. *And how does Abbayye derive this same thesis?*
- WW. From the verse, “And he shall take of the blood of the bullock and of the blood of the goat” (Lev. 16:18). Now is not the blood of the bullock greater in volume than the blood of the goat? This proves that things that are offered up do not neutralize one another.
- XX. *For it has been taught on Tannaite authority:*
- ZZ. *““And he shall take of the blood of the bullock and of the blood of the goat” (Lev. 16:18) — meaning that they must be stirred together,” the words of R. Josiah.*
- AAA. And Raba? There one sprinkles the blood of the bullock by itself and the blood of the goat by itself, for he concurs with the rule of R. Jonathan [that we do not mix the blood of the bullock with the blood of the goat to sprinkle on the horns of the altar].

A further case requires analysis now.

- BBB. And lo, there is the case of the beast that has been designated as tithe, concerning which the Torah says, “It shall not be redeemed” (Lev. 27:33), *but we have learned in the Mishnah: **And they are subject to redemption, and their substitutes are subject to redemption, except for the firstling and tithe [M. Tem. 3:5G]** — which refutes the position of Abbayye* [*“Any action that the Torah has said one should not do, if one does it, it produces an effect of legal consequence”*], since this forbidden act has no legal effect [*in the case of the blemished firstling or the blemished animal that has been designated as a tithe*].
- CCC. He will say to you, *“The case is exceptional, since we draw an analogy between the word ‘passing’ that is used for an animal that is tithed and the same term used in connection with a firstling* [and just as for a firstling there is no redemption, so a tithed animal has no redemption; but elsewhere the forbidden act has a legal consequence (Miller)].

Now comes another case.

DDD. Lo, there is the case of one who has given precedence to the designation of a portion of the crop as heave offering over the designation of a portion of the crop as first fruits, about which the Torah says, “You shall not delay offering the fulness of your harvest and the outflow of your presses” (Exo. 22:28). *And we have learned in the Mishnah: He who designates produce as heave offering before he has designated produce as firstfruits, although he has violated a negative commandment, has done a valid deed [M. Ter. 3:6]. Here then is a refutation of the position of Raba.*

EEE. *Raba will answer you, “That case is exceptional, for Scripture has said, ‘Out of all your gifts you shall offer every heave offering’ (Num. 18:29).” [Miller: although you have named first tithe before heave offering, you can still separate heave offering, and the same is so for heave offering and first fruits].*

FFF. *And Abbaye?*

GGG. *He requires the cited phrase [“Out of all your gifts you shall offer every heave offering’ (Num. 18:29)] to deal with the question that R. Pappa addressed to Abbaye [concerning the case of a Levite who anticipated a priest and took his first tithes from the grain while it was still in the ear before the priest took his heave offering. Although he caused the priest a loss, for the priest should get two parts out of every hundred and the Levite has taken his first tithe so the heave offering will be only for the remaining ninety parts, still, the Levite does not have to make good the loss that the priest has suffered. Scripture says that the Levite must give a tenth part of the tithe, so Num. 18:26), implying that he need give not only a tithe from the tithe, but both tithe and heave offering. If the Levite anticipated the priest when the grain was stacked up in piles, that is, when it was liable to both heave offering and tithes, then the Levite must make up for the loss of heave offering when he separates his tithe. Pappa then said to Abbaye, “If you exempt the Levite from giving heave offering because of the text, ‘a tenth part of the tithe,’] then even if the Levite anticipated the priest when the grain was still on the pile, he also should be exempt from the obligation to make up the heave offering, to which Abbaye said to him, “It is to meet your challenge that Scripture has said, ‘Out of all your gifts you shall offer every heave offering’ (Num. 18:29).”*

HHH. How come you then include grain in the pile and exclude grain still in the ear?

III. I encompass the grain in the pile because it is called grain, while I exclude grain in the ear because it has not yet entered the category of being grain [being unripe].

We turn to a different category of law to pursue the same principle.

JJJ. But then there is the case of a widow married to a high priest, concerning which the Torah has said, “A widow or a divorced woman — these he shall not take as a wife” (Lev. 21:14), *while we have learned in the Mishnah: Any situation in which there is a valid betrothal, but there also is the commission of a transgression, the offspring follows the status of the impaired, inferior party. And what is such a situation? It is a widow married to a higher priest [M. Qid. 3:12D-F].* [Miller: consequently we see here that a forbidden act has a legal effect, for it says that the betrothal is valid; if a prohibited act has no legal effect, should the betrothal be valid?]



KKK. *This case is different, since Scripture is explicit, “Neither shall he profane his seed among his people” (Lev. 21:15).*

LLL. *And Abbayye?*

MMM. If so, let Scripture state, ““Neither shall he secularize...” Why say, “Let him not profane...”? That covers both the child and also the woman herself [and if she is the daughter of a priest, she cannot eat the heave offering that she gets from her father; so there is a prohibition, but there also is a legal effect, as Abbayye insists is the principle that prevails throughout].

We jump back to the laws governing the offerings on the altar.

NNN. And is there not the case of one who consecrates blemished animals for the altar, concerning which the Torah has said, “But whatsoever has a blemish, that you shall not offer” (Lev. 22:20) [meaning, that you shall not consecrate], *but it has been taught on Tannaite authority, He who dedicates blemished animals to the altar, although he violates a negative commandment, has carried out a valid action,” and that refutes the position of Raba.*

OOO. *Raba will say to you, “That case is exceptional, since Scripture says, ‘For it shall not be acceptable for you’ (Lev. 22:20), meaning, it is not acceptable, but the act of consecration still is legal.”*

PPP. *And Abbayye?*

QQQ. *Had Scripture not stated, “For it shall not be acceptable for you” (Lev. 22:20), I might have reached the conclusion that it would fall into the category of the case of one who transgresses a religious commandment, but even so, the animal is suitable for an offering. We are therefore told that that is not the case.*

The same classification of law yields another challenge to Raba.

RRR. And is there not the case of one who consecrates unblemished animals for the upkeep of the Temple building, concerning which Scripture has said, [6A] “Anything too long or too short that you may offer for a free will offering” (Lev. 22:23), meaning, for the upkeep of the Temple house. *Yet we have learned in the Mishnah: He who consecrates unblemished animals for the upkeep of the Temple house, even though he has violated a negative commandment, has carried out an effective action. This is surely a refutation of the position of Raba.*

SSS. Raba will say to you, “The very same passage from which you include the case of blemished animals that are dedicated to the altar encompasses the case of unblemished animals that are consecrated for the upkeep of the Temple house.” [Miller: we compare the case of unblemished animals dedicated for the upkeep of the Temple to that of blemished animals dedicated for the altar. Just as in the latter case, although one has violated a negative commandment, the act is valid, so in the former case, the same rule applies; but this is a special case.]

Now on to social sins, in this case: thievery.

TTT. And lo, there is the case of stealing, concerning which Scripture has said, “You shall not steal” (Lev. 19:13). *But we have learned in the Mishnah: He who steals wood and made it into utensils, wool and made it into clothing, pays compensation in accord with the value of the wood or wool at the time of the theft [M. B. Q. 9:1A-C]. This is surely a refutation of the position of Raba [that a prohibited act produces no legal effect at all].*

UUU. *Raba will say to you, "That case is exceptional, for Scripture has said, 'that he shall restore that which he took by robbery' (Lev. 5:23), meaning, he is to restore as much as he stole."*

VVV. *And Abbayye?*

WWW. *He requires the verse, "that he shall restore that which he took by robbery" (Lev. 5:23) to indicate that he is to add a fifth to what he has himself stolen, but not to what his father has stolen."*

Thievery shades over into lending on a pledge and the disposition thereof.

XXX. And lo, there is the case of one who takes a pledge, concerning which Scripture says, "You shall not go into his house to fetch his pledge" (Deu. 24:10), *but we have learned in the Mishnah: [If the borrower] had two utensils, [the lender] takes one and leaves one. And he returns [his] pillow by night, and plow by day [M. B.M. 9:13D-E]. This is surely a refutation of the position of Raba [that a prohibited act produces no legal effect at all].*

ZZZ. *Raba will say to you, "That case is exceptional, for Scripture has made explicit the rule, 'You shall surely restore the pledge' (Deu. 24:13)."*

AAAA. *And Abbayye?*

BBBB. *"If Scripture had not said, 'You shall surely restore the pledge' (Deu. 24:13), I should have supposed that, while he has broken a prohibition, if he wishes, he may restore the pledge, but if he wishes, he does not have to do so. So we are informed that that is not the case."*

We turn next to the rules governing not reaping the corner of the field but leaving it for the poor.

CCCC. And lo, there is the case of the peah, concerning which the Torah has said, "You shall not wholly reap the corner of your field" (Lev. 23:22), *but it is taught on Tannaite authority: The religious duty of carrying out the obligation of designating peah is to do so from standing grain. If one did not designate it from standing grain, he designates it from the sheaves. If he did not designate it from the sheaves, he designates it from the pile of grain before he smooths it down. If he had smoothed it, he tithes it and then gives peah to the poor man. In the name of R. Ishmael it was said, "He even may separate it from the dough." This represents a refutation of Abbayye [that a prohibited act produces a legal effect].*

DDDD. *Abbayye will say to you, "That case is exceptional, for Scripture has made explicit through the duplication, 'You shall leave,' 'you shall leave' (Lev. 19:10, 23:22)."* [Miller: the extra references indicates that although the grain has changed in his possession, he does not acquire possession of it and is still bound to separate peah and leave it to the poor.]

EEEE. *And Raba?*

FFFF. *He will say to you, "The sense of the duplicated usage is to indicate that you have yet another act of leaving that falls into the same class as this one, and what is it? It is one who declares his vineyard to be ownerless. For it has been taught on Tannaite authority: He who declares his vineyard to be ownerless and got up in the morning and harvested its grapes, he has to leave for the poor the grapes that fall off during cutting [in line with M. Peah. 8:3], the defective grape-clusters, the forgotten sheaf, and peah, but he is exempt from tithe."*

From the survey of cases, we revert to an analysis of the principle that the cases illustrate, finding out what is at stake in the debate.

GGGG. *Said R. Aha b. Raba to R. Ashi, "Now that we have repeated all of these various cases, in point of fact, in what matter do Abbayye and Raba truly differ? It concerns the case of stipulated usury [in which the creditor receives a fixed rate of interest on the loan. Abbayye regards the stipulation as valid, and the interest could not be recovered by the borrower, even though the stipulation violates the commandments against usury. Raba says that the agreement is null and the borrower can recover the interest in court (Miller)]."*

This simple identification of a case of concrete difference is now enriched with a secondary discussion of a subsidiary point, the matter of direct vs. indirect interest.

HHHH. [As to the distinction between direct interest and indirect interest,] said R. Eleazar, "Direct interest may be reclaimed in court, [6B] while indirect interest may not be recovered in court."

IIII. R. Yohanan said, "Even direct interest also may not be recovered in court."

JJJJ. He said to him, "In that instance, do they differ as to reasoning? Is it not a difference on the interpretation of verses of Scripture?"

KKKK. *Said R. Isaac, "What is the scriptural basis for the position of R. Yohanan? Scripture has said, 'He has given forth upon usury and has taken increase, shall he then live? He shall not live, he has done all these abominations' (Eze. 18:13). For this transgression death is prescribed, return of the money is not prescribed."*

LLLL. R. Ada bar Ahba said, "Said Scripture, 'Take no usury from him or increase, but fear your God' (Lev. 25:36) — fear is prescribed, refund of the money is not."

After that footnote, we revert to the announced point of difference.

MMMM. *Raba said, "From the language of the pertinent verse the matter is to be inferred: 'he shall surely die, his blood shall be upon him' (Eze. 18:13) — those who lend upon usury are in the same classification as those who shed blood. Just as those who shed blood cannot make restitution, so those who lend on usury cannot make restitution."*

NNNN. *Said R. Nahman bar Isaac, "What is the scriptural basis for the position of R. Eleazar [that direct interest may be recovered in court]? It is because Scripture has said, 'You shall take no usury of him or increase, but fear your God, that your brother may live with you' (Lev. 25:36) — return it to him so that he may live."*

The composite does not yield a clear result, so we revert to the question asked just now.

PPPP. *Then concerning what issue do Abbayye and Raba actually differ?*

QQQQ. In the question of whether changing the character of an object in the violation of a scriptural prohibition effects a transfer of ownership [e.g., in the case of one who stole a piece of wood and turned it into a utensil. Abbayye says the man acquires ownership and pays back the price of the wood. Raba says the act is null and there is no transfer of ownership of the wood].

Further versions of the point at issue are now set forth.

RRRR. *Another version of the matter:*

SSSS. *The difference is in the various answers already given [Miller: there will not actually be a difference in any specific case, except in the kind of explanation each*

gives in answer to a passage quoted above. Each will explain any particular item according to his viewpoint].

TTTT. *Another version: the difference is in the issue of stipulated usury. In Abbaye's view, the interest that has been collected is refunded, and in Raba's view, the interest that has been collected is not refunded.*

UUUU. *But is it not also the position of Abbaye that in court we do recover stipulated usury that has been paid out?*

VVVV. *For Abbaye has said, "If one claims four zuz from another as a payment of interest, and the other gave the lender in his shop for it a garment that was worth five zuz, we recover the four zuz from him, but the remaining zuz we say he gave to him as a gift."*

WWWW. *But Raba said, "We recover from him all five zuz. Why so? The entire sum of money has come to the lender as a payment of interest."*

XXXX. *Rather, when Abbaye and Raba really do differ, it concerns the question of whether changing the character of an object in the violation of a scriptural prohibition effects a transfer of ownership.*

We have now completed our exposition of the principle concerning which Abbaye and Raba differ, on whether a prohibited action produces legal consequences. We proceed to another case pertinent to the matter, the result of sanctifying a blemished animal. The reason the passage is introduced, however, is not connected with No. 18, but rather, with the fact that the Tosefta to our Mishnah-passage introduces the issue in its own terms. Then follow secondary expositions of the Tosefta's statement. The upshot is, once the Mishnah-paragraph has been set forth and analyzed, and the general principle inhering in it has been treated in abstract terms of a variety of types of cases, we then proceed to deal with the Tosefta's contribution to our tractate, at this point at any rate. But Nos. 22, 23 bring us back to the large-scale composition of No. 18, linking Nos. 19-21 to the foregoing; this must then register as one of the Talmud's greatest achievements of large-scale cogent composite-formation.

**I.19.** A. *Our rabbis have taught on Tannaite authority:*

B. "Whatever has a blemish you shall not offer" (Lev. 22:20) —

C. What is the point of this verse? If it is that one should not slaughter such beasts, lo, that has already been stated elsewhere. Why then does the verse say, "...you shall not offer"?

D. You should not consecrate such beasts to begin with.

E. In this basis sages have said:

F. **He who sanctifies a blemished animal for the altar transgresses five negative commandments: against the negative commandments of not sanctifying, not slaughtering, not tossing the blood, not burning the fat, and not burning part of it, since Scripture says, "And when any one offers a sacrifice of peace offerings to the Lord, to fulfill a vow or as a freewill offering, from the herd or from the flock, to be accepted, it must be perfect; there shall be no blemish in it" (Lev. 22:21).**

G. **In the name of R. Yose b. R. Judah they have said, "Also one transgresses on the count of not receiving its blood" [T. Tem. 1:10].**

- I.20.** A. The master has said [19.C], “If it is that one should not slaughter such beasts, lo, that has already been stated elsewhere.” *Where has that been stated?*
- B. *It is in line with that which has been stated on Tannaite authority:*
- C. “Blind or broken or maimed you shall not offer unto the Lord” (Lev. 22:22) —
- D. What is the sense of Scripture here? If it is that such animals are not to be consecrated to begin with, lo, this has already been stated earlier [at Lev. 22:20].
- E. Then what is the meaning of Scripture when it says, “you shall not offer unto the Lord” (Lev. 22:22)? It means you shall not slaughter such a beast as a sacrifice.
- F. “nor make an offering of them” [meaning, of blemished animals for the altar, Lev. 22:20] — this refers to offerings made by fire on the altar.
- G. I know only that that is the rule for the whole of the beast. How do I know the rule for only part of the beast? Scripture says, “of them.”
- H. How do I know the rule covering the sprinkling of the blood [of blemished animals}?
- I. Scripture states, “on the altar.”
- J. “Unto the Lord” serves to encompass the case of the scapegoat. [One who consecrates a blemished beast to serve as scapegoat violates the prohibition at hand.]
- K. And does “unto the Lord” really serve to include something more?
- L. *And has it not been taught on Tannaite authority:*
- M. If you provide an exegesis for the word “offering,” shall I understand the word to encompass the case of animals consecrated for the upkeep of the Temple house, for these are subsumed under the classification of “offering,” when for example Scripture states, “We have therefore brought the offering of the Lord” Num. 31:50)?
- N. The verse states, “and has not brought it to the door of the tent of meeting” (Lev. 17: 4), and that means, that which is suitable to be brought to the door of the tent of meeting is that on account of which people are liable on the count of slaughtering holy things outside of the designated place, and that which is not suitable to be brought to the door of the tent of meeting is that on account of which people are not liable on the count of slaughtering holy things outside of the designated place. Then shall I exclude these, but not the red cow that is burned for the making of purification-water, and the goat that is sent forth, for these are suitable to be brought to the door of the tent of meeting? Scripture says, “for the Lord,” meaning, that which is in particular for the Lord, excluding these, which are not particularly designated for the Lord.”
- O. *Said Raba, “In the one passage we follow the sense of the context. Since the verse concerning slaughtering outside the Temple court, ‘to the door of the tent of meeting’ serves to encompass [all unblemished animals, slaughtering any of which outside brings sanction], so the text ‘unto the Lord’ in that connection excludes [the cases of the scapegoat and the red cow, and these are to be slaughtered outside of the temple]. Here, the verse, ‘by fire,’ excludes [only in respect to an offering that is burned is there liability for dedicating a blemished animal, but an offering that is not burned but dedicated in its blemished state will not bring in its wake a sanction. But what about the scapegoat?] [As to the*

*scapegoat*], ‘unto the Lord’ used in that connection excludes [the scapegoat; if one dedicates it in its blemished condition he violates the law, ‘You shall not offer...].”

P. *So the reason that the blemished animal may not be brought is that Scripture says, “unto the Lord.” But if Scripture had not covered that case by the specific statement, “unto the Lord,” I might have concluded that it is permitted to present a blemished animal as a scapegoat. But take note: it is only casting the lot that designates the beast that is fit to be offered for the Lord. [For the rite of the Day of Atonement, two animals must be available, and these must be unblemished. The reason is that at the outset we do not know which one will be the scapegoat “for Azazel,” so both must be suitable “for the Lord.” Only the casting of the lot determines the classification of the beast. That reason, and not Scripture, should have sufficed.]*

Q. *Said R. Joseph, “Whom does this exegesis represent? It is Hanan the Egyptian, who has said, ‘Even if there was already blood in the cup [deriving from the goat designated for the Lord, the goat having been slaughtered, but the blood had not yet been tossed on the altar, and the scapegoat was lost or blemished,] one still can bring another goat [for a scapegoat] to pair with [the goat that has been slaughtered, and that is done without casting lots, since the animal for the Lord has already been slaughtered. Miller: just as according to Hanan, one can bring a second animal for the scapegoat without casting lots, so he can bring it in blemished condition. The proof-text, ‘unto the Lord’ then tells us that that is not permitted, since, as we see, otherwise it can have been done that way.]”*

R. *Granted that one can assign such a view to Hanan the Egyptian, who holds that there can be no rejection [even though the goat for the Lord has already been slaughtered, we can select another animal for the scapegoat. But the contrary position is that the blood is discarded, since the rite has been interrupted], does that mean that it is not necessary to cast lots? Perhaps he brings another set of goats and casts lots [Miller: in the following manner: he brings two fresh animals and casts lots as to which shall be for the Lord and which for Azazel. The animal designated for the Lord is left to pasture until blemished; the other one, for Azazel, is paired with the slaughtered goat. Since he has to cast lots, the second animal, to become a scapegoat, must be unblemished]?*

S. *Rather, said R. Joseph, “Whom does this exegesis represent? It is R. Simeon. For it has been taught on Tannaite authority as follows:”*

T. *If one of the goats died, one brings the other without casting lots [Miller: I might have thought since lots are not required, there is no need that the scapegoat should be unblemished. The verse, ‘unto the Lord’ teaches us that that is not so],” the words of R. Simeon.*

U. *Raba said, “The verse, ‘unto the Lord,’ is required only to cover the case in which the scapegoat became blemished on that day [after the lots had been cast], and one had redeemed the beast for another animal. [7A] You might have thought that to begin with, we do not know which one of them*



*is going to be designated 'for the Lord,' while here, since the animal that is designated 'for the Lord' has already been discerned, there is no question of a flogging [for violating the law, 'you shall not offer,' if the scapegoat is dedicated in a blemished condition]. The words, 'for the Lord' tells us that that is not the case [and even here there is a penalty for violating the law and bringing a blemished beast]."*

- I.21.** A. A master has said, **"In the name of R. Yosé b. R. Judah they have said, "Also one transgresses on the count of not receiving its blood" [T. Tem. 1:10].**
- B. *What is the scriptural basis for the position of R. Yosé b. R. Judah?*
- C. Said Scripture, "That which has its stones bruised or crushed or torn or cut...you shall not offer to the Lord" (Lev. 22:24).
- D. This refers to the receiving of the blood, concerning which R. Yosé b. R. Judah spoke.
- E. *And as to the initial authority [who does not concur in his view], how do we account for the repeated language, "you shall not offer to the Lord"?*
- F. *He requires that language to cover the matter of sprinkling the blood of a blemished animal [indicating that that is punishable].*
- G. *But does that point not derive from the language, "upon the altar."?*
- H. *That is simply the manner in which Scripture formulates its ideas [Miller: summing up the law relating to blemishes, and we do not infer a particular ruling from that language].*
- I. *And as to R. Yosé b. R. Judah, is this not also to be treated as simply the manner in which Scripture formulates its ideas?*
- J. *Indeed so.*
- K. *Then how does he know that sprinkling the blood of a blemished animal also involves the violation of a prohibition?*
- L. *He derives that fact from the following verse of Scripture: "Neither from the hand of a foreigner shall you offer" (Lev. 22:25). This refers to the receiving of the blood, concerning which R. Yosé b. R. Judah spoke.*
- M. *And as to the initial authority [who does not concur in his view], how do we account for "Neither from the hand of a foreigner shall you offer" (Lev. 22:25)?*
- N. *He requires it to make the following point: you might have thought that since the children of Noah were commanded only concerning the matter of the loss of a limb [which is the only defect that will disqualify a beast for sacrifice upon altars of gentiles, but mere blemishes will not disqualify animals for their altars], there would be no difference between an animal offered by them on their altar and one offered by them on ours. So we are informed that that is not the case.*

Another version of the same secondary discussion follows.

- O. *There is another version, as follows:*
- P. **"In the name of R. Yosé b. R. Judah they have said, "Also one transgresses on the count of not receiving its blood" [T. Tem. 1:10].**
- Q. *What is the scriptural basis for the position of R. Yosé b. R. Judah?*
- R. Scripture states, "That which has its stones bruised or crushed or torn or cut...you shall not offer to the Lord" (Lev. 22:24).

- S. *This refers to receiving the blood, and as to not sprinkling the blood, that rule derives from the words, “upon the altar.”*
- T. *And as to rabbis, should they not derive the rule governing not sprinkling the blood from the words, “upon the altar”?”*
- U. *Indeed so.*
- V. *Then for what purpose does Scripture state, “That which has its stones bruised or crushed or torn or cut...you shall not offer to the Lord” (Lev. 22:24)?*
- W. *It is required to give us the rule covering the high place of an individual [indicating that one may not offer on a high place of an individual a blemished animal].*
- X. *And from the perspective of R. Yosé b. R. Judah, is this same verse not required to cover the high place of an individual?*
- Y. *Indeed so!*
- Z. *Then how does he know the rule that it is prohibited to receive the blood of a blemished animal?*
- AA. *He derives that fact from the following verse of Scripture: “Neither from the hand of a foreigner shall you offer” (Lev. 22:25). This refers to the receiving of the blood, [concerning which R. Yosé b. R. Judah spoke.]*
- BB. *And rabbis required that verse for a different purpose. It might have entered your mind to suppose that since the children of Noah were commanded only concerning the matter of the loss of a limb [which is the only defect that will disqualify a beast for sacrifice upon altars of gentiles, but mere blemishes will not disqualify animals for their altars], there would be no difference between an animal offered by them on their altar and one offered by them on ours. So we are informed by the language “of any of these” that that is not the case.*

We now see why this entire matter of the Tosefta’s complementary rule is introduced at just this point: it involves a challenge to Raba’s view, which is now introduced and contrasted with the Tosefta’s law.

- I.22.** A. *[In line with the position of Raba,] R. Simeon b. Laqish objected [to the proposition, **He who sanctifies a blemished animal for the altar transgresses five negative commandments: against the negative commandments of not sanctifying, not slaughtering, not tossing the blood, not burning the fat, and not burning part of it, since Scripture says, “And when any one offers a sacrifice of peace offerings to the Lord, to fulfill a vow or as a freewill offering, from the herd or from the flock, to be accepted, it must be perfect; there shall be no blemish in it” (Lev. 22:21)], “Perhaps the penalty of flogging pertains only in the case of an originally unblemished animal that became blemished [so we might have thought that since it was once consecrated, the fact that it subsequently became blemished should not disqualify it for the altar], so the verse indicates that here there would be a transgression. But if one has consecrated an originally-blemished animal, the act bears no legal consequences, any more than it would if one consecrated the wood of a palm tree.”***
- B. *Said to him R. Hiyya bar Joseph, “What is written is ‘too long or too short’ (Lev. 22:23), and these constitute beasts that to begin with were blemished.”*
- C. *He said to him, “But perhaps the rule that there is a penalty for dedicating pertains only in the case of the law governing substitutions, for we have learned*

*in the Mishnah: A more strict rule applies to consecrated animals than to a substitute, and [a more strict rule] applies to a substitute than to consecrated animals. A more strict rule applies to the substitute. For sanctity applies to [a substitute] which is afflicted with a permanent blemish [M. 1:2], so that it does not go forth for unconsecrated purposes, for shearing and for labor [M. Tem. 2:3A, E].*” [Miller: for this reason there is a penalty of flogging, but if he dedicated an animal that to begin with was blemished, there may be no penalty for that dedication, unless he later on offered it up].

- D. *Said to him R. Yohanan, “Have you not received as a tradition [‘heard’] what R. Yannai said? ‘In an assembly they voted and decided, “He who consecrates for use on the altar an animal that is blemished violates the law on five counts.”’ Now if the passage addresses substitutes, then there should be six, for there is also the prohibition of effecting a substitution.”*
- E. *What then? Do we deal with the case of an animal that was blemished to begin with? Then why should there be the penalty of flogging, since it is more than it would if one consecrated the wood of a palm tree.”*
- F. *He said to him, “The wood of a palm tree is not a matter of deprecation of the holy, for it is a kind of wood. But if one consecrates an animal that is already blemished, it is a matter of deprecation of the holy, since one has ignored animals that are not blemished and consecrated blemished one, so he is guilty.”*
- G. *Another version: he said to him, “Even so, it is an act that is deprecating to the sanctity of the altar if one consecrates an animal that became blemished later on]. For as to a palm tree, nothing in the class of which [is ever going to be consecrated for the altar], one is not flogged, but one has to then distinguish a blemished beast, for others in its class are going to be consecrated to the altar, so he is flogged.”*
- H. *Said Raba, “Now that you have stated that one who consecrates an animal that is blemished is flogged because it is regarded as an act of deprecation of the sanctity attaching to the altar, then even if one consecrates a blemished animal for the value of drink-offerings that can be purchased with its proceeds, one should also incur the same punishment.”*
  - I. *There is a Tannaite dispute along the lines laid out by Raba.*
  - J. **[7B]** *Scripture states, “You may make it [a beast that is blemished] as a freewill offering” (Lev. 22:23) — this refers to things that are consecrated for the upkeep of the Temple house.*
  - K. *I know that that pertains only to the case of a freewill-offering. How about the matter of a vow?*
  - L. *Scripture states, “And for a vow” (Lev. 22:23). [If one vows an animal for the upkeep of the Temple, that animal is consecrated even though it is blemished.]*
  - M. *Might one suppose that the same is so even for Holy Things designated for the altar [so one can designate for that purpose animals that are blemished]?*
  - N. *Scripture states, “and for a vow it will not be accepted” (Lev. 22:23), indicating that this refers to Holy Things designated for use on the altar.*

- O. I know only that that exclusion governs beasts presented under a vow. How do I know that the same exclusion pertains to the exclusion of a beast presented as a freewill-offering?
- P. Scripture says, "...as a freewill offering...."
- Q. Rabbi says, "'It shall not be accepted' — Scripture speaks of the acceptability of the body of the beast for the altar [and that beast may not be offered up]."
- R. *But this is just what the initial Tannaite authority has just told us!*
- S. *Is this not what is at issue between them: the initial Tannaite authority takes the view that even if one has consecrated the blemished beast so that the proceeds may be used for drink-offerings, he is flogged, while Rabbi takes the view that the punishment of flogging pertains only to the acceptance of the body of the beast, but not to the dedication of the value of the beast for use in the purchase of drink-offerings?*
- T. *That is indeed the fact.*
- U. *Then how come the word "that" is included ["that you may..."]? [Miller: since you say that the words vow and free-will offering refer to a blemished animal under either classification, then the word 'that', possessing a restrictive meaning, is not needed.]*
- V. *It accords with that which is taught on Tannaite authority:*
- W. "That you may offer for a freewill offering" — *that* is what you may offer as a freewill offering for the upkeep of the Temple house, but you may not offer unblemished animals as a freewill offering for the upkeep of the Temple house.
- X. On this basis they have said, **"He who sanctifies unblemished animals for the upkeep of the Temple house violates a positive commandment"** [cf. T. **Tem. 1:13A**].
- Y. And how do we know that such a one is guilty also of transgressing a negative commandment? Because it says, "And the Lord spoke to Moses saying" (Lev. 22:17), and that clause serves to indicate that the entire passage as a whole has the force of a law covering prohibitions," the words of R. Judah [cf. T. **Tem. 1:13A**].
- Z. *Said Rabbi to Bar Qappara, "What do you get out of this?"*
- AA. *He said to him, "Since it is written, 'saying,' the sense is that a negative commandment has been said in connection with these statements [following Miller]."*
- BB. The household of Rabbi says, "The word 'saying' bears the sense, 'tell the children of Israel a negative commandment.'"

**I.23.** A. *It has been stated:*

- B. He who offers up limbs of blemished animals on the altar —
- C. Said Raba, 'He violates on the count of burning the whole and also on the count of burning a part.'
- D. Said Abbaye, "People are not flogged on the basis of a negative commandment that is encompassed within a larger prohibition" [Miller: the prohibition comprises

both the burning of the whole and the burning of a part, and in such a case there is only punishment on one count].

- E. *An objection was raised: He who sanctifies a blemished animal for the altar transgresses five negative commandments: against the negative commandments of not sanctifying, not slaughtering, not tossing the blood, not burning the fat, and not burning part of it, since Scripture says, “And when any one offers a sacrifice of peace offerings to the Lord, to fulfill a vow or as a freewill offering, from the herd or from the flock, to be accepted, it must be perfect; there shall be no blemish in it” (Lev. 22:21)]. This constitutes a refutation of Abbaye’s view.*
- F. *Abbaye will say to you, “This speaks of distinct individuals [one person doing one act, one doing another, and each is liable on his own count for what he has done; but if one person did the whole, he would not be liable on the count of burning a part (Miller)].”*
- G. *But if the passage speaks of different individuals, then how come the language of “he” is used here? Is it not required to speak of “they”? So the passage speaks of one individual, and is that not a refutation of Abbaye?*
- H. *Abbaye will say to you, “Remove the reference to burning part of the blemished animal on the altar and insert the prohibition for receiving the blood of the blemished animal.”*
- I. *But the prohibition against receiving the blood of the blemished animal is maintained only by R. Yosé b. R. Judah, but not by the initial Tannaite authority of the passage in which the issue is treated! [So you are left in a schismatic position.]*
- J. *And that is indeed a refutation.*
- K. *Another version:*
- L. *And lo, since the concluding clause represents the position of R. Yosé b. R. Judah, the opening clause represents the views of rabbis, and that is a final refutation of the position of Abbaye.*

I.1 simply clarifies the sense of the Mishnah-passage, so as to eliminate an unwanted implication of a contradiction. No. 2 proceeds to more interesting problem of language-analysis. It is not particular to our passage but must be investigated in connection with all parallel usages of the encompassing language, “all.” This rapidly moves into an analysis of the position of Judah on several parallel matters, with the effect of showing us how these parallel matters interrelate. The issues are several: the facts of our case, rules for deriving proof from Scripture, the general principles governing the status of women in context, and the like. The entire composition is beautifully articulated and wholly cogent, start to finish. No. 3 proceeds to a question that our Mishnah-passage surely invites. Nos. 4-7, 8-9 systematically analyze evidence introduced at No. 3. No. 10 proceeds to a fresh question. The relevance is clear, since in our area of law, we have a negative prohibition, one does not actually do anything, but there is a flogging. That then contradicts Rab’s generation. This is complemented at Nos. 11-14+15, 16, 17, 18, which provide the required proofs for the several items. None of this is particular to our law and certainly not our Mishnah-paragraph, and the passage tends to a certain tedium. The paramount question is a general one —

whether or not transgression of a negative commandment that involves no actual deed is penalized with a flogging — and that question does pertain as much to our Mishnah-paragraph as to a great many other cases, namely, the sanction, under various circumstances and in diverse contexts, for violating a negative commandment. Since it is obvious that this massive composition is meant to run on smoothly from beginning to end, I have not subdivided it but treated it as one enormous construction. No. 19 bears upon the rather general issue of the consequences of violating the law: what one has done is null, but one is nonetheless penalized. But the passage also introduces the analysis of a Tosefta-paragraph associated with our Mishnah's rule. Nos. 20, 21, 22, 23 are tacked on to No. 19.

### 1:1F-O

- F. Priests effect a substitution in the case of what belongs to them.**
- G. And Israelites effect a substitution in the case of what belongs to them,**
- H. Priests do not effect a substitution in the case either of a sin offering or of a guilt offering or of a firstling. [They own no share in sin- or guilt-offering prior to their being killed and their blood's being tossed on the altar.]**
- I. Said R. Yohanan ben Nuri, "And on what account do they [the priests, who own firstlings] not effect a substitution in the case of a firstling?"**
- J. Said R. Aqiba, "A sin offering and a guilt offering are a gift to the priest, and a firstling is a gift to the priest.**
- K. "Just as, in the case of a sin offering and a guilt offering, they do not effect a substitution, so in the case of a firstling, they should not effect a substitution."**
- L. Said to him R. Yohanan b. Nuri, "What difference does it make to me that one does not effect a substitution in the case of a sin offering and a guilt offering? For in case of these, they [the priests] have no claim while they [the beasts] are alive.**
- M. "Will you say the same in the case of the firstling, to which they [the priests] have a claim while [the firstling] is still alive?"**
- N. Said to him R. Aqiba, "But has it not already been stated, 'Then both it and that for which it is changed shall be holy' (Lev. 27:10)?"**
- O. "At what point does sanctity descend on to it? In the house of the owner. So the substitute [becomes holy] in the house of the owner."**

This Mishnah-paragraph is ignored. The attached Talmud deals with the distinction between the rule governing the priesthood at the time that the Temple stood as against the rule governing now that the Temple has been destroyed. Do their rights to what has been assigned to them remain the same with the Temple in ruins, or does their caste privilege endure untouched by the condition of the Temple? The entire passage is inserted here because the Mishnah-paragraph contributes to the analysis of the problem. In fact, the pertinent Mishnah-rule is M. M.S. 1:2D-E, which is cited at the outset, and for the analysis of which the composite has been put together.

**I.1** A. *There we have learned in the Mishnah:*



- B. As to the firstling, priests sell it when the animal is unblemished and alive, and when the animal is blemished, [they may do so] whether it is alive or slaughtered, and they give it as a token of betrothal to women [M. M.S. 1:2D-E].
- C. Said R. Nahman said Rabbah bar Abbuha, “This teaching was repeated only in regard to this time [when the Temple lies in ruins], *since the priest has a claim of ownership of the beast*, but when the Temple stood, *since an unblemished beast was for offering on the altar*, they may not sell them when it is unblemished and alive.”
- D. Raba objected to R. Nahman, “...**priests sell it when the animal is unblemished and alive** — when alive, yes, when slaughtered, no. When does that rule apply? Shall I say that it is in this age [when the Temple is in ruins]? Then is there now a beast that is unblemished and slaughtered [obviously not, since now the rule is that we wait until the beast suffers a blemish before slaughtering it, the alternative being to slaughter a valid animal as a sacrifice outside of the Temple, which is unthinkable]? So the phrase, **priests sell it when the animal is unblemished and alive** must pertain to the time in which the Temple stood. And it is then taught on Tannaite authority, **priests sell it when the animal is unblemished and alive.**” [That refutes Nahman’s proposition.]
- E. No. in point of fact the passage refers to the present age. Does it state, **priests sell it when the animal is unblemished and alive** — alive yes, slaughtered no? The very point of the passage is to inform us that in the present age too they sell the beast **when the animal is unblemished and alive.** [Miller: you might have thought that the priest has no claim on it until the firstling is blemished. But the point of the passage is not to indicate that we may not sell a slaughtered firstling; at the present time there is no unblemished slaughtered firstling.]
- F. [8A] An objection was raised: with respect to a firstling it is stated, “But the firstling of a cow 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” (Num. 18:17). The implication is that it may be eaten [in its consecrated condition; it may not be sold in the market or weighed out in a secular fashion]. Now what are the circumstances to which reference is made here? Shall we say that it is at the present age? Then note the next clause of the passage: “you shall sprinkle their blood upon the altar and shall burn their fat as an offering by fire, a pleasing odor to the Lord” (Num. 18:17). In this age is there an altar? So it is self-evident that the passage refers to the age in which the Temple stood. And to what is reference made? Shall I say it is to a blemished firstling? Then once more let me point to the latter clause: “you shall sprinkle their blood upon the altar and shall burn their fat as an offering by fire, a pleasing odor to the Lord” (Num. 18:17). Now if we deal with a blemished firstling, is it going to be suitable for an offering? Rather, is it not with an unblemished offer, and it is taught, **it may be sold.** [So an unblemished firstling in Temple times may be sold, contrary to Nahman’s opinion.]
- G. [But is the proposition that the two parts of the version before us must deal with an unblemished firstling?] The first clause [“you shall redeem”] speaks of a blemished animal, and the second of an unblemished one.

H. *R. Mesharshayya objected, “A priest girl whose offspring was confused with the offspring of her slave girl — lo, these men eat heave offering; and they take and divide a single share at the threshing floor; [and they do not contract corpse uncleanness; and they do not get married, whether the woman is valid or invalid for marriage into the priesthood. If the confused sons grew up and reciprocally freed one another, they do marry wives suitable for marriage into the priesthood, and do not contract corpse uncleanness, and if they do, they do not incur forty stripes; and they do not eat heave offering, and if they eat it, they do not pay back to the priesthood the principal and the added fifth; and they do not take a portion at the threshing floor, but they sell heave offering, and the proceeds are theirs. And they do not take a share in the Holy Things of the sanctuary. And they do not give them Holy Things, but they do not take back their Holy Things that they gave to them. And they are free from the obligation to give the shoulder, cheeks, and maw to a priest.] And their firstling animal should be put out to pasture until it suffers a blemish. [And they apply to them the strict rules of the priesthood and the strict rules pertaining to ordinary Israelites] [M. Yebamot 11:5A-T]. Now with what situation do we deal here? If we say that it is with the present age [in which the priests’ firstling has to be blemished] before it can be slaughtered, then what difference is there between a firstling that belongs to us [who assuredly are priests] and one that belongs to them [who may or may not be priests], for those that belong to us also have to be blemished before they can be slaughtered and eaten? Rather, is it not the case that the passage addresses the age in which the Temple stood? Now if you take the position that the priest has a right of ownership in the body of the living firstling, that is well and good [and he may sell it alive and unblemished when the Temple stood. But if you say he has no right of ownership in the body of the live, unblemished firstling, then why not let the Temple treasurer come and take the animal? [If the priest has a claim, he can retain the firstling on the claim that perhaps he may be a priest and therefore has a prior claim and need not give the firstling to another priest, but he waits until it is blemished. But the Temple treasurer in the other case can give it to a genuine priest, since the priest has no claim on the firstling until it is brought to the altar. The upshot is that in Temple times the priest had a claim on an unblemished firstling, and here we deal with an unblemished animal; that contradicts Abbuha (Miller)].”*

I. *No, the passage speaks of the present age, and as to your question, “then what difference is there between a firstling that belongs to us [who assuredly are priests] and one that belongs to them [who may or may not be priests],” we give ours to a priest when it is blemished, but as to a firstling belong to them, since there is the possibility that one of them is a priest, priests cannot claim that firstling.*

Another version is inserted, and then we rejoin the flow of argument.

J. *Another version of the matter: if we speak of the present age, then why raise as your case firstlings that belong to someone who may or may not be a priest? Even firstlings that belong to us, who are priests beyond doubt, are left to pasture until they are blemished! Rather, it is clear, the passage speaks of the age in*

*which the Temple stood. And if we are dealing with a blemished firstling, why do we say that they are to be left to pasture until blemished? Are they not already blemished? So we deal with unblemished firstlings, and these [particular men] may not sell them; but persons who are certainly priests may sell them.*

- K. *Indeed, we may address the case of firstlings at the present age. And as to your question, then why raise as your case firstlings that belong to someone who may or may not be a priest? Even firstlings that belong to us, who are priests beyond doubt, are left to pasture until they are blemished, we cannot disregard the priest [but have to hand over a firstling even though it is blemished], for there is no uncertainty that the priesthood is represented here [since it certainly is], but these men who may or may not be priests can put off any other priest, claiming, "I am a priest," "I am a priest."*

We now revert to the unfolding argument.

- L. *An objection was raised: R. Simeon says, "'You shall surely put the inhabitants of that city to the sword, destroying it utterly, all who are in it and its cattle, with the edge of the sword. You shall gather all its spoil into the midst of its open square and burn the city and all its spoil with fire, as a whole burnt offering to the Lord your God' (Deu. 13:15-16). '...its cattle:' excluding the firstling beast and an animal designated as tithe in the apostate city; '...its spoil:' excluding the money designated as second tithe that is in it."* [Now to analyze the foregoing with a view to showing its implications for our issue:] *Now with what situation do we deal here? If we say that it is in the present age, then at this time does the law governing the apostate city pertain? And have we not learned: "The law governing the apostate city applies only when the court of seventy-one members is in session"? So it is obvious that we deal with the time at which the Temple was standing. And in what regard? Should we say, with a blemished firstling, then that falls into the category of "its cattle," so it is obvious that we deal with an unblemished firstling. Now if you take the position that the priest has a right of ownership in the beast, then there is no problem, but if you take the view that the priest has no right of ownership in the beast, then why draw proof from a reference to "its cattle," when you can prove the same point from [the following, more blatant exegesis:] "'its spoil' — and not the spoil that belongs to Heaven"?*

- M. *No, we deal with a blemished beast, and, as to your question, "then that falls into the category of 'its cattle,'" the sense of that phrase is, "whatever is eaten in the category of "its cattle," which would exclude the classifications of beast as firstlings and animals that have been designated as tithe, for these do not fall into the class of "its cattle."* For we have learned in the Mishnah: **All invalidated Holy Things after they have been redeemed are sold in the marketplace and are slaughtered in the marketplace and are weighed by the pound except for the blemished firstling and tithe of cattle. For the advantage of selling them in the market, where demand is higher, would fall to the owner. Invalidated Holy Things — their advantage falls to the sanctuary. But they weigh a maneh against a maneh in the case of the meat of the firstling [M. Bekh. 5:1A-G].**

[Miller: therefore for the extra benefit in favor of the owners, we do not allow selling a firstling in the market and by the pound. Hence a firstling and an animal designated as tithe are spared in an apostate city.]

N. *An objection was raised from the following dispute:*

O. “‘If any one sins and commits a breach of faith against the Lord’ (Lev. 5:21/6: 2) — this encompasses Lesser Holy Things, which are the property of their owner,” the words of R. Yosé the Galilean.

O. Ben Azzai says, “It serves to encompass peace-offerings.”

P. Abba Yosé b. Dosai says, “Ben Azzai referred only to the firstling alone.”

Q. *Now with what situation do we deal? If we say that it is in the present age, lo, the case of the firstling is then compared with peace offerings [of which there is none these days]. Rather, it is obvious, we speak with the age in which the Temple stood. And with what do we deal? If we say that it is with a blemished animal, lo, it is comparable once more to peace-offerings, so do we not deal with the unblemished beast? And the passage then infers that the priest has rights of ownership in the body of the unblemished firstling!* [Thus we impose a trespass offering on one who denied a deposit of a firstling and took a false oath on the matter. So the firstling is regarded as money belonging to the priest. Thus an unblemished live firstling may be sold in Temple times, contrary to the view of Abbuha-Nahman (Miller).]

R. **[8B]** *Said Abbaye, “In point of fact we deal with an unblemished beast, but it is a firstling located overseas, and the passage represents the opinion of R. Simeon, who has said, ‘If unblemished firstlings are brought from overseas, they may be offered upon n the altar.’”* [Miller: The reason the priest has a claim on the firstling alive is the firstlings come from overseas. If firstlings are brought, they are offered up; but they are not to be brought directly. Since we must not directly bring these unblemished animals to be offered up, they are considered the money of the farmer, and he can sell them alive; but a firstling of a priest destined for sacrifice is not to be sold in Abbuha’s view, for the priest has no claim on the beast when it is alive.]

At this point the evidence of our Mishnah-paragraph is introduced, accounting for the insertion of the entire composition at this point. But, as we see, there is no autonomous point of interest in the Mishnah-rule of our tractate, which is read within the same pattern as has been imposed on all the other evidence.

S. *An objection was raised: Said to him R. Yohanan b. Nuri, “What difference does it make to me that one does not effect a substitution in the case of a sin offering and a guilt offering? For in case of these, they [the priests] have no claim while they [the beasts] are alive. Will you say the same in the case of the firstling, to which they [the priests] have a claim while [the firstling] is still alive?”* *Now with what situation do we deal? If we say that it is with a blemished firstling, lo it is compared to a sin-offering and a guilt offering, so is it not an unblemished firstling? And yet the Tannaite authority states, to which they [the priests] have a claim while [the firstling] is still alive!* [That explicitly rejects Abbuha’s view].

T. *Said Rabina, “In point of fact we once again deal with an unblemished beast, but it is a firstling located overseas, and the passage represents the opinion of R.*

*Simeon, who has said, 'If unblemished firstlings are brought from overseas, they may be offered upon the altar.'"*

- U. *Shall we say that there is a Tannaite dispute on the same matter [as in the following:]*
- V. A valid act of substitution can be made with a firstling that is located in the house of the owner, but with one that is located in the house of a priest a valid act of substitution cannot be effected.
- W. R. Simeon b. Eleazar says, "Once the firstling has reached the domain of the priest, *a valid act of substitution cannot be effected.*"
- X. *Now that is the position of the initial authority [which is unthinkable, so we have to explain that] in this case at issue is the following: the initial Tannaite authority takes the view that in the house of the priest the priest has the power to make an act of substitution, but the owner has not got the power to effect a valid act of substitution, which yields the principle that the priest does have rights of ownership in the body of the firstling!*
- Y. *There is no contradiction to be drawn from this dispute for the position at hand, for at issue is the same point that is at issue between R. Yohanan b. Nuri and R. Aqiba. The initial Tannaite authority concurs with R. Yohanan b. Nuri, and R. Simeon agrees with R. Aqiba [that although the priest has a claim on the firstling when it is alive, he still cannot effect an exchange, as we infer from an analogy (Miller)].*

We now revert to our opening proposition and present a refinement to the initial statement, that priests may sell an unblemished firstling when the Temple is standing.

- I.2.** A. Said R. Hisda, "The rule [that an unblemished firstling alive may be sold even in Temple times] has been taught only when it is a priest selling the beast to another priest, but if it is a priest selling to an Israelite, it is forbidden. *Why is this the case? The Israelite may go and make a blemish on the beast and then bring it to a sage and say to him, 'A priest gave me this firstling in maimed condition'* [but if a priest sold it to another priest would not lay such a claim, since a priest who brings a firstling to show it to an expert has to produce witnesses that the blemish came on its own, for priests are suspect of maiming firstlings so as to be able to eat them (Miller)]."
- B. *But will a sage ever permit eating a firstling under such circumstances?* [Surely sages are not so naive as that.] And has not Rab said, "One may not show a firstling for sale to an Israelite unless a priest is there with him [lest the Israelite learn from the expert that the blemish was a permanent one and that there was no concern about eating holy things outside of the Temple; so he will eat it and disregard the fact that he is robbing the priest of his due. A priest then has to be present, so the Israelite cannot say, 'A priest gave me this firstling with its blemish.' For we say to him, 'Bring us the priest who gave it to you.' If he does not do so, we do not allow him to slaughter and eat the firstling (Miller)]."
- C. *Said R. Huna b. R. Joshua, "This is the reason that it is forbidden for a priest to sell to an Israelite an unblemished firstling: because it appears similar to having a priest help out at the threshing floor [and so work for the priestly gifts that he is*



supposed to be getting free of charge. So if a priest sells an unblemished firstling to an Israelite at a lower price or gives it to him, it looks as though he is doing so in order that the Israelite will give him firstlings in the future].”

A case, finally, illustrates the foregoing, subsidiary discussion.

- I.3.** A. *Mar Zutra happened by R. Ashi's. They said to him, "Will the master eat something?" They brought meat before him. They said to him, "Let the master eat it, because it is healthy, since it comes from a firstling."*
- B. *Mar Zutra asked them, "And how did you get it?"*
- C. *They said to him, "A certain priest sold it to us when it was blemished."*
- D. *He said to them, "Do you not concur with the view of R. Huna b. R. Joshua, "This is the reason that it is forbidden for a priest to sell to an Israelite an unblemished firstling: because it appears similar to having a priest help out at the threshing floor [and so work for the priestly gifts that he is supposed to be getting free of charge. So if a priest sells an unblemished firstling to an Israelite at a lower price or gives it to him, it looks as though he is doing so in order that the Israelite will give him firstlings in the future]?"*
- E. *They said to him, "Obviously we don't share his reasoning, since, after all, we did buy the firstling!"*
- F. *He said to them, "And don't you concur in that which we have learned in the Mishnah: **How long are Israelites liable to tend to the firstling before handing it over to the priest? In the case of a small beast, for thirty days, and in the case of a large beast, for fifty days. R. Yosé says, 'In the case of a small one, three months.'** If the priest said to him during this period, 'Give it to me,' lo this one does not give it to him [M. Bekh. 4:1A-E]? And in this connection said R. Sheshet, "This is the reason that it is forbidden for a priest to sell to an Israelite an unblemished firstling: because it appears similar to having a priest help out at the threshing floor."*
- G. *They said to him, "There the matter is obvious [that in consideration for giving him firstlings in the future, they have given him this firstling], while here, we do indeed purchase the beast."*
- H. *Another version is this:*
- I. *They said to him, "There the matter he does not pay out any money, but here, money was paid out. Now you might say that the priest lowers the price for him, thinking, 'When the Israelite has another firstling, he will give it to me'? But that is not a consideration, for he will rather take the view that a young pumpkin today is better than [9A] a full-grown pumpkin tomorrow."*

The reason for the inclusion of the vast composition of I.1 is that our Mishnah-passage contributes to the larger discussion; the whole obviously has no bearing upon our Mishnah, and the issue, if settled one way or the other, is moot for us here. No. 2, 3 are tacked on as a complement to No. 1.

### 1:2A-G

- A. **They substitute [= impose the law of substitution upon] [an animal] (1) from the herd for one from the flock, and one from the flock for one from the herd,**
- B. **(2) from sheep for goats, and from goats for sheep,**



- C. (3) from males for females, and from females for males,
- D. (4) from unblemished for blemished animals, and from blemished for unblemished animals,
- E. since it is said, “He shall not substitute anything for it or exchange it, a good for a bad, or a bad for a good” (Lev. 27:10).
- F. What is a good for a bad?
- G. [Substituting unblemished animals for already consecrated] blemished ones, the sanctification of which took place before their blemish [M. Bekh. 2:2-3. Those sanctified when already blemished are unfit for the altar and exempt from the law of substitution].

If an act of substitution is stated with reference to an animal from the herd in connection with an already-consecrated animal from the flock, the act of substitution is valid so that the beast from the herd is also consecrated. That is the rule that the Talmud now expounds.

- I.1 A. *How on the basis of Scripture do we know that this is so?*
- B. *It is as our rabbis have repeated on Tannaite authority:*
- C. [“If it is an animal such as men offer as an offering to the Lord, all of such that any man gives to the Lord is holy. He shall not substitute anything for it or exchange it, a good for a bad or a bad for a good; and if he makes any exchange of beast for beast, then both it and that for which it is exchanged shall be holy” (Lev. 27:9-10):]
- D. “beast for beast” — on this basis [we derive the rule that] **they substitute [= impose the law of substitution upon] [an animal] (1) from the herd for one from the flock, and one from the flock for one from the herd, (2) from sheep for goats, and from goats for sheep, (3) from males for females, and from females for males, from unblemished for blemished animals, and from blemished for unblemished animals.**
- E. Might one suppose that that is so even if the blemish came prior to the act of consecration?
- F. Scripture states, “He shall not substitute anything for it or exchange it, a good for a bad or a bad for a good.”

- II.1 A. **What is a good for a bad? [Substituting unblemished animals for already consecrated] blemished ones, the sanctification of which took place before their blemish:**
- B. *What is the exegesis that yields that rule?*
- C. *Said Abbaye, “Let Scripture have stated, ‘He shall not substitute anything for it or exchange it, a good for a bad or a bad for it.’ Why specify another ‘for good’? The inference is that that which is good to begin with effects a valid substitution, but that which is bad to begin with is not subject to the law of substitution.”*
- D. *Raba said, “As a matter of fact, both of these references to ‘a good’ are superfluous. For Scripture could as well have stated, ‘He shall not substitute anything for it or exchange it, it for a bad one, or a bad one for it.’ What need do I have to write both of these [references to good]? One of the references to ‘good’ indicates that even in the case of substituting a good beast, too, if one should*

*make such a substitution, he is flogged. And the other is to indicate that only a beast that is good to begin with effects a substitution, but one that is bad to begin with does not effect a substitution."*

- E. *And Abbaye said, "This [other proposition] is to be shown through an argument a fortiori, specifically: if in the case of substitution a good beast for a bad beast, in which case one improves the quality of the offering, one is flogged, if one substitutes a good beast for another good beast, in which case the two are merely equivalent to one another, is it not an argument a fortiori that one will be flogged?"*
- F. *And Raba?*
- G. [He invokes the principle that] sanctions are not demonstrated merely through a logical argument.
- H. *And Abbaye?*
- I. *He will say to you, "But this is not a case of deriving a rule on the basis of a logical argument. Is the case of exchanging good for good worse than that of exchanging good for bad?"*

**II.2.** A. *It is as our rabbis have repeated on Tannaite authority:*

- B. ["If it is an animal such as men offer as an offering to the Lord, all of such that any man gives to the Lord is holy. He shall not substitute anything for it or exchange it, a good for a bad or a bad for a good; and if he makes any exchange of beast for beast, then both it and that for which it is exchanged shall be holy" (Lev. 27:9-10):]
- C. "He shall not substitute anything for it:" for unconsecrated beasts that belong to other people.
- D. "or exchange it:" for unconsecrated beasts that belong to himself.
- E. *Let Scripture state simply, "He shall not substitute anything for it." It is hardly necessary to add, "or exchange it."*
- F. *If Scripture had stated matters in that way, I should have reached the conclusion that if the man's plan was for this beast to leave its condition of sanctification, and the other to enter that condition, then he would be flogged. But if he proposed an exchange so that both of them would be consecrated, I should have concluded that he would not be flogged. So we are informed that that is not the case.*

**II.3.** A. *What is the case to which the phrase refers, "He shall not substitute anything for it:" for unconsecrated beasts that belong to other people"? If we should say that the beast that is already consecrated belongs to the man who makes the statement, and the unconsecrated beast belongs to someone else, then can somebody effect an act of consecration in those circumstances? What is written is, "When as man shall sanctify his house to be holy to the Lord" (Lev. 27:14), with the inference, just as "his house" falls within his domain and ownership, so anything that falls within his domain and ownership [is he able to consecrate, but not something that belongs to someone else!]*

- B. *So the reference is to a case in which the beast that is consecrated belongs to someone else, and the beast that is unconsecrated belongs to him.*

- C. *But can someone make an affective statement in any manner at all concerning something that does not belong to him such that if the beast that is consecrated belongs to someone else and the unconsecrated beast belongs to him [an act of substitution has been made]?*
- D. *Rather, we deal with a case in which the owner of the consecrated beast has said, “Whoever wishes to effect an act of substitution with his [my] beast may come and make a statement of substitution.”*
- I:1 and II:1 provide scriptural foundations for our Mishnah’s rule. Nos.II.2,3 then clarify closely-aligned rules. The whole is first-class Mishnah-exegesis, reading the Mishnah in light of Scripture.

### 1:2H-J

- H. **They substitute [a valid act of substitution takes place in the case of a statement concerning] one for two and two for one, one for a hundred and a hundred for one.**
- I. **R. Simeon says, “They substitute only one for one,**
- J. **“since it is said, ‘Then both it and that for which it is substituted’ (Lev. 27:10) — just as it is singular, so its substitute is singular.”**
- I.1** A. *What is the scriptural basis for this rule?*
- B. *It is in accord with that which our rabbis have repeated:*
- C. **[“If it is an animal such as men offer as an offering to the Lord, all of such that any man gives to the Lord is holy. He shall not substitute anything for it or exchange it, a good for a bad or a bad for a good; and if he makes any exchange of beast for beast, then both it and that for which it is exchanged shall be holy” (Lev. 27: 9-10):]**
- D. **“beast for beast” — on this basis the law is that they substitute one for two and two for one, one for a hundred and a hundred for one.**
- E. **R. Simeon says, “They substitute only one for one,**
- F. **“since it is said, ‘beast for beast,’ and not ‘beast for beasts’ or ‘beasts for beast.’”**
- G. **They said to him, “Just as a single beast is called a beast, so many cattle are called ‘beast,’ as it is said, ‘Much cattle’ (Jon. 4:11)” [T. Tem. 1:7F].**
- H. *And R. Simeon?*
- I. *Many animals are described as “much cattle,” but not simply as “cattle.” [The word “cattle” refers to one alone.]*
- J. *But is the operative consideration of R. Simeon on the grounds that “it is said, ‘beast for beast,’ and not ‘beast for beasts’ or ‘beasts for beast’”? Lo, the stated reason of R. Simeon is as follows: just as it is singular, so its substitute is singular.*
- K. *To begin with, R. Simeon gave them as the reason, ““Then both it and that for which it is substituted’ (Lev. 27:10) — just as it is singular, so its substitute is singular.” But when he realized that rabbis drew their proof from “beast for beast,” he said to them, “From that part of the verse also we can provide a scriptural basis for my position.”*

**II.1 A.** [R. Simeon says, “They substitute only one for one, since it is said, ‘Then both it and that for which it is substituted’ (Lev. 27:10) — just as it is singular, so its substitute is singular.”] Said R. Simeon b. Laqish, “R. Simeon certainly concedes that people may effect a single act of substitution but then go and carry out another act of substitution [so that the same consecrated animal may serve time and again in exchanges with other animals]. *What is his reasoning here? Where has the holiness of the animal that was initially consecrated gone? [And the answer is, nowhere, and that is why the same animal can be exchanged with many others, once it is consecrated.]*”

- B. And R. Yohanan said, “Just as they do not substitute two for one, so they do not go and carry out another act of substitution [so that the same consecrated animal may not serve time and again in exchanges with other animals].”
- C. *There is a Tannaite teaching that concurs with the position of R. Yohanan, and a Tannaite teaching that concurs with the position of R. Simeon b. Laqish.*
- D. *There is a Tannaite teaching that concurs with the position of R. Yohanan:* “Just as they do not substitute two for one, so they do not go and carry out another act of substitution [so the same consecrated animal may not serve time and again in exchanges with other animals].”
- E. *There is a Tannaite teaching that concurs with the position of R. Simeon b. Laqish:* Might one suppose that, just as **R. Simeon says, “They substitute only one for one,** so they do not go and carry out another act of substitution? Scripture is explicit in stating, “Then both it and that for which it is substituted” (Lev. 27:10) — even in the case of a hundred.

- II.2. A.** *R. Abin raised the question, “From the viewpoint of the one who says, ‘They do not go and carry out another act of substitution [so the same consecrated animal may not serve time and again in exchanges with other animals],’ if one has designated a beast as a guilt-offering, intending to attain atonement through it, and then he performed an act of substitution with the beast, [9B] and then the original beast was blemished, and then he redeemed the original beast for another [so this is now going to serve as a guilt offering, in place of the former], [and this second beast got lost,] so he gained atonement through yet another guilt offering, and [then the lost animal was found and automatically classified as] a burnt offering [as is the rule, since an animal designated as a guilt offering, which is not used by the owner for the purpose of atonement, is then offered as a burnt offering], what is the rule as to making an exchange for this beast?” [Miller: do we say that, since an exchange has taken place for the first guilt offering, there cannot be another exchange made for the second guilt offering that has now been found, for it would be like making a number of exchanges for the same animal, which, according to the view of the authority in whose behalf we are asking this question, is not permissible? Or, since the second guilt offering is another animal altogether and it receives a different kind of holiness, do we say that there can therefore be an exchange made, for in the case of the first animal it was a guilt offering that was exchanged, and we are considering the exchange of a burnt offering?]*
- B. *Said Abbaye, “Now what exactly is he asking? If he speaks of two distinct beasts and one classification of holiness [Miller: and the question will then be, shall we say that since there is a different animal, it can be exchanged, or perhaps since*

*there is a single classification of holiness, there can be no further exchange], then why not raise the question without specifying the detail that the man obtains atonement? [Miller: Let R. Abin state his inquiry as follows: one separated his guilt offering and exchanged it and the first animal became blemished and was redeemed for another. What about exchanging this second beast? Shall we say that since it is a different beast, there can be a second exchange? or perhaps since the last animal replaces the first and is subject to the same classification of holiness, namely, that of the guilt offering, there can be no further act of exchange?] But if the question concerns two distinct classifications of holiness but only a single beast, then why not put the question without specifying that the first animal became blemished? [Miller: one set aside a guilt offering and exchanged it, and the first animal was lost. The man gained atonement through another guilt-offering. Then the first guilt offering was found. It is now a burnt offering. Here we have one beast, subject to two kinds of holiness. Since there is only one beast, can exchange be effected again?]"*

C. *And R. Abin?*

D. *What he was asking was one question that came up out of another, and it is as follows: now if you take the view that there can be no valid act of substitution where you have two distinct beasts but only a single classification of holiness, since an animal has already been substituted within that one classification of holiness, what is the rule governing two distinct beasts and two different classifications of holiness?*

E. *That question stands.*

F. *Another version of the matter:*

G. *R. Abin raised the question, "From the viewpoint of R. Yohanan, who has said, 'Just as they do not substitute two for one, so they do not go and carry out another act of substitution [so the same consecrated animal may not serve time and again in exchanges with other animals],' if one has designated a beast as a guilt-offering, intending to attain atonement through it, and then he performed an act of substitution with the beast, and then the original beast was blemished, and then he redeemed the original beast for another [so this is now going to serve as a guilt offering, in place of the former], what is the ruling in respect to making a valid act of substitution with this second guilt offering? [Miller: do we say that as it was brought in the place of the first guilt offering, as the first animal has once been exchange, there can be no further exchange? Or since this is a different animal, there can be a further exchange?] Or, if he gained atonement through yet another guilt offering, and [then the lost animal was found and automatically classified as] a burnt offering [as is the rule, since an animal designated as a guilt offering, which is not used by the owner for the purpose of atonement, is then offered as a burnt offering], what is the rule as to making an exchange for this beast?" [Miller: where the first animal did not become blemished and was not redeemed but was lost and the owner brought a second guilt offering, can this burnt offering serve as the medium of an exchange? According to this version there will not be any reference to two kinds of holiness and to two distinct beasts, and there will really be two inquiries.]*

H. *Said Abbayye, “Now what exactly is he asking? If what is at issue is the validity of an exchange in the case where there is a different classification of holiness but the same beast, then there is no need to include the detail that he redeemed it for another beast. If the issue concerns the validity of an exchange where there is a different beast but the same classification, then there is no need to include the detail of making atonement through another guilt offering. [Miller: The case now involves a second guilt offering that got lost; the man attained atonement through a different animal. The second guilt offering was found and turned into a burnt offering. What is the rule governing the substitution effected with the second guilt offering? Do we say that since it was brought instead of the first, there can be no exchange? Or since there is a different animal and the animal is subject to a different classification of holiness, there can be a valid exchange?]”*

I. *And R. Abin?*

J. *What he was asking was one question that came up out of another, and it is as follows: now if the guilt offering was blemished and one effected an act of exchange with it and then redeemed it for another beast, what is the rule as to his effecting a further valid act of exchange with it again? Do we take the position that there can be no further exchange only with regard to the beast that was designated first as a guilt offering, but as to a further beast, though it remains in the same classification of holiness [namely, that of the guilt offering], there can again be a valid act of exchange? Or perhaps all animals in the same classification of holiness cannot be subjected to a further valid act of exchange? And if you take the view that, since there is this further beast that is in the same classification of holiness, there can be no further exchange, if the man obtained atonement through another guilt offering and the first guilt offering then was utilized as a burnt offering, what is the ruling as to a further valid act of exchange? Do we take the view that we rule, one cannot make a further exchange, only with regard to the same beast that is subject to the same classification of holiness, but the same beast that is subject to a different classification of holiness can be substituted again? Or perhaps, although we deal with another classification of holiness, since it still is the same beast, there can be no further act of exchange with this beast?*

K. *The question stands.*

**II.3.** A. *Said R. Joshua b. Levi, “[When redeeming for a money payment something that someone has consecrated,] in the case of the beast that one has consecrated first in a sequence, one adds the fifth that Scripture requires for such a transaction, but not for the animal consecrated second [in sequence]. [The animal that was originally dedicated was maimed, and one redeemed it for another. This second animal is here called a second consecration. But a substitute animal would fall into the same classification as a second consecration (cf. Miller)].”*

B. *Said R. Papa, “What is the scriptural basis for the position of R. Joshua b. Levi? Scripture has said, ‘When a man dedicates his house to be holy to the Lord, the priest shall value it as either good or bad; as the priest values it, so it shall stand. And if he who dedicates it wishes to redeem his house, he shall add a fifth of the valuation in money to it, and it shall be his’ (Lev. 27:14-15).*



- C. “‘he who dedicates’ is the one who pays the added fifth, but not one who imparts holiness to another beast by an act of substitution for an already-dedicated beast. [Excluded then is the case in which one has made a substitution, in which the animal that is exchanged is not itself the one that was consecrated, but becomes holy only by reason of the act of substitution.]”
- D. *R. Abin raised the following question:* “If one designated a beast to serve as a guilt offering, planning to achieve atonement through it, but the beast was blemished, so he redeemed it for another animal, added the fifth, and then obtained atonement through that other guilt offering as he had planned, [and then the first beast was located], so the original beast is now going to serve as a burnt offering, what is the law as to his having to add a fifth? [Would this other beast fall into the classification of a second dedication, even though it is the same animal, so that, if it became blemished, there would be no requirement to add the fifth, in line with what has been stated above?]”
- E. *Said Abbaye, “What is the real question here?* [Miller: Abin has not made reference to the case of two distinct animals and two kinds of holiness, but he has divided his inquiry into two parts, the first part being where there are two bodies and one classification of holiness, the other, where he obtained atonement through another built offering, that is, where the first guilt offering was not maimed but was lost, and the owner obtained atonement through another guilt offering. The first guilt offering was then turned into a burnt offering. So we have two classifications of holiness in a single beast. Abbaye then raises his question.] *If he raises the question concerning adding a fifth for the redemption of two distinct beasts that are within a single classification of holiness, then why not raise the question without mentioning that he has attained atonement through another guilt offering?* [Miller: he need only state that the first guilt offering became blemished, he redeemed it for another, and added a fifth in redeeming it, since there can be no redemption of an unblemished animal that is fit for the altar. The second animal was blemished. Then here is the question: do we say that since the second animal possesses the same kind of holiness as the first, there cannot be the addition of the second fifth in redeeming it as it is a second dedication? Or perhaps, since they are two distinct animals, does he add a fifth when he redeems the second, blemished beast designated as a guilt offering? Joshua’s statement then applies only to a case in which one dedicated a blemished animal for the upkeep of the Temple and redeemed it for another blemished animal, no change being brought about, since both are blemished. In redeeming the second animal, we say that it is a second dedication, and therefore a fifth is not added in the process of redemption. But in our case, where we redeem a blemished guilt offering for an unblemished one, which is fit for the altar, we consider this second animal a first consecration, since the first guilt offering was only useful for its value alone, while the second is suitable for the altar. Therefore it constitutes a beast that is consecrated fresh, requiring the addition of a fifth if it is blemished and then redeemed.] *And if his question is directed toward a case in which there are two classifications of holiness that pertain to a single beast, then why not frame the question without including the detail that the first animal had become blemished [before it got lost, and the case then involves a guilt offering that got lost. The man then set aside another guilt offering and obtained his atonement through it. The first animal*

*becomes a burnt offering. What is the ruling? Do we say it is a second dedication, since the owner has obtained atonement through another beast, and this first beast is considered second to it and if it became blemished, there will be no added fifth? Or is that not the case? (Miller)]”*

F. *And R. Abin?*

G. *What he was asking was one question that came up out of another, and it is as follows: now if you take the position that, where there are two distinct beasts subject to a single classification, no added fifth is required, since a fifth has already been added on the count of that classification of sanctification, then when is the ruling in the case of two distinct beasts and two classifications of sanctification?*

H. *The question stands.*

I. *Another version:*

J. *R. Abin raised the following question: “If one designated a beast to serve as a guilt offering, planning to achieve atonement through it, but the beast was blemished, so he redeemed it for another animal, [what is the ruling as to his having to] add the fifth? Or, if he obtained atonement through that other guilt offering as he had planned, [and then the first beast was located], so the original beast is now going to serve as a burnt offering, what is the law as to his having to add a fifth? [Would this other beast fall into the classification of a second dedication, even though it is the same animal, so that, if it became blemished, there would be no requirement to add the fifth, in line with what has been stated above?]*”

K. *Said Abbaye, “What is the real question here? If the question concerned a another classification of holiness that pertained to the same beast, then he need not include the detail about the blemish of the beast. And if the question concerned a single beast subject to the same classification of sanctification, then why mention that atonement had been achievement for the man through another guilt offering?”*

L. *And R. Abin?*

M. *What he was asking was one question that came up out of another, and it is as follows: if the beast became blemished and he redeemed it for another, what is the ruling on his adding a fifth? Is it only in redeeming the first guilt offering that one does not add the fifth, but the case of another beast, although it remains in the same classification of holiness, one adds the fifth in redeeming it if it is blemished? [10A] Or perhaps, all dedications that belong in the same classification do not require the addition of the added fifth? And, further, if you take the position that, where there are two distinct beasts subject to a single classification, no added fifth is required, then if the owner obtained atonement through a guilt offering, and the first beast was then treated as a burnt offering, what is the law? Do we say that one does not add a fifth except in the case in which the same beast is subject to the same classification of holiness, but where there is another classification of holiness, that is not the case? Or perhaps since it is the same beast, one is not required to pay the added fifth?*

N. *The question stands.*

**II.4. A.** *Rammi bar Hama raised the question, “When the beast is redeemed, is it the one who consecrates it the one who adds the fifth, or is it the one who attains*

atonement through it the one who adds the fifth? [The owner adds the fifth, but someone else does not. If one set aside an offering in behalf of another and the offering was blemished, who is the owner in respect to adding the fifth? The one who consecrated the beast, or the one who is to benefit from its sacrifice and blood?]"

- B. Said Raba, "Scripture has said, 'When a man dedicates his house to be holy to the Lord, the priest shall value it as either good or bad; as the priest values it, so it shall stand. And if he who dedicates it wishes to redeem his house, he shall add a fifth of the valuation in money to it, and it shall be his' (Lev. 27:14-15). Thus: 'he who dedicates' is the one who pays the added fifth, and not the one for whom atonement is made."

**II.5. A.** *Rammi bar Hama raised the question, "Is it the one who consecrates it the one [the sacrificer] who has the power to effect a substitution, or is it the one who attains atonement through it [the sacrificer, who benefits from the offering] the one who has the power to effect a substitution?"*

- B. Said Raba, "[Miller: obviously the person for whom atonement is made has the power of effecting a substitution, for if only the one who consecrates the beast has power of effecting a substitution,] then we have a case in which a whole group or partners in ownership of a beast have the power of effecting a substitution, *for instance, when they appoint an agent to consecrate the beast*, [while the rule is that that cannot be done]. [Miller: hence we can deduce from this that we are guided by the status of the person for whom atonement is made, and in the case of a congregation or partners it is the congregation or partners who are making the exchange, and in that case no exchange can be validly carried out.]"

- C. Furthermore, said R. Nahman said R. Huna, *"It has been taught on Tannaite authority:*

- D. *"This is the law for the Nazirite who takes a vow. His offering to the Lord shall be according to his vow as a Nazirite, apart from what else he can afford; in accordance with the vow that he takes, so shall he do according to the law for his separation as a Nazirite' (Num. 6:27). Now is the offering required of a Nazirite in accord with what else he can afford? [It is of fixed, not variable, value.] Lo, how are we to interpret, 'His offering to the Lord shall be according to his vow as a Nazirite'? This refers to a case in which he can set aside the designated offering from his own means. And the words, 'apart from what else he can afford' refer to a case in which others set aside the prescribed offering."*

- E. *Now to what purpose is this ruling?*

- F. *If we say that it makes reference to atonement [to tell us that one can attain atonement through an offering that others have designated], it is perfectly obvious that such a beast does effect atonement for him.*

- G. *Rather, it speaks of a case in which there has been a valid act of substitution, and this is the sense of the passage: [just as when he set aside an offering from his own means, only he alone has the power to effect exchange with it,] so too in a case in which others set aside the prescribed offering for someone, he alone can effect an exchange with that beast.*

- H. *From this instance one can derive the principle that the operative criterion is the person in behalf of whom atonement is made.*
- I. *No, the passage speaks of atonement, and as to the question you raise, do not the others who set aside the offering give it to him as a gift, if it were not for the fact that the Torah had encompassed that in its statement, ‘apart from what else he can afford,’ I might have come to the conclusion that it is a decree of Scripture that his offering must come out of his own resources for him to achieve atonement, but not out of the resources of others, and so I am informed that that is not the case.*
- J. *What is the upshot of the matter?*
- K. *Come and take note, for said R. Abbahu said R. Yohanan, “The one who consecrates something and wishes to redeem it must add the fifth; the act of substitution is valid when it is made by the one in behalf of whom atonement is made by the consecrated beast in that transaction; one who designates priestly rations from his own crop for the untithed crop of his neighbor has the right to designate the recipient among the priesthood.*
- L. *“What is the scriptural basis for this last ruling? Scripture has said, ‘All the tithes of your increase...you have given’ (Deu. 26:12) [Miller: thus a person who gives and separates the tithes has the right to give them to the priest of his choice.]”*

The opening unit, I.1, sets the stage for another protracted and truly engaging composition, which shows us how a single hand writes a Talmud; for there is no dividing, once we reach II.1, any detail from the main discourse. The issue is prepared at II.1, one for one, one for many. That sets the stage for Abin’s question, and everything flows from the subtle distinction he introduces between different classifications of sanctification, e.g., guilt offering, sin offering, burnt offering, and whether we deal with one or more than one beast in a sequence of actions. Nos. 2, 3 are beautifully matched and of course sequential. Not a single line can have been placed elsewhere than where it is. No. 4 is then tacked on, drawing No. 5 in its wake.

### 1:3

- A. **They do not substitute (1) limbs for foetuses, or foetuses for limbs,**
- B. **or (2) limbs and foetuses for whole beasts, or whole beasts for them.**
- C. **R. Yosé says, “They substitute limbs for whole beasts but not whole beasts for limbs.”**
- D. **Said R. Yosé, “And is it not so that in the case of animals which have been consecrated, he who says, ‘The foot of this is a burnt offering’ — the whole beast is a burnt offering?**
- E. **“So when one states, ‘The foot of this is instead of that’ — the whole of it should be a substitute in its stead.”**

The Talmud addresses the implications of the opening rule, concerning the status of the foetus of a beast: is it subject to an act of consecration?

#### **I.1 A. It has been stated:**

- B. Bar Peda said, “An act of consecration has no affect upon foetuses.” [Miller: if one consecrates an embryo inside an animal, it is not holy so as to be sacrificed,

and if one sacrificed the beast when it was born without an explicit act of consecration after birth, he is in the status of having brought unconsecrated beasts to the Temple court. If one designates as a sin offering a pregnant beast, it is not reckoned as two animals designated as sin-offerings, for the embryo is sanctified only by virtue of its mother's status and not on its own account and is therefore regarded as the offspring of a sin offering, which is left to die. Similarly, as to consecration, the embryo is regarded as the offspring of a consecrated beast and not as a distinctly consecrated beast.]

- C. And R. Yohanan said, "An act of consecration has affect upon foetuses."
- D. *R. Yohanan follows reasoning expressed by him elsewhere, for R. Yohanan said, "If one has consecrated as a sin offering an animal that was pregnant, and it gave birth, if he wanted, it is with the animal that he attains atonement, but if he wants, it is with the offspring that he attains atonement." [Both are consecrated, each on its own; an act of consecration therefore has affect upon foetuses.]*
- E. *And it was necessary to know his ruling on both matters, for if we had learned the rule in this first case ["An act of consecration has affect upon foetuses"], then it is in particular there that the rule pertains, for he has explicitly consecrated [10B] the embryo itself, while here, where he has consecrated the mother, the embryo is simply encompassed within the act of consecration of the mother and there it would not be deemed consecrated in its own write. And if we had learned only the latter ruling, it would be there in particular that the act of consecration would be valid, since it affected everything connected with the mother, but here, where the consecration was only of the embryo, since it has not yet emerged, it is not holy. So both statements are required.*
- F. *Another version: what is it that he wishes to tell us? Is it that, if one left over the embryo for a different dedication, the act is valid [as Yohanan states at B. Temurah 19A. Miller: if one dedicates a pregnant animal and leaves over the embryo for another dedication, this is regarded as valid, consequently we see that they are considered two separate bodies; therefore even if he did not leave over the dedication of the embryo, it is not considered part of the body of the mother, and consequently its consecration as a Passover sacrifice has effect], so that the embryo is not regarded as a mere thigh of the mother? Then why do I need to hear that position stated a second time?*
- G. *It was indeed necessary to make the point in two distinct settings. For if the position was stated in this case [where one designates an animal as a sin offering], it was because the mother itself was suitable for dedication, and since the consecration affected the mother, it affected the embryo. But in the other case [where one consecrates the embryo to a given purpose], I might have said, since that is not the case of the embryo prior to birth, it is not the rule. R. Yohanan so informs us to the contrary. And if R. Yohanan had given the rule only in the present case, I might have said that the reason was that he had explicitly consecrated the embryo, but here [where one designates a beast as a sin offering] he has not done so. Therefore both versions of his position are required.*

**I.2. A.** *R. Zira was in session and stating this tradition [Bar Peda said, "An act of consecration has no affect upon foetuses," so if one sacrificed the beast when it was born without an explicit act of consecration after birth, he is in the status of*

having brought unconsecrated beasts to the Temple court. If one designates as a sin offering a pregnant beast, it is not reckoned as two animals designated as sin-offerings, for the embryo is sanctified only by virtue of its mother's status and not on its own account and is therefore regarded as the offspring of a sin offering, which is left to die. Similarly, as to consecration, the embryo is regarded as the offspring of a consecrated beast and not as a distinctly consecrated beast.]

- B. *R. Jeremiah objected to R. Zira, “How do they [legitimately] practice deception in connection with the firstling [thereby evading the law and using the animal for another sacrifice which one owes]? [Concerning] a beast which had not given birth which was pregnant, one says, “What is in the womb of this, if it is male, is a burnt offering.” [If] it gave birth to a male, it is to be offered as a burnt offering. [And if it is female, it is sacrifices of peace offerings. If it gave birth to a female, it is to be offered as peace offerings.” If one says, “If it is male, it is a burnt offering. If it is female, it is sacrifices of peace offerings,” if it gave birth to a male and a female, the male is to be offered as a burnt offering, and the female is to be offered as peace offerings] [M. 5:1A-G]. It follows therefore that the embryo is deemed consecrated on its own account.” [Bar Peda would say that the embryo is in no way consecrated on its own account.]*
- C. *He said to him, “When that Tannaite statement was repeated, it concerned the consecration of the value of the beast.”*
- D. *“But is consecration of the value of the beast of such force as to remove the beast from its status as a firstling?”*
- E. *He said to him, “Indeed so. And so we have learned in the Mishnah: All holy things, the permanent blemish of which came before their consecration, which were redeemed, are liable to the law of the firstling and to priestly gifts and go forth for secular purposes, for shearing and for labor [M. Bekh. 2:2A-B]. The operative consideration, then, is that they are subject to the law of the firstling because they were redeemed, but had they not been redeemed, they would not then have been exempt from the law of the firstling. We see therefore that the consecration of the value of the beast of such force as to remove the beast from its status as a firstling.”*
- F. *He objected, “He who says, ‘What is in the womb of this beast is consecrated’ — it is permitted to be sheared but prohibited for use in ordinary labor, because one thereby weakens the consecrated beast in the womb. If one slaughtered it, the foetus is prohibited as food. If it dies, the foetus is prohibited for benefit’ [T. Tem. 3:1A-E]. [It is clear, then, that the consecration affects the embryo, contrary to Bar Peda’s opinion.]”*
- G. *He said to him, “Here too we speak of the consecration of the value of the beast.”*
- H. *“And is the act of consecration of the value of the beast so strong as to impose a prohibition of shearing the beast and of working with it?”*
- I. *He said to him, “Indeed so. And so we have learned in the Mishnah: and go forth for secular purposes, for shearing and for labor [M. Bekh. 2:2A-B]. The operative consideration, then, is that they are subject to the law of the firstling because they were redeemed, but prior to their being redeemed, they*



were forbidden for use in labor. Therefore the consecration as to the value imposes these prohibitions on the beast as to laboring with it.”

- J. *He objected, “They do not substitute (1) limbs for foetuses, or foetuses for limbs, or (2) limbs and foetuses for whole beasts, or whole beasts for them. Now it is stated that one has not got the power to exchange them with embryos, but the embryos can indeed become holy [Miller: for in connection with exchanging, Scripture says ‘beast’ but not an embryo. If embryos cannot become holy, it is obvious that one has no power to exchange whole animals in the status of consecration with embryos, since they are to begin with not subject to consecration.]”*
- K. *He said to him, “What we deal with here is offspring that have been consecrated, which already are holy. If then the offspring are consecrated, it is only when they are yet inside the womb that they cannot effect an exchange, but outside of the womb, they do effect an exchange.”*
- L. *“Lo, we have learned in the Mishnah: **And an offspring of a consecrated animal does not impart the status of a substitute to that animal put forward in its stead [M. 1:5E].**” [Miller: the offspring born after the mother’s dedication; the status of one exchanged with the offspring is not altered. One has consecrated the embryo, which is regarded as the initial act of dedication. The dedication has an affect on the embryo, contrary to the view of Bar Peda.]”*
- M. *“Lo, whose view is this? It is R. Judah, who has said, ‘The offspring does effect a valid act of substitution.’”*
- N. *“If it is the view of R. Judah, then the upshot is that [in accord with our Mishnah’s formulation, **They do not substitute (1) limbs for foetuses, or foetuses for limbs, or (2) limbs and foetuses for whole beasts, or whole beasts for them**] it is the act of substitution that they cannot accomplish, but as to an act of consecration, that would be valid. And has not R. Judah said, ‘Limbs cannot be consecrated’?”*
- O. *“Here with what case do we deal [when we say that the entire animal becomes holy if one limb is consecrated? It is with a limb on which life depends [and Judah will concur in such case].”*
- P. *[Jeremiah] objected [to Zira], “They consecrate limbs and embryos, but they do not exchange them [so that a dedication does have an affect upon embryos, contrary to Bar Peda’s opinion].”*
- Q. *“Here too we speak of the offspring of animals that have been dedication.”*
- R. *“If we deal with the offspring of animals that have been consecrated, then why does the Tannaite statement say, ‘one can consecrate,’ for are they not already consecrated?”*
- S. **[11A]** *“This is the sense of the matter: One may consecrate limbs and effect exchanges with them, but one cannot effect an exchange with limbs for consecrated beasts. Embryos that have been dedicated while in the womb cannot be validly exchanged..[Miller: Limbs of the same animal can be exchanged with another animal, for the consecration of one limb renders the whole animal holy, since one cannot effect an exchange for one consecrated limb. Even Yosé in our Mishnah says that one has power to exchange limbs of unconsecrated animals for*

whole consecrated animals, but not the whole animal for a consecrated limb, and not limbs that are not consecrated for limbs that are. One cannot exchange limbs for whole animals, so that if one says, “Let the limb of this animal be a substitute for this whole dedicated animal,” it is not holy. This is a restriction that applies to consecrations, for if one consecrated a limb, the whole animal becomes holy, while if one says, “Let this limb be a substitute for this whole animal,” there is no substitute. As to embryos, the offspring of a dedicated animal, although holy, cannot be exchanged while in the womb. This will concur with the view of Judah, who holds that an offspring can effect an exchange. According to the rabbis, even if the offspring were already born, they could not effect an exchange.]

- T. *“It is offspring of consecrated beasts when in the woman that do not effect an exchange. Lo, when they are outside, they effect an exchange! But lo, we have learned in the Mishnah, **And an offspring of a consecrated animal does not impart the status of a substitute to that animal put forward in its stead [M. 1:5E]**!”*
- U. *“Whose opinion does this represent? It is R. Judah.”*
- V. *“If it is R. Judah, then can limbs become holy? For R. Judah surely says, ‘if one says, “the foot of this animal shall be a burnt offering,” the whole becomes a burnt offering.”“*
- W. *He said to him, “Here with what case do we deal? It is with a limb, the loss of which would render the animal terefah.”*
- I.3. A.** *May we say that there is a Tannaite dispute on the same matter [of whether or not an act of consecration affects embryos]?*
- B. He who slaughters a sin-offering and found in it an embryo four months old that is alive —
- C. *one Tannaite authority states, “It is to be eaten only by male priests, and it is to be eaten only within the Temple veils, and it is to be eaten only on a single day.”*
- D. *And another Tannaite authority states, “It may be eaten by anybody, and it may be eaten anywhere, and it may not be eaten in the Temple court.”*
- E. *Do we not then have a conflict among Tannaite versions, in which one authority maintains that consecration affects embryos, and the other Tannaite authority maintains that consecration does not affect embryos?*
- F. *No, that is not the case. In what principle do these Tannaite authorities differ?*
- G. *One master takes the view that the offspring of Holy Things are consecrated as of birth, and the other authority holds that the offspring of Holy Things are consecrated even in the womb.*
- H. *And if you prefer, I shall explain in this way: we deal with a single Tannaite authority, and one of the versions deals with a case in which one consecrates a beast which then becomes pregnant, while the other deals with a case in which one dedicates it when it is already pregnant. [In the latter case the beast is consecrated at birth.]*

**I.4. A.** *We have learned on Tannaite authority:*

- B. R. Eliezer says, “The hybrid, terefah-beast, and a beast born of caesarean section, a beast of unclear sexual traits, and a beast bearing the traits of both genders are not to be consecrated and do not impart consecration.”

- C. And in this connection said Samuel, "They do not become consecrated in a transaction of substitution, and they do not impart consecration in a transaction of substitution."
- D. *And it has been taught on Tannaite authority:*
- E. Said R. Meir, "Since they cannot become holy, how can they impart the status of holiness [upon another beast]? You can find such a case only when one consecrates a beast and afterward it becomes terefah, or when one has consecrated an embryo and it was afterward taken out through caesarean section."
- F. *What follows is that the offspring can become holy!*
- G. *[In behalf of Bar Peda,] one may say, "In the case of an unblemished beast in the womb of an unblemished beast, even Bar Peda will concur that such a beast is consecrated. The dispute concerns only the case of an unblemished embryo in the womb of a blemished beast. Bar Peda then takes the position that since the mother cannot be made holy as to her body [but only as to her value], the embryo also cannot be made holy either. And R. Yohanan takes the view that these are regarded as two distinct beasts. It is the mother that cannot be consecrated, but the embryo can be consecrated."*
- H. *There is another version of the same matter:*
- I. But as to the hybrid, a beast of unclear sexual traits, and a beast bearing the traits of both genders [in which connection said Samuel, "They do not become consecrated in a transaction of substitution, and they do not impart consecration in a transaction of substitution," and in which connection said R. Meir, "Since they cannot become holy, how can they impart the status of holiness [upon another beast]?," we have the following:] you can find such a case only with reference to the offspring of Holy Things, and in accord with R. Judah. For he would say, "The offspring is subject to an act of substitution."
- J. *Only these are not consecrated as to themselves, but other embryos can become consecrated [contrary to the position of Bar Peda.*
- K. *Said Abbaye, "When they are in the womb of unblemished beasts, all parties concur that they can be consecrated in themselves. Where there is a dispute, it concerns the embryos in the womb of blemished beasts. Bar Peda takes the view that since the mother itself cannot become holy in itself, the offspring also can become holy only as to its value. R. Yohanan maintains that the offspring is not deemed in the class of the mother's thigh, so that, even though the mother cannot become consecrated as to itself, the offspring nonetheless can be consecrated as to itself."*

**II.1 A.** R. Yosé says, "They substitute limbs for whole beasts but not whole beasts for limbs." Said R. Yosé, "And is it not so that in the case of animals which have been consecrated, he who says, 'The foot of this is a burnt offering' — the whole beast is a burnt offering? So when one states, 'The foot of this is instead of that' — the whole of it should be a substitute in its stead."

- B. **[11B]** *Our rabbis have taught on Tannaite authority:*
- C. "Might one suppose that he who says, 'The foot of this beast will be a burnt-offering,' — the whole beast is made a burnt-offering?"

- D. “Scripture says, ‘[If it is an animal such as men offer as an offering to the Lord,] all of such that any man gives to the Lord is holy. [He shall not substitute anything for it or exchange it, a good for a bad or a bad for a good; and if he makes any exchange of beast for beast, then both it and that for which it is exchanged shall be holy’ (Lev. 27: 9-10). ‘Of it...to the Lord,’ but not the whole of the animal ‘to the Lord.’
- E. “Might one think then that the rest of the beast shall be treated as unconsecrated?
- F. “The same verse states, ‘...is holy.’
- G. “How then? The beast is to be sold for the requirements of burnt-offerings, and the proceeds, except for the value of the limb, are to be treated as unconsecrated,” the words of R. Meir and R. Judah.
- H. R. Yosé and R. Simeon say, “How on the basis of Scripture do we know that he who says, ‘The foot of this beast will be a burnt-offering,’ — the whole beast is made a burnt-offering?
- I. “Scripture says, ‘[If it is an animal such as men offer as an offering to the Lord,] all of such that any man gives to the Lord is holy. [He shall not substitute anything for it or exchange it, a good for a bad or a bad for a good; and if he makes any exchange of beast for beast, then both it and that for which it is exchanged shall be holy’ (Lev. 27: 9-10). So when it says, ‘...will be holy,’ the meaning is, the whole of the beast.”

**II.2.** A. The master has said, “The beast is to be sold for the requirements of burnt-offerings, and the proceeds, except for the value of the limb, are to be treated as unconsecrated.”

- B. *But lo, does the purchaser bring an animal for a burnt offering that lacks a limb?* [The limb belongs to the seller, who dedicated it. The purchaser then is not offering up a whole burnt offering, but he has vowed to offer up a whole animal (Miller)].
- C. Said Raba, “We deal with a case of one who says, ‘Lo, incumbent on me is a burnt offering that can live.’”

**II.3.** A. Said R. Hisda, “R. Judah concedes that, where one has consecrated a part of the animal, the removal of which makes the animal terefah, [that holiness affects the whole animal].”

- B. Raba says, “A part of the animal, removal of which renders the animal carrion.” [The animal has died a natural death.]
- C. R. Sheshet said, “A part of the animal the removal of which can kill the animal.”
- D. *What is the practical difference between R. Hisda and Raba?*
- E. *At issue between them is whether or not a terefah-beast can live. R. Hisda states matters within the premise of him who maintains that a terefah-beast cannot live, and Raba states matters in accord with the view of him who says that a terefah-beast can live* [Miller: and it is not therefore something the removal of which will result in the death of the animal; and R. Judah will maintain his opinion in the case of a terefah].
- F. *What is the practical difference between Raba and R. Sheshet?*
- G. *At issue between them is the ruling of R. Eleazar.*

- H. For R. Eleazar said, "If the thigh of an animal was removed with the hollow thereof, the animal falls into the category of carrion [and deemed already dead]."
- I. *Raba concurs with R. Eleazar [and if one dedicated the thigh], it is something the removal of which results in death; the holiness then affects the whole animal] R. Sheshet does not concur with R. Eleazar [since removal of the thigh will leave the animal struggling for a while].*
- J. *An objection was raised [to these several claims concerning Judah's concession]: Said Rabbi, "I prefer the opinion of R. Judah [who says that the consecration of one limb does not render the whole animal consecrated] in the case of a part of the beast on which life does not depend, and the opinion of R. Yosé [who says that consecrating one limb does render the whole animal holy] in regard to a part of the beast on which life depends." Does this not yield the inference that [Yosé] differs from R. Judah even in connection with the removal of a vital limb?*
- K. *There is no difficulty in respect to the language, "I prefer the opinion of R. Judah [who says that the consecration of one limb does not render the whole animal consecrated] in the case of a part of the beast on which life does not depend," since R. Yosé does differ in that matter [where the loss of a limb does not result in death (Miller)]. But as to the language, "and the opinion of R. Yosé [who says that consecrating one limb does render the whole animal holy] in regard to a part of the beast on which life depends," does it not yield the inference that R. Judah differs [Miller: and holds that even in such a case the dedication of one limb does not make the whole animal holy]? And that would refute all the cited opinions [Hisda, Raba, and Sheshet alike]!*
- L. *Not at all. What we have is a defective version of matters, and this is the correct sense of the passage:*
- M. "The opinion of R. Yosé is acceptable to R. Judah in regard to a matter on which life depends, for even R. Judah does not differ except concerning a matter on which life does not depend. But as to a matter on which life depends, he concedes the position of the other."

**II.4.** A. *Raba raised the question, "What is the law as to a bird? [Miller: According to R. Yosé, who holds that the consecration of a limb spreads to the whole animal, what if one consecrated a limb of a bird? Does the holiness spread to the whole bird or not?] Do we say that Scripture speaks of 'a beast,' and this is not in the classification of a beast? Or perhaps Scripture refers to an offering, and a bird also falls into the classification of an offering?"*

B. *The question stands.*

**II.5.** A. *Raba raised the question, "If one has consecrated a limb as to its value [directing the proceeds to the upkeep of the Temple house], what is the law as to treating the beast as subject to holiness? Do we say, [1] since one limb is dedicated, the whole becomes holy as to its value, and [2] since holiness as to the value does affect the animal, consecration of the beast has affected the beast? Or perhaps we appeal to a single argument resting on a 'since....,' but not on two? [Specifically, Since one limb is dedicated for its value, the whole animal is dedicated for its value; and since the animal is dedicated for its value, we consider*

it dedicated for its body as well, that is, two arguments resting on since...(Miller)].”

- B. *Why not settle the matter from what he himself has said, for has not Raba said, “If one consecrated a male ram for its value, it is deemed consecrated as to its body as well [and it cannot be sold, for the animal may be used as a burnt offering, and it must be used in that way]”?*
- C. *There the man has consecrated the entire beast, while here he has consecrated only a single limb, so what is the rule?*
- D. *The question stands.*

**II.6. A.** *It was asked of Raba, “If one has consecrated a single limb, what is the law as to shearing the beast?”*

- B. *Why not settle the matter from what has been taught on Tannaite authority:*
- C. *“...nor shear the firstling of your sheep” (Deu. 15:19) — but you may shear the firstling that belongs to you and to outsiders. [Here too the shearing should be permitted.]*
- D. *There consecration has never affected the beast at all, while here consecration has affected the beast.*
- E. *Another version:*
- F. *There he has not got the power to consecrate the beast, but here he has the power to consecrate the beast.*

**II.7. A.** *Abbaye raised the question of Raba, “If one has consecrated the hide of a beast, what is the law as to working with the beast?”*

- B. *“Come and take note: He who says, ‘What is in the belly of this beast will be a burnt offering’ — it is permitted to shear the beast but forbidden to work with it, because the embryo that is within it is weakened thereby [and here too the skin hide is affected, so it should be forbidden].”*
- C. *He said to him, “When the passage states, but forbidden to work with it, that is only on the authority of rabbis.”*
- D. *“If that is so, then even shearing the beast also should be forbidden.”*
- E. *He said to him, “Work, which weakens the embryo, has been forbidden by rabbis, but as to shearings, rabbis did not prohibit that.”*

**II.8. A.** *Abbaye raised the question of R. Joseph, “If the mother is in the classification of a peace offering, and the embryo is in the classification of an unconsecrated beast, and he slaughtered the mother within the Temple court, what is the law? [Miller: is the embryo forbidden on grounds that he has slaughtered an unconsecrated beast within the Temple court?] accord with the opinion of the one who has said, ‘The offspring of Holy Things dare holy at birth but not before,’ here do we have a cause of slaughtering unconsecrated beasts in the Temple court, or is that not the case?”*

- B. **[12A]** *He said to him, “Can we invoke the verse, ‘If the place be too far for you, then you shall kill...’ (Deu. 12:21).” [Miller: Here we have a peace offering and the embryo is not regard as unconsecrated beast in the Temple court.]*

**II.9. A.** *Abbaye raised the question of R. Joseph, “If the beast is unconsecrated but the offspring has been consecrated as peace offerings, and one slaughtered the beast*



outside of the Temple court, *what is the law? Does one incur liability on this account on the grounds of slaughtering Holy Things outside of the Temple court, or is that not the case?*”

- B. *He said to him, “Can we invoke the verse, ‘Even that they may bring them to the Lord’ (Lev. 17: 5).” [Miller: One is guilty of bringing consecrated beasts outside of the Temple court only with regard to an animal that is suitable for an offering, but not an embryo which is not fit at the present moment for an offering.]*
- C. *Another version:*
- D. *He said to him, “If an animal is suitable to be brought to the door of the tent of meeting are people liable for slaughter outside of the Temple [but for an animal that is not fit for the tent of meeting there is no penalty for slaughtering the beast outside of the Temple].”*

Exactly how I.1-2, running on into Nos. 3, 4, pertain to the Mishnah by now is going to be predictable. We raise an abstract problem, to which our Mishnah-law proves relevant. Then our Mishnah’s rule is set into a much larger framework of interpretation, by reason of the issue that is raised in general terms. At some point in an exposition of a principle of law associated with no particular, detailed Mishnah-ruling, our Mishnah-paragraph will make its contribution to the discussion. The exegesis of the Mishnah-paragraph is not principal, but *en passant*, it does emerge, a principle that is of general interest is shown to clarify what is at stake in our Mishnah-paragraph as well. That is precisely what happens in the passage before us. II.1 moves us on to the second part of our Mishnah-paragraph. Nos. 2-9 then clarify the attached Tannaite amplification. The theoretical questions are tightly linked to the topic at hand.

#### 1:4

- A. **That which contains heave offering imparts the status of heave offering [to other produce] only by due measure [in the prescribed proportion].**
- B. **That which contains leaven imparts the status of leaven [to something else] only by due measure.**
- C. **Drawn water spoils the immersion pool only in due measure.**

#### 1:5

- A. **Purification water is made purification water only with the putting in of the ashes [of the red cow].**
- B. **A grave area does not make [another field into] a grave area.**
- C. **And heave offering [does] not follow [the taking of] heave offering. [There is no valid heave offering after heave offering has been removed from a quantity of produce.]**
- D. **And a substitute [for a substitute] does not produce a substitute. [A substitute does not impart the status of a substitute to that animal put forward in its stead.]**
- E. **And an offspring [of a consecrated animal] does not impart the status of a substitute [to that animal put forward in its stead].**

- F. **R. Judah says, “An offspring [of a consecrated animal] does produce a substitute.” [An offspring... does not impart the status of a substitute to that animal put forward in its stead.]**
- G. **They said to him, “That which has been sanctified produces a substitute, but the offspring and the substitute do not produce a substitute.”**

This entire construction serves no particular tractate and is framed within a theory of the formation of statements of the law different from the one that prevails in the Mishnah overall. The Mishnah organizes materials by topics and not by principles or by verbal formulas, such as predominate here. The reason for the inclusion of the whole is at M. 1:5D-G. Much of what follows in our Mishnah-tractate is of the same order. But, we now recall, in its generalizing approach, our Talmud has followed suit. Given the strong motive of pursuing a single problem and principle through a vast variety of topics, our Talmud has prepared us for the abstract and non-topical character of the Mishnah-tractate, as it now reveals itself.

- I.1 A. **Who is the Tannaite authority [behind the rule That which contains heave offering imparts the status of heave offering to other produce only by due measure in the prescribed proportion]?**
- B. *Said R. Hiyya bar Abba said R. Yohanan, “It does not accord with the position of R. Eliezer, for we have learned in the Mishnah a contrary view.”*
- C. **A seah of heave offering that fell into less than a hundred seahs of unconsecrated produce, and that produce thereby took on the status of heave offering, and produce fell from the mixture into a different batch —**
- D. **R. Eliezer says, “That portion of the mixture that falls into the second batch imparts the status of heave offering to the produce that is mixed with it as does true heave offering.”**
- E. **But sages say, “A mixture of heave offering and unconsecrated produce does not impart the status of heave offering to produce with which it is mixed except in accordance with a calculation of the quantity of true heave offering contained in the mixture, and that which has been leavened does not impart the status of heave offering to that which it leavens except in accordance with a calculation of the quantity of true heave offering in the mixture, and water from an immersion pool that was made unfit by being mixed with drawn water does not impart a status of invalidity to other immersion pools except in accordance with a calculation of the percentage of drawn water that it contains]” [M. [Peah 5:6](#)].**
- II.1 A. **That which contains leaven imparts the status of leaven [to something else] only by due measure:**
- B. *Said R. Abba said R. Yohanan, “Our Mishnah-paragraph does not accord with the position of R. Eliezer which we have learned in the Mishnah.”*
- C. **Leaven of common produce and leave in the status of heave offering that fell into dough, and there is not enough of either of them to leaven the dough, but combined they leavened it —**
- D. **R. Eliezer says, “I rule on the status of the dough according to the last leaven that fell in.”**

- E. But sages say, “Whether the prohibited leaven fell in first or last, it does not render the dough prohibited unless there is enough of it to leaven by itself” [M. [Orl. 2:11](#)].

**III.1 A. Drawn water spoils the immersion pool only in due measure.**

- B. *Who is the Tannaite authority [for the view, Drawn water spoils the immersion pool only in due measure]?*
- C. *Said R. Hiyya bar Abba said R. Yohanan, “It is R. Eliezer b. Jacob, as we have learned it in the Mishnah.”*
- D. **R. Eliezer b. Jacob says, “An immersion pool in which there are twenty-one seahs of rain-water — one draws water and carries it on the shoulder and puts in it nineteen seahs, opens a sluice, and mingles the water, [\[12B\]](#) and the collected waters are cultically clean, for drawn water that is collected is rendered cultically acceptable by the greater part’s of the water with which it is mixed being rain water and by being conducted through a channel” [T. [Miq. 4:3](#)].**
- E. *Does this then yield the inference that rabbis take the view that when drawn water is mixed with rain water and conducted through a channel, it is not rendered cultically acceptable? If that is so, then that which was taught when Rabin came, stated in the name of R. Yohanan, will represent the opinion of neither R. Eliezer b. Jacob nor rabbis, specifically: “Drawn water that has been drawn entirely through a channel is cultically acceptable.”*
- F. *Rather, said R. Pappa, “The language, **only by due measure**, refers to the number of utensils, and the Mishnah represents the position of Joseph b. Honi. For it has been taught on Tannaite authority:*
- G. **“Three logs of drawn water that fell into an immersion-pool if the water came from two or three utensils, or even from four or five utensils, they disqualify the immersion-pool.**
- H. **“Abba Yosé b. Hanan says, “If it is from one, two, or three utensils, they join together, and if it fell from four, they do not join together”” [T. [Miq. 3:8A-E](#)].”**

**IV.1 A. Purification water is made purification water only with the putting in of the ashes [of the red cow].**

- B. *Who is the Tannaite authority of the passage before us?*
- C. *Said R. Hiyya bar Abba said R. Yohanan, “It does not accord with the position of R. Simeon, for it has been taught on Tannaite authority:*
- D. **“If one put in the ash and afterward put in the water, the mixture is unfit, but R. Simeon declares it fit. [R. Simeon agrees that if he put in the water and afterward put in the ash and saw it, that it is excessive, and then added more water to it, that it needs a second mixing of ashes. For purification water does not produce purification water, but only putting in the ashes produces purification water] [T. [Miq. 6:3C-G](#)].”**
- E. *What is the scriptural basis for the position of R. Simeon?*
- F. *It is written, “And for the unclean they shall take the ashes of the burning of the purification from sin and the running water shall be put thereto” (Num. 19:17).*

- G. *And it has been taught on Tannaite authority:*
- H. R. Simeon says, “Does the verse use the Hebrew letters for the word ‘dust’ [afar]? Do the letters not yield the word ashes [efer]? The text then does not use the usual expression, which would be the word for ashes, to permit the composition of an argument by analogy. Specifically, we read here the word for dust, and elsewhere we have the same word, with reference to the bitter water given to the wife accused of adultery. Just as in that context, the dust is put into the water, so here the dust should be put into the water [in that order]. And just as here, if the dust is put in the utensil before the water is put in, the rite is valid, so there, if the priest put the dust in before the water, the rite is valid.” [So if one put in the ashes before the water, the water remains valid.]
- I. *And how does he know that rule [that putting ashes in before the water does not disqualify the mixture] in regard to the purification water?*
- J. *There are two available verses of Scripture:* “And running water shall be put thereto” (Num. 19:17), *therefore the dust comes first, but then it is written, “Running water...in a utensil”* (Num. 19:17). How are the two to be reconciled? If one wanted, he puts the dust at the bottom, and if he wants, he puts dust on top of the water.
- K. *And as to the Tannaite authority before us, what is the basis in Scripture for his position? He can say to you, “The concluding part of the verse bears a strict interpretation. ‘And running water shall be put thereto’ teaches us that one must mix the ashes and the water together.”*
- L. *But how come you maintain that it is the concluding part of the verse that bears a strict interpretation? Perhaps it is the opening part of the verse that bears a strict interpretation* [Miller: and the text, ‘in a utensil’ teaches us that the waters must be fresh in the utensil, so one must draw the water in the utensil directly from a fountain, and the water is not poured into another utensil and from there into the utensil for the ashes]?
- M. *You cannot say so, for just as in all other cases, we find that that which imparts suitability to a mixture is put in on top, so here that which makes the water of purification suitable is put in on the top.*

**V.1 A. A grave area does not make [another field into] a grave area.**

- B. *Our Mishnah-passage does not accord with the position of R. Eliezer. For we have learned in the Mishnah:*
- C. **[One was plowing and struck against a rock or against a fence or shook of the plow — to that point he makes a grave area.] R. Eliezer says, “A grave area makes a grave area.” [R. Joshua says, “Sometimes it makes, and sometimes it does not make, a grave area. How so? If one plowed a half furrow, fifty cubits, and returned and plowed a further half furrow, and so to the side, lo, this makes a grave area. If he plowed a whole furrow and went and plowed from it and onward, that does not make a grave area”] [M. Oh. 17:2A-F].**
- D. *In the view of rabbis, to what extent [does the uncleanness of a grave area extend into other fields]?*
- E. When R. Dimi came, he said that R. Simeon b. Laqish said that R. Simeon bar Abba said, **[13A]** ““Three fields, and two furrows in length.””

- F. And how much is a furrow's length?
- G. A hundred cubits.
- H. *That is in accord with that which has been taught on Tannaite authority:*
- I. **He who plows on top of a grave — lo this makes a grave area, the length of a furrow. And how much is the length of a furrow? A hundred cubits [cf. T. Ahilot 17:1].**

**VI.1** A. And heave offering [does] not follow [the taking of] heave offering. [There is no valid heave offering after heave offering has been removed from an item of produce.]

- B. *In accord with what Tannaite authority is our Mishnah's rule? It accords with the view of R. Aqiba, for we have learned in the Mishnah:*
- C. **Partners who separated heave offering from the same commonly owned produce one after the other —**
- B. **R. Eliezer says, "That which was separated by both of them is valid heave offering."**
- C. **R. Aqiba says, "The heave offering that has been separated by both of them is not validly designated as heave offering."**
- D. **But sages say, "Only that which was separated by the first is valid heave offering." [R. Yosé says, "If the first partner separated the required measure of heave offering, that which was separated by the second a partner e partner is not valid heave offering. But if the first partner did not separate the required measure of heave offering, that which was separated by the second partner is also valid heave offering"] [M. Ter. 3:3A-E].**

**VII.1** A. And a substitute [for a substitute] does not produce a substitute. [A substitute does not impart the status of a substitute to that animal put forward in its stead.]

- B. *What is the scriptural basis for this ruling?*
- C. Scripture has said, "and that which is exchanged for it" (Lev. 27:10) — and not that which is exchanged for that which is exchanged for it.

**VIII.1** A. And an offspring [of a consecrated animal] does not impart the status of a substitute [to that animal put forward in its stead].

- B. For Scripture has said, "...it..." meaning, it can effect the exchange, but the offspring of a consecrated animal cannot effect an exchange.

**IX.1** A. R. Judah says, "An offspring [of a consecrated animal] does produce a substitute." [An offspring . . . does not impart the status of a substitute to that animal put forward in its stead.] They said to him, "That which has been sanctified produces a substitute, but the offspring and the substitute do not produce a substitute."

- B. For Scripture has said, "...shall be..." (Lev. 27:10 — which serves to encompass the offspring of a consecrated animal.
- C. *And rabbis?*
- D. That serves to encompass an exchange that was made in error within the classification of an exchange that was made purposely.

We have throughout a systematic glossing of the sentences of the Mishnah, with special attention to pointing us in the direction of the passages in the Mishnah in which the components of this composite are fully set forth. This type of Talmud-commentary to the Mishnah is uncommon in our tractate. What is more to the point is, when the Mishnah presents a composite different in character from the norm — not a topical exposition but a set of cases that yield a common principle — the Talmud’s presentation does not vary from its normal program, e.g., who is the authority? what is the scriptural foundation for a Mishnah-rule? and the like. Even the secondary and subsidiary expositions follow the conventional program of the Talmud. That points toward the existence of a hermeneutics for the Mishnah independent of the character of the Mishnah, one that the framers of compositions and composites utilized in the Talmud worked out on their own and addressed to the Mishnah without much effort to accommodate the hermeneutics to the character of the document subject to re-presentation.

### 1:6

- A. **Birds and meal offerings do not produce a substitute [impose the status of a substitute upon birds or meal designated as their replacement] .**
- B. **For only in the case of cattle is [substitute] mentioned [Lev. 27:10].**
- C. **A congregation and partners do not produce a substitute,**
- D. **since it is said, “He shall not change it” (Lev. 27:10) —**
- E. **The individual produces a substitute, and neither a congregation nor partners produce a substitute.**
- F. **Offerings for the upkeep of the Temple do not produce a substitute.**
- G. **Said R. Simeon, “And was not tithe [of cattle] included [among the offerings for which a substitute may be brought] (Lev. 27:10)?**
- H. **“And why was it excluded [And the tithe of herds and flocks... shall be holy unto the Lord. A man shall not inquire whether it is good or bad, neither shall he exchange it; and ‘if he exchanges it, then both it and that for which it is exchanged shall be holy; it shall not be redeemed (Lev. 27:32-33)]?**
- I. **“To allow for an analogy:**
- J. **“Just as the tithe [of cattle] is a sacrifice of an individual [M. Bekh. 9:3], excluding sacrifices of the congregation [C],**
- K. **“so tithe is an offering of the altar, excluding offerings to the Temple treasury [F] [for the upkeep of the Temple].”**

[Miller: A dedication for Temple repairs also is called an offering, and therefore there is need for a text to exclude dedications for Temple repairs from the law of exchange.]

Our Mishnah-paragraph reverts to the topic at hand, which is, rules for the substitute. Does the law apply to offerings other than beasts? Can groups accomplish what an individual who makes an act of substitution effects?

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

- B. Might one think that beasts that have been consecrated so that their value will go for the upkeep of the Temple house will be subject to the law of exchange?



- C. Scripture says, ["If it is an animal such as men offer] as an offering [to the Lord, all of such that any man gives to the Lord is holy. He shall not substitute anything for it or exchange it, a good for a bad or a bad for a good; and if he makes any exchange of beast for beast, then both it and that for which it is exchanged shall be holy]" (Lev. 27:9-10) —
- D. [the law applies to] that which is called "an offering," excluding animals that have been consecrated to serve for the upkeep of the Temple house, which do not fall into the classification of an offering.
- E. *And do they not now? But has it not been taught on Tannaite authority:*
- F. If you provide an exegesis for the word "offering," shall I understand the word to encompass the case of animals consecrated for the upkeep of the Temple house, for these are subsumed under the classification of "offering," when for example Scripture states, "And we have brought the Lord's offering, what each man found, articles of gold, armlets and bracelets, signet rings, earrings and beads, to make atonement for ourselves before the Lord" (Num. 31:50)?
- G. The verse states, "and has not brought it to the door of the tent of meeting" (Lev. 17: 4), and that means, that which is suitable to be brought to the door of the tent of meeting is that on account of which people are liable on the count of slaughtering holy things outside of the designated place, and that which is not suitable to be brought to the door of the tent of meeting is that on account of which people are not liable on the count of slaughtering holy things outside of the designated place.
- H. *This proves that what is brought for the upkeep of the house is in the category of "the Lord's offering."*
- I. *Said R. Hanina, "There really is no contradiction. The one position is that of R. Simeon, the other, rabbis. In the view of R. Simeon, what is given for the upkeep of the Temple house is classified as 'an offering,' and to rabbis, it is not classified as an offering."*
- J. *But are things consecrated for the upkeep of the Temple house not called "an offering"?*
- K. *Surely it is written, "And we have brought the Lord's offering, what each man found, articles of gold, armlets and bracelets, signet rings, earrings and beads, to make atonement for ourselves before the Lord" (Num. 31:50).*
- L. True enough, these things are classified as "an offering," but they are not classified as "an offering to the Lord."

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

- B. "And all the tithe of herds and flocks, every tenth animal of all that pass under the herdsman's staff, shall be holy to the Lord. A man shall not inquire whether it is good or bad, neither shall he exchange it; and if he exchanges it, then both it and that for which it is exchanged shall be holy; it shall not be redeemed" (Lev. 27:32-33) —
- C. Why is this stated? Has not Scripture already said, "If it is an animal such as men offer as an offering to the Lord, all of such that any man gives to the Lord is holy.] He shall not substitute anything for it or exchange it, a good for a bad or a bad for

a good; [and if he makes any exchange of beast for beast, then both it and that for which it is exchanged shall be holy]" (Lev. 27: 9-10)?

- D. Since the language at hand says, "He shall not substitute anything for it or exchange it, a good for a bad or a bad for a good," it bears the implication that the rule pertains only to the offering brought by an individual.
- E. But what about the offering brought by the community, an offering of the altar, and an offering brought for the upkeep of the Temple house?
- F. Scripture says, "A man shall not inquire whether it is good or bad, neither shall he exchange it; and if he exchanges it, then both it and that for which it is exchanged shall be holy; it shall not be redeemed"

**II.1 A. Said R. Simeon, "And was not tithe [of cattle] included [among the offerings for which a substitute may be brought] (Lev. 27:10)? And why was it excluded [And the tithe of herds and flocks... shall be holy unto the Lord. A man shall not inquire whether it is good or bad, neither shall he exchange it; and 'if he exchanges it, then both it and that for which it is exchanged shall be holy; it shall not be redeemed (Lev. 27:32-33)]? To allow for an analogy: just as the tithe [of cattle] is a sacrifice of an individual [M. Bekh. 9:3],**

- B. "consecrated to the altar, is obligatory, and does not derive from a partnership, so every animal that is designated as the offering of an individual, the offering of the altar, and obligatory, [13B] and not from a partnership."
- C. Rabbi says, "Why is the beast that has been designated as tithe explicitly singled out [Miller: as subject to the law of exchange, since all consecrations are included in the law of exchange? Rabbi holds that for declaring a private offering subject to the law of exchange, there is no need for an explicit reference to the tithed beast, since Scripture says, '...he shall...in the singular. That the dedication must be one for the altar is also inferred from the word 'offering' mentioned in connection with the law of exchange. We therefore see that Rabbi holds that dedications for Temple repairs are not called offerings. Also, as regards R. Simeon's exception from the law of exchange of the case of a burnt offering brought from the surpluses of sacrificial appropriations because dedications must be something that come as obligations, Rabbi will maintain that surpluses can go for communal offerings. The ruling also concerning partners and congregations can be inferred from the text, 'He shall not alter.']
- D. "It is to apply the law of exchange to cases of a beast that became tithe through a change of name [one called the tenth ninth, the eleventh tenth, and so on; both beasts are holy and are offered up in the classification of peace offerings]; and the exchange of a beast that actually was tithed [in which case one put an unconsecrated beast alongside the tithed beast and said that the former is exchanged for the latter; this exchange has effect. [Miller: there is need for the special mention of tithe, for otherwise I might have said that there is no exchange in this case, as the rendering of an animal tithe by a change of name is itself an anomaly and therefore one cannot go beyond it].
- E. "And, further, it is also you that where the designation of a beast has been changed [in error, e.g., ninth for tenth, and the like], the misdesignated animal is offered up, while where there is an exchange with a beast that is actually in the category of tithe, it is not offered up; that which becomes tithe through the change of name is

redeemed, and that which is exchanged with actual tithed beast is not redeemed; an exchange of a beast for an actually tithed beast affects both what is fit and what is blemished, while a change of the name of the tithe has affect only on what is fit.”

**II.2.** A. *They said, “Is it because the Torah has included the case of an animal that became tithe because of a change in the proper designation, should it then be deemed inferior [in holiness?”* [Miller: why does not holiness have an affect on a blemished animal in this connection? There is all the more reason that the case of tithe through the change of name should be more strict and take effect even when the animal is blemished.]

B. *Indeed so, for we say that the law has encompassed that which it has encompassed, and what it has not encompassed, it has not encompassed.*

C. *And how do we know that we do not encompass anything beyond what the Torah has actually included?*

D. Said R. Huna b. R. Joshua, “It is because [the law governing a beast named as tithe by a false classification] is treated as the subject of a fresh statement, on which account we do not go beyond the limits of the anomalous feature [and compose an analogy of any kind to other cases].”

**II.3.** A. *Said R. Nahman bar Isaac to Raba, “And in the view of R. Simeon, who has said that the law of substitution applies to a beast that is offered because of an obligation, is it only the obligatory burnt offering that can be subject to the law of substitution, but not a burnt offering that is given out of free will?”*

B. *He said to him, “A burnt offering that is given out of free will also is subject to the law, for once the man has accepted upon himself the obligation to bring such an offering, the beast that he has designated can be subject to an exchange.”*

C. *But R. Simeon’s teaching is required solely to cover the case of a burnt offering that derives from the surplus of appropriations of public funds made for the purchase of animals for sacrifice. [One has separated money for a sin offering or a guilt offering, and some of it was left over, and with this money we purchased a burnt offering.]*

D. *Then what is his reasoning? If his view accords with the opinion of the one who has said, “The surpluses go for freewill gifts of the congregation,” then, as a matter of fact, with such a beast an exchange cannot be carried out, since a beast owned by a congregation cannot serve to effect an exchange.*

E. *Then R. Simeon will take the side of the authority who maintains that the surpluses are used for freewill gifts of individuals. [Miller: the owners themselves bring a burnt offering as a gift, but it does not carry out an obligation.]*

F. *And from whom have we heard that view? It is from R. Eliezer, the very same person who has explicitly stated that an exchange is effected! For it has been taught on Tannaite authority:*

G. *“An animal designated as a burnt offering that derives from the surpluses can effect an exchange,” the words of R. Eliezer.*

H. *R. Simeon follows his reasoning in one matter, but he disagrees with him in another. For R. Eliezer takes the view that an animal designated as a burnt offering that derives from the surpluses can effect an exchange, while he maintains*

*that* an animal designated as a burnt offering that derives from the surpluses cannot effect an exchange.

I. *If so, then what about the question that was raised by R. Abin:*

J. *For R. Abin raised the question, “From the viewpoint of the one who says, ‘They do not go and carry out another act of substitution [so the same consecrated animal may not serve time and again in exchanges with other animals],’ if one has designated a beast as a guilt-offering, intending to attain atonement through it, and then he performed an act of substitution with the beast, and then the original beast was blemished, and then he redeemed the original beast for another [so this is now going to serve as a guilt offering, in place of the former], [and this second beast got lost,] so he gained atonement through yet another guilt offering, and [then the lost animal was found and automatically classified as] a burnt offering [as is the rule, since an animal designated as a guilt offering, which is not used by the owner for the purpose of atonement, is then offered as a burnt offering], what is the rule as to making an exchange for this beast?” [Miller: do we say that, since an exchange has taken place for the first guilt offering, there cannot be another exchange made for the second guilt offering that has now been found, for it would be like making a number of exchanges for the same animal, which, according to the view of the authority in whose behalf we are asking this question, is not permissible? Or, since the second guilt offering is another animal altogether and it receives a different kind of holiness, do we say that there can therefore be an exchange made, for in the case of the first animal it was a guilt offering that was exchanged, and we are considering the exchange of a burnt offering?]*

K. *Now in accord with whose opinion does this question arise? It cannot be that of R. Simeon, for, as you maintain, R. Simeon takes the view that an animal designated as a burnt offering that derives from the surpluses cannot effect an exchange.*

L. *This is the question that R. Abin meant to raise: if you can locate a Tannaite authority who takes the view of R. Simeon, who holds that one cannot effect an exchange repeatedly, and who furthermore holds the view of R. Eliezer, who takes the position that an animal designated as a burnt offering that derives from the surpluses can effect an exchange, then what is the rule about exchanging it again?*

M. *And with reference to two distinct animals but one classification of holiness, what is the law?*

N. *And if you maintain that one classification of sanctification is such that there can be no exchange again, then what is the law in the case of two classifications of sanctification that affect a single beast?*

O. *These questions stand.*

The issues in the amplification of the Mishnah predominate in a systematic way, beginning nearly to the end. I.1 signals an important concern, which is the purpose for which a beast has been consecrated. Can the law of exchange apply, if the beast has been consecrated for not the altar but the upkeep of the house, through sale of the beast and dedication of its proceeds to the administrative budget of the Temple? No. 2 proceeds to investigate why the same law has been stated with reference to both consecrated animals in general and also animals designated as tithe in particular, a point important to Simeon's argument later on in the Mishnah-

paragraph. This leads us to a systematic reading of Simeon, II.1ff. What is interesting here is the exegetical work contributed by Rabbi, II.1C. That yields No. 2. No. 3 then extends the reading of Simeon's view to an intersecting issue. The fundamental unity of our Talmud is shown at the end, where we revert to Abin's issues, raised earlier. That is another mark of the essentially cogent composition that characterizes this tractate overall.