(2) Viz., his meritorious deeds, being now outbalanced.
(3) Lit., 'of.
(4) Ezek. XXXIII, 12.
(5) The Heb. lit., means, 'but performs repentance, which demands more than mere regret but actual righting of wrongs committed.
(6) Lit., 'he is not reminded of his wickedness'.
(7) Ibid.
(8) Where the righteous rebels at the end.
(9) In that case his righteous past is completely disregarded.
(10) Heb. derek erez, lit., 'the way of the earth,' i.e., industry or commerce.
(11) Lit., 'quickly'.
(12) Ecc. IV, 12.
(13) Thus purging them of the little sin they do commit lopping off the branch inclining to an unclean place.
(14) Job VIII, 7.
(15) Lit., 'furnishes them with goodness'.
(16) Thus rewarding them for the little good they perform-lopping off the branch inclining to the place, that it may be disregarded in the next world.
(17) Prov. XIV, 12. — An attempt to answer the eternal question, why the wicked prosper and the righteous suffer.
(18) V. Sanh. (Sonc. ed.) p. 502, n. 3.
(19) Probably, that was their final decision.
(20) This was a practical problem during the Hadrianic persecution, when both study and practical observance were forbidden, and the question was for which risks should sooner be taken. — Weiss. Dor., II, 125, Graetz, Geschichte, IV, p. 429.
(21) V. Glos.
(22) Plural of shemittah, q.v. Glos.
(23) The Torah was given to Israel two months after the Exodus from Egypt, whereas liability to hallah came into force forty years later, when they entered Palestine; terumoth and tithes fourteen years later after Palestine was conquered and allotted to the tribes; shemittah and jubilee seven and forty-nine years respectively after that.
(24) The jubilee is the fiftieth year, and it is assumed that its provisions (q.v. Lev. XXV, 8-13, 28, 33, 39-42, 47, 55) became operative only at the end of that year.
(25) I.e., its laws, which generally speaking effected the release of slaves and land, came into force.
(26) I.e., one is first judged for learning, and then in respect to the fulfilment of precepts.
(27) Lit., 'words of the Torah'.
(28) Lit., 'he who frees himself.
(29) I.e., the Torah; cf. Isa. LV, 1.
(30) Prov. XVII, 14; it is here so translated.
(31) Ps. CV, 44f.; v. supra 37a, where it is stated that 'ye shall keep' (tishmeru) refers to the study of the Mishnah. Thus study is mentioned before observance.
(32) Being so uncultivated he has no self-respect and is ready to testify falsely.
(33) He too lacks self-respect.
(34) Lit., with the 'some say'.

Talmud - Mas. Kiddushin 41a

gains nothing but [the ill effect of] his temper;[1] but a good man is fed with the fruit of his deeds. And he who lacks Bible, Mishnah and worldly pursuits, vows not to benefit from him, as it is said: Nor sitteth in the seat of the scoffers:[2] his seat is the seat of scoffers.[3]

CHAPTER I I

MISHNAH. A MAN CAN BETROTH [A WOMAN] THROUGH HIMSELF OR THROUGH HIS AGENT. A WOMAN MAY BE BETROTHED THROUGH HERSELF OR THROUGH HER

AGENT. A MAN MAY GIVE HIS DAUGHTER IN BETROTHAL WHEN A NA'ARAH [EITHER] HIMSELF OR THROUGH HIS AGENT.

GEMARA. If he can betroth THROUGH HIS AGENT, is it necessary [to state] THROUGH HIMSELF? — Said R. Joseph: [This inclusion intimates that] it is more meritorious through himself than through his agent. Even as R. Safra [himself] singed an [animal's] head,[4] Raba salted shibbuta.[5] Some say that in this matter there is even a prohibition,[6] in accordance with Rab Judah's dictum in Rab's name; for Rab Judah said in the name of Rab: A man may not betroth a woman before he sees her, lest he [subsequently] see something repulsive in her, and she become loathsome to him, whereas the All-Merciful said, but thou shalt love thy neighbour as thyself.[7] And as to R. Joseph's statement,[8] it relates to the second clause: A WOMAN MAY BE BETROTHED THROUGH HERSELF OR THROUGH HER AGENT. Now, if she can be betrothed through her agent, is it necessary [to state] through herself? — Said R. Joseph: [This inclusion intimates that] it is more meritorious through herself than through her agent. Even as R. Safra [himself] singed an [animal's] head; Raba salted shibbuta. But there is no prohibition in this case,in accordance with Resh Lakish, who said: It is better to dwell with a load of grief than to dwell in widowhood.[9] A MAN MAY GIVE HIS DAUGHTER IN BETROTHAL WHEN A NA'ARAH. Only when a na'arah, but not when a minor: this supports Rab. For Rab Judah said in Rab's name: One may not give his daughter in betrothal when a minor, [but must wait] until she grows up and says: ‘I want So-and-so’.

Whence do we know [the principle of] agency?[10] — For it was taught: [When a man taketh a wife and . . . she find no favour in his eyes . . . then he shall write her a bill of divorcement . . .] and he shall send [her out of his house]:[11] this teaches that he may appoint an agent; then she shall send:[12] this teaches that she may appoint an agent; then he shall send, then he shall send her:[13] this teaches that the agent can appoint an agent.[14] Now, we have thus found [the principle of agency] in divorce: how do we know it in respect to kiddushin? And should you answer that it is derived from divorce [by analogy]; [I would answer] as for divorce, [agency may operate] because it can take place against her [the wife's] consent?[15] — Scripture saith, then she shall depart . . . and she shall be [another man's wife], thus assimilating marriage to divorce; just as an agent may be appointed for divorce, so may one be appointed for marriage.

Now, as to what we learnt: If one instructs his agent. ‘Go forth and separate [terumah]’: he must separate according to the owner's intentions;[16] and if he does not know the owner's intentions, he must make an average separation, [viz.,] one-fiftieth.

---

(1) Leanness (Rashi): had temper affects the health and the body becomes lean, but achieves nothing else!

(2) Ps. I, 1.

(3) Lacking these three, he can do nothing else but scoff and be ribald.

(4) In preparation for the Sabbath, though another could have done it for him.

(5) Name of a fish, conjectured by Jast. to be mullet.

(6) Against appointing an agent when he can do it himself.

(7) Lev. XIX, 18.

(8) That it is merely preferable, but there is no prohibition.

(9) V. supra p. 24, n. 7. I.e., for a woman even an unhappy marriage is better than singleness — hence there is no prohibition against being betrothed through a deputy.

(10) Lit., ‘sending’, i.e., that one can send another person to act on his behalf.

(11) V. Deut. XXIV, 1.

(12) Disregarding the mappik, which makes we-shillehah (שלחה) the third pers. masc. with the pronominal suffix, and reading it as third pers. fem.

(13) ‘Send’ is stated twice, in vv. 1 and 3.

(14) Rashi: these deductions are made because Scripture should have written, then he shall divorce. ‘Send’ intimates that the husband or wife can send, i.e., appoint a person to act on their behalf.

(15) But v. p. 35, n. 2.
(16) By Biblical law there is no fixed standard for terumah. The Rabbis, however, ruled that on the average it is one fiftieth of the crops: a generous man gives one fortieth, and a mean person not less than one sixtieth.

Talmud - Mas. Kiddushin 41b

If he decreases by ten or increases it by ten,[1] his separation is valid.[2] How do we know this?[3] And should you answer that it is derived from divorce, [I would rejoin:] as for divorce, that [may be] because it is a secular matter![4] — Scripture saith, [Thus] ye also [shall offer an heave-offering] [where] 'ye' [alone would have sufficed],[5] to include an agent.[6]

But let Scripture write [it] in respect to terumah, and these [marriage and divorce] would come and be derived from it? — Because one can refute [the analogy], since it is possible by [mere] intention.[7]

Again, as to what we learnt: If a company lose their Paschal sacrifice[8] and instruct one [of their number], 'Go out, seek it, and slaughter it on our behalf; and he goes, finds, and slaughters it, while they [also] take [an animal] and slaughter [it]: if his is slaughtered first, he eats of his, and they eat[9] with him.[10] How do we know it?[11] And should you answer that it is derived from these, [I would rejoin:] as for these, [that may be] because they rank as secular in relation to sacred animals![12] — It is learnt from R. Joshua b. Karhah['s dictum]. For R. Joshua b. Karhah said: How do we know that a man's agent is as himself? Because it is said, and the whole assembly of the congregation shall kill it [the Passover sacrifice] at even:[13] does then the whole assembly really slaughter? surely, only one person slaughters [an animal]:[14] hence it follows that a man's agent is as himself.

Now, let the Divine Law write [the principle of agency] in respect to sacrifices, and these others can come and be derived from them? — Because it may be refuted: as for sacrifice, that is because most of their operations are through an agent.[15]

One cannot be derived from another: but let one be derived from two [others]?[16] — Which can be thus derived? Should the Divine Law not state it of sacrifices, that it may be derived from these others? As for these, [it might be argued] that [sc. agency] is because they rank as secular in comparison with sacrifices. Should the Divine Law omit it in the case of divorce, that it may be derived from the others: as for these, that is because intention has force in their case.[17] But let the Divine Law not write it of terumah, and it could be derived from the others![18] — That indeed is so. Then what is the purpose of 'ye', 'ye also'?[19] — It is needed for R. Jannai's dictum, viz., 'Ye also': just as ye are members of the covenant,[20] so must your agents be members of the covenant. For this, what need have I of a verse? It may be derived from R. Hiyya b. Abba's dictum in R. Johanan's name! For R. Hiyya b. Abba said in R. Johanan's name: A [heathen] slave cannot become an agent to receive a divorce from a woman's husband, because he himself is not subject to the law of marriage and divorce![21] — It is necessary. I might think that a slave [is ineligible], since he is not empowered to free [a married woman] at all.[22] But a heathen, since he is qualified to [separate] terumah of his own [crops], as we learnt: If a heathen or Cuthean[23] separates terumah, it is valid: I might think that he can also be appointed an agent [for a Jew]; hence we are informed [otherwise]. Now, according to R. Simeon who exempts [them],[24] for we learnt: A heathen's terumah creates a [forbidden] mixture,[25] and one is liable to an [additional] fifth on its account.[26] But R. Simeon exempts [it][27] — what is the need of ye', ye also'? — It is necessary: I might reason, Since a Master said: 'Ye', but not tenant-farmers;[28] 'ye,' but not partners;[29] 'ye,' but not guardians;[30] ye,' but not one who separates terumah upon what is not his,[31] then I might also say, ye,' but not your agents.[32] Hence we are informed [that it is not so].

Now, that is well according to R. Joshua b. Karhah.[33] But according to R. Nathan, who utilises

this verse for a different exegesis, what can be said? For it was taught: R. Nathan said: How do we know that all Israel [may] fulfil their obligations[34]

---

(1) Giving one fortieth or one sixtieth.

(2) Lit., 'his terumah is terumah,' because he can maintain that he so judged the owner.

(3) That one can appoint an agent for this purpose.

(4) Whereas terumah being sacred, its separation may be stricter and require the actual owner.

(5) Lit., 'Scripture saith, ye, also ye.'

(6) It is a principle of exegesis that od (also) is an extension.

(7) A person may decide to separate a part of his grain (e.g., that in the right or left corner) as terumah and then eat the rest. This is obviously a leniency, and it may be argued that that is why one can also appoint an agent.

(8) The passover sacrifice was eaten by a group of people who had joined and arranged beforehand to eat a particular animal: unless one had thus 'counted himself in' before it was killed he could not eat thereof.

(9) Cur. ed.: eat and drink, but Wilna Gaon deletes 'and drink'.

(10) Since he was their agent. — Their own sacrifice is unfit.

(11) The principle of agency in sacrifices.

(12) Even terumah, for sacrifices have a higher degree of sanctity.

(13) Ex. XII, 6.

(14) Though it is eaten by several.

(15) From the receiving of the blood onward, everything in connection with sacrifices was performed by priests acting on behalf of the Israelites who offered them.

(16) By shewing that the factor common to both is also present in the third.

(17) Terumah, v. p. 206, n. 5; sacrifices: If one resolves to declare an animal a sacrifice, it is so, even without an explicit declaration. — Shebu. 26b.

(18) Sc. marriage and sacrifices, since either of the above refutations then apply.

(19) V. supra.

(20) With Abraham, Gen. XVII, 2; i.e., Jews. V. B.M. (Sonc. ed.) p. 415, n. 5.

(21) In the Jewish sense. This shews that it is mere logic that one cannot act as an agent where he cannot be a principal, and the same applies to the others.

(22) Lit.,' he is not a person of freeing at all.' It is impossible for a slave to free a married woman, sc. his wife, by divorce, since he cannot marry.

(23) After the overthrow of the Northern Kingdom of Israel and the deportation of its inhabitants the land was repopulated by various peoples, some of whom came from Cuth and gave their name to the new settlers as a whole. These accepted a form of semi-Judaism. Their status in respect to Jewry fluctuated; at times they were accepted as Jews, at others they were rejected. Finally they were definitely excluded from the Jewish people.

(24) Even if a Gentile does separate terumah, it is not valid and remains hullin.

(25) I.e., if it falls into a quantity of hullin less than a hundred times as much as itself, and cannot be separated, the whole ranks as terumah, and is forbidden to an Israelite.

(26) If an Israelite eats terumah unwittingly, he must make restoration of the principal plus a fifth; Lev. XXII, 14.

(27) Sc. the terumah separated by a Gentile on his crops from the law of terumah, i.e., he does not regard it as terumah at all.

(28) A tenant-farmer who leases land and pays a percentage of the crops as rent cannot separate terumah upon the landlord's share without his authority.

(29) Likewise, one partner in a field cannot separate terumah for the other without the latter's consent.

(30) Of orphans estates.

(31) This gives the reason for the preceding: tenant-farmers, etc., cannot separate terumah for the other's crops, because one may not separate for what is not his.

(32) I.e., under no circumstances can one separate terumah upon crops not belonging to him, even when authorised by their owner.

(33) Supra.

(34) Lit., 'go forth' (from their obligation).

Talmud - Mas. Kiddushin 42a

by a single paschal sacrifice?[1] Because it is said: ‘and the whole assembly of the congregation of Israel shall kill it at even’: does then the whole assembly slaughter: surely, only one slaughters! But from this [it follows] that all Israel [may] fulfil their obligations by a single Paschal sacrifice. Then how does he know that an agent [may be appointed] for sacrifices? — From that itself.[2] Yet perhaps it is different there, because he [the slaughterer] is a partner therein? — But [it is derived] from this: they shall take to them every man a lamb, according to their fathers’ houses, a lamb for an household.[3] But perhaps there too [the reason is] that he has a share therein? — If so, what is the need of two verses? [Hence,] if it has no purpose where it is relevant, apply the matter to where it does not belong.[4] But this [the latter verse quoted] is needed for R. Isaac's dictum. For R. Isaac said: A man [sc. an adult] can acquire[5] [on behalf of others], but a minor cannot acquire![6] — That is deduced from, according to every man's eating [ye shall make your count for the lamb].[7] But that is still required for intimating that a paschal sacrifice may be slaughtered [even] for a single person![8] — He agrees with the view that the passover lamb may not be slaughtered for an individual.[9]

Then when R. Giddal said in Rab's name, How do we know that a man's agent is as himself? Because it is written, [and ye shall take] one prince of every tribe [to divide the land for inheritance]:[10] let him derive agency from this [former verse]? — Now, is it reasonable that this [division of the land] was on the principle of agency! Surely minors are not subject thereto?[11] But [it must be interpreted] in accordance with Raba son of R. Huna. For Raba son of R. Huna said in the name of R. Giddal in Rab's name: How do we know that a right can be conferred upon a man in his absence? Because it is written, and one prince of every tribe [etc.].[12] Now, is that logical? Was it [the division, altogether] advantageous [to each]? Surely it also involved disadvantages, for some like mountain land but not the plain, and others prefer the plain but not the mountain land?[13] But it[14] is in accordance with Raba son of R. Huna, who said in the name of R. Giddal in Rab's name: How do we know that when orphans [i.e., minors][15] come to divide their father's estate, Beth din appoints a guardian on their behalf, whether to their advantage or disadvantage? ([You say,] ‘To their disadvantage’! Why? — But [say thus:] to their [subsequent] disadvantage, but with the [original] intention that it shall be to their advantage.)[16] — From the verse, [and ye shall take] one prince of every tribe.[17]

R. Nahman said in Samuel's name: When orphans come to divide their father's estate, Beth din appoints a guardian for them,[18] and they select[19] a fair portion for each [orphan]; yet when they grow up, they can protest against [the division of the guardian]. R. Nahman, stating his own opinions ruled: When they grow up they cannot protest, for if so, wherein lies the strength of Beth din's authority?[20] Now, does then R. Nahman accept [this reasoning,] if so, wherein lies the strength of Beth din's authority? But we learnt: If the judges’ valuation was at one sixth too little or at one sixth too much,[21] their sale is null. R. Simeon b. Gamaliel said: Their sale is valid, [for] otherwise, wherein lies the strength of Beth din's authority? Whereon R. Huna b. Hinena said in R. Nahman's name: The halachah agrees with the Sages! — There is no difficulty:

---

(1) Though each receives an infinitesimal portion thereof, less than the size of an olive, which is the minimum that is called eating. In his view, the actual eating of the sacrifice was unessential, the main thing being the sprinkling of the blood.

(2) The fact remains that one slaughtered for all.

(3) Ex. XII, 3 thus one was to ‘take’, i.e., slaughter, on behalf of a whole household.

(4) This is a principle of Talmudic exegesis: if a teaching is unnecessary in its place, apply it elsewhere. Thus here too, both verses teach the principle of agency when the agent himself shares therein. Two verses being unnecessary, apply one to where the agent has no share at all in the matter of his agency.

(5) A Paschal lamb.

(6) [Although the minor himself has to to be counted in for the partaking of the Paschal lamb, he cannot acquire a share

on behalf of others (Tosaf.)]
(7) Ibid. 4.
(8) Deducted from 'manðs', singular.
(9) V. Pes. 91b.
(10) Num. XXXIV, 18: each prince acted as agent for the whole tribe.
(11) And among those who received a portion in Palestine were minors; this proves that the princes were not acting as agents.
(12) By their division they conferred rights of ownership, though the recipients (i.e., the individuals) were not present.
(13) And one cannot act disadvantageously on another's behalf without his authorisation. Hence the princes were not proceeding on this principle either.
(14) The interpretation of the verse . . . one prince', etc.
(15) [According to Maim. Yad, Nahaloth, X, 4. there were also some adults among them, for had they all been orphans, there would be no division of the estate, seeing that it would still have to be administered by a guardian. V. Maggid Mishneh a.l. and Tosaf. Ri.]
(16) I.e., this guardian acts in their behalf at law, and his acts are valid even if they subsequently tend to their loss, providing that his intentions in the first place were good.
(17) Who were to divide the land as fairly as possible, their actions being valid even if certain individuals were displeased.
(18) [Wilna Gaon: for the minors; cf. n. 3.]
(19) [Apparently the Beth din, cf. Maim. loc. cit. In the parallel passage Yeb. 67b, however, the reading is 'he selects' i.e., the guardian.]
(20) A guardian might just as well be appointed by a private individual, if the former's action can be overthrown.
(21) The judges made a valuation of a debtor's property, sold it and assigned the proceeds to the creditor in the former's absence, and erred in a sixth.

Talmud - Mas. Kiddushin 42b

In the one case, they [the judges] erred; in the other, they[1] did not err. If they did not err, against what can they [the orphans] protest? — They can protest against the sites.[2]

R. Nahman said: When brothers divide, they rank as purchasers from each other:[3] [for an error of] less than a sixth, the transaction is valid; exceeding a sixth, it is null; [exactly] one sixth, it is valid, but the amount of error[4] is returnable.[5] Said Raba: When you say that [for an error of] less than a sixth the transaction is valid, that is only if one did not appoint an agent;[6] but if he appointed an agent, he can plead, 'I sent you to benefit, not to injure me'.[7] And when you say, exceeding a sixth, the transaction is null, that is only if one did not say: 'We will divide according to Beth din's valuation'; but if this was stipulated,[8] the transaction is valid. For we learnt: If the judges' valuation was at one sixth too little or at one sixth too much, their sale is null. R. Simeon b. Gamaliel said: Their sale is valid.[9] And when you say: 'one-sixth, it is valid, but the amount of error is returnable', that holds good only of movables, but as for real estate, the law of overreaching does not apply to land. Again, this was said of real estate only if the division was by valuation,[10] but not if the division was made by cord.[11] That is in accordance with Rabbah, who said,[12] Everything which [shews an error] in measure, weight or number, even if less than the standard of overreaching, is returnable.

Now, when we learnt: He who sends forth a conflagration by a deaf-mute, idiot, or minor, is not liable [for the damage caused] by law of man, yet liable by the law of Heaven.[13] But if he sends it by a normal[14] person, the latter is [legally] liable. Yet why so? Let us say that a man's agent is as himself.[15] — There it is different, for there is no agent for wrongdoing, for we reason: [When] the words of the master and the words of the pupil [are in conflict], whose are obeyed?[16]

Then when we learnt:[17] If the agent does not carry out his instructions,[18] the agent is liable for trespass: if he carries out his instructions, the sender[19] is liable for trespass.[20] Thus, at least, if he

carries out the sender's instructions, the latter is liable for trespass. Yet why? Let us say: There is no agent for wrongdoing. — A trespass-offering is different, because the meaning of 'sin' is derived from terumah: just as an agent can be appointed for [separating] terumah, so can one be appointed in respect of trespass.[21] Then let us learn [a general law] from it?[22] — [We cannot,] Because trespass and mis — appropriation[23] are two verses with the same teaching,[24] and such cannot illumine [other cases].[25] 'Trespass,' as stated. What is the reference to misappropriation? — For it was taught:[26] 'For every word[27] of trespass': Beth Shammai maintain: This is to intimate liability for [expressed] intention as for actual deed.[28] But Beth Hillel rule: He is not responsible unless he actually misappropriates it, for it is said, ['to see] whether he have not put his hand,' etc. Said Beth Shammai to Beth Hillel, But it is said: 'For every word of trespass'! Beth Hillel retorted to Beth Shammai: But is it not said: 'to see whether he have not put his hand unto his neighbour's goods?' Said Beth Shammai to Beth Hillel: If so, what is the purpose of, 'for every word of trespass?' For I might think, I know it only of himself [the bailee]; how do I know it if he instructs his slave or agent?[29] Therefore it is said: 'For every word of trespass.'[30]

Now, that is well according to Beth Hillel. But according to Beth Shammai who interpret this verse as [shewing] that intention is as deed,

---

(1) [The guardians or the Beth din. v. p. 210, n. 7.]

(2) E.g., he who received a field in the south may demand it in the north, because he possesses another one there from a different source.

(3) [Had they ranked as heirs, the division would have to be exact to a farthing (Tosaf. Ri.)]

(4) Lit., 'overreaching'.

(5) v. B.M. 49b.

(6) To act at the division on his behalf, but acted himself. The reading in cur. edd. is 'if he did not appoint him an agent, but if he appointed him an agent' etc. This might mean that one brother appointed the other to act on his behalf. Asheri, however, omits the pronominal suffix.

(7) Thus he can repudiate him.

(8) Lit., 'but if he said, we will" etc.'

(9) Raba agrees with the latter, not as R. Nahman supra.

(10) All the land was valued, and then each took land to the value of his share. Thus one might have received a field twice as large as his brother's, the latter's being of choicer quality.

(11) I.e., by area, all the fields being of equal quality, and an error was made in measurement.

(12) In B.M. 56b and B.B. 90a the reading is Raba.

(13) I.e., morally, though not legally.

(14) Lit., 'sane'.

(15) So that the sender is liable.

(16) Obviously the master's. Hence if A instructs B to do wrong, B acts of his own accord, for were he merely carrying out instructions, he would obey God's behests in preference.

(17) Cur. edd: When it was taught. But BAH points out that the quotation that follows is a Mishnah in Me'il. 20a.

(18) Lit., 'did not do his sending'.

(19) Lit., 'the house owner'.

(20) A has money of hekdesh (q.v. Glos.) in his possession, and thinking it is secular, instructs B to make a purchase therewith. If B buys what he was told, A is liable; if he buys something else, he himself is liable, since he was not acting on A's behalf. — For converting sacred property to secular use-technically called withdrawing it from the ownership of hekdesh-one is liable to a trespass-offering.

(21) Terumah, Lev. XXII, 9: They shall therefore keep my charge, lest they bear sin for it: trespass, v, 15: If any one commit a trespass, and sin unwittingly in the holy things of the Lord. The employment of 'sin' in both cases intimates that the principle of agency operates for the latter as for the former.

(22) Viz., that one can appoint an agent for wrongdoing, and be legally responsible, just as in the case of trespass.

(23) Lit., 'the putting forth of the hand.' The language is based on Ex. XXII, 7, q.v.

(24) In both the principle of agency operates, though they are transgressions.

(25) V. supra p. 169, n. 7.
(26) If the thief be not found, then the master of the house shall come near unto God, to see whether he have not put his hand unto his neighbour's goods. For every word of trespass etc. Ibid. 7f.
(27) Lit., translation; E.V.: 'matter'.
(28) The passage refers to a gratuitous bailee, who is not liable for theft unless he has previously misappropriated the deposit to his own use ('put his hand,' etc.,), in which case he becomes responsible for every mishap. Beth Shammai maintains that 'for every word' teaches that even if he merely says that he will put it to his own use he is liable.
(29) That he becomes liable on account of their misappropriation.
(30) Thus here too the principle of agency operates, though misappropriation is obviously wrong.

Talmud - Mas. Kiddushin 43a

let us learn from it?[1] — Because trespass and killing and selling are two verses with the same teaching, and such do not illumine others. 'Trespass,' as said. What is the reference to 'killing and selling'? — Scripture saith, [If a man shall steal an ox, or a sheep,] and kill it, or sell it; [he shall pay five oxen for an ox etc.,]:[2] just as selling is done through another,[3] so may the killing be [done] by another.[4] The School of R. Ishmael taught: 'or' extends the law to an agent.[5]

[Again,] that is well on the view that two verses with the same purpose cannot teach [concerning others]; but on the view that they can, what may be said? — The Divine Law revealed [the matter] in reference to [sacrifices] slaughtered without [the tabernacle]: blood shall be imputed unto that man: he hath shed blood:[6] 'that [man', who slaughtered without], but not his agent.

Now, we have found this of [sacrifices] slaughtered without: how do we know it of the whole Torah?[7] — It is derived from [sacrifices] slaughtered without. Instead of learning from [sacrifices] slaughtered without, let us learn from these others?[8] — The Divine Law reiterated, and that man shall be cut off: since it is irrelevant for its own subject,[9] apply its teaching to the rest of the Torah.[10]

But he who maintains that two verses with the same purpose do not teach,[11] how does he interpret the [limiting demonstrative] 'that' written twice?[12] — One is to exclude the case of two men who hold the knife and slaughter [the sacrifice without].[13] The other: 'that [man],' but not one who is compelled; 'that [man],' but not one in ignorance; 'that [man],' but not one led into error.[14] And the other?[15] — That follows from ha-hu, where hu would suffice.[16] And the other?[17] — He does not admit the exegesis of ha-hu [as opposed to] hu.[18]

Now, when it was taught: If he says to his agent, 'Go forth and slay a soul,' the latter is liable, and his sender is exempt. Shammai the Elder said on the authority of Haggai the prophet:[19] His sender is liable, for it is said, thou hast slain him with the sword of the children of Ammon.[20] What is Shammai the Elder's reason? — He holds that two verses with the same purpose throw light [on others], and he rejects the exegesis of ha-hu [as opposed to] hu.[21] Alternatively, he accepts that exegesis;[22] and what is meant by liable? He is liable by the laws of Heaven. Hence it follows that the first Tanna holds him exempt even by the law of Heaven![23] — But they differ in respect to a greater or a lesser penalty.[24] Another alternative: there it is different, because the Divine Law revealed it [thus:] 'and thou hast slain him with the sword of the children of Ammon'.[25] And the other?[26] — It counts to you as 'the sword of the children of Ammon: you cannot be punished for the sword of the children of Ammon, so will you not be punished for [the death of] Uriah the Hittite. What is the reason? He was a rebel against sovereignty, for he said to him [David], and my lord Joab, and the servants of my lord, are encamped in the open field,' [shall I then go into mine house, to eat and to drink, and to lie with my wife?][27] Raba said: Should you say that Shammai holds that two verses with the same purpose illumine [others], and that he does not admit the exegesis of hu, ha-hu: [yet] he agrees that if one says to his agent, 'Go forth and have incestuous Intercourse, [or] 'eat heleb',[28] the latter is liable and his sender exempt, because we never find in the whole Torah that while one

derives pleasure [from wrongdoing] another is liable.

It has been stated: Rab said: An agent can be a witness;[29] the school of R. Shila maintained: An agent cannot become a witness. What is the reason of the school of R. Shila? Shall we say, because he does not [explicitly] instruct him, ‘Be a witness for me’? If so, if he betroths a woman in the presence of two, and does not instruct them, ‘You are my witnesses’, is the betrothal really invalid? — But [the reasons are these:] Rab said: An agent can be a witness,for he [the principal] [thereby] strengthens the matter.[30] Whereas the school of R. Shila maintained: An agent cannot become a witness; since a Master said: ‘A man's agent is as himself,’ he ranks as his own person.[31]

An objection is raised: If one says to three, ‘Go forth and betroth the woman on my behalf,’ one is an agent and the other two are witnesses: that is the view of Beth Shammai. But Beth Hillel rule: They are all his agents, and an agent cannot be a witness. Thus, their disagreement is only in respect of three,[32] but as for two, all agree that they cannot [be witnesses]![33] — He [Rab] holds with the following Tanna. For it was taught: R. Nathan said: Beth Shammai maintains: An agent and one witness [can attest an action]; but Beth Hillel rule: An agent and two witnesses [are required]. Does then Rab rule according to Beth Shammai?[34] — Reverse it.[35] R. Aha son of Raba taught it reversed: Rab said: An agent cannot be a witness; the school of R. Shila ruled: An agent can be a witness. And the law is that an agent can be a witness.

Raba said in R. Nahman's name: If one says to two, ‘Go forth and betroth a woman for me,’ they are both his agents and his witnesses.[36] It is likewise so in respect to divorce;[37]

---

(1) Sc. trespass, as above.

(2) Ex. XXI, 37 (E.V. XXII, 1).

(3) There must be another person, viz. the buyer.

(4) I.e., even if the thief does not personally kill it, but instructs another, he is liable.

(5) As in preceding note. — Hence on both exegeses, we have two verses with the same purpose.

(6) Lev. XVII, 4.

(7) That one cannot be an agent to violate a law of the Torah.

(8) Sc. trespass and killing and selling, that agency does operate.

(9) I.e., the emphasis on that man as excluding an agent is unnecessary, as it is intimated in the first half of the verse.

(10) V. p. 209, n. 3.

(11) So that non-agency for wrongdoing follows from the fact that the principle does operate in the case of trespass and misappropriation, as above.

(12) For these are now unnecessary.

(13) Implied by the sing., ‘that man’.

(14) ‘That man’ denotes that he is fully aware of the forbidden nature of his action and does it of his own free will.

(15) Who holds that the limitation excludes an agent; how does he know these?

(16) Hu is either a pronoun = he, or demonstrative, = that. Ha-hu is hu written with the addition of the def. art., which form is used in this verse. In his opinion, hu alone would suffice, and the addition of ha indicates further limitation.

(17) How does he utilise the additional def. art?

(18) No particular emphasis is implied therein.

(19) An indication that the view expressed is very ancient.

(20) II Sam. XII, 9: the reference is to David, who encompassed the death of Uriah the Hittite through the Ammonites, for which the prophet Nathan held him personally responsible. Weiss, Dor. I, p. 150 deduces from the story in Josephus. Ant. XIV, 9, concerning Herod's trial, when the Sanhedrin would have had him executed because he ordered the execution of certain freebooters, though he certainly did not carry them out in person, that Shammai's view was thus based on ancient practice. It is doubtful, however, whether this proves anything. Such an execution, had it taken place, would have been for State reasons, which override the letter of the law. In the same way those who counselled Alexander Jannai to massacre eight hundred of his former opponents were subsequently executed too. [V. Zeitlin. JQR (N.S.) VIII, p. 150, for an ingenious suggestion that this statement is to be attributed to Shemaiah who figured in Herod's

trial instead of Shammai.]

(21) Hence the principle of agency operates even for wrongdoing.

(22) So that there is no agency for wrongdoing.

(23) Surely not.

(24) The first Tanna holds the sender liable to a lesser penalty only, as an indirect cause, whereas Shammai regards him as the actual murderer and liable to the severest penalty.

(25) But elsewhere there is no agency for transgression.

(26) The first Tanna: how does he explain the implication of the verse?

(27) Ibid. XI, 11; thus he disobeyed David's orders, v. 8.

(28) V. Glos.

(29) If A instructs B to betroth a woman on his behalf, for which two witnesses are required, or to repay a debt to C on his behalf, B can carry out his instructions and simultaneously be a witness to the act.

(30) By appointing the agent a witness too.

(31) And the principal obviously cannot attest his own act.

(32) Who can be divided in the manner suggested by Beth Shammai.

(33) Which contradicts Rab.

(34) Surely not, it being a principle that the halachah always agrees with Beth Hillel.

(35) Applying Beth Shammai's view to Beth Hillel.

(36) In accordance with the law just stated.

(37) If a man instructs two persons to divorce his wife on his behalf, they act both as agents and as witnesses to the divorce.

Talmud - Mas. Kiddushin 43b

and also in monetary cases.[1] Now, these are all necessary. For if we were informed [thus] of kiddushin, [I would say] that is because they come to render her forbidden;[2] but as for divorce, we might fear that he [one of these] desired her for himself.[3] Again, if we were informed [thus] of divorce, that may be because a woman is not eligible to two men; but as for a monetary matter, I might argue that these [witnesses] are sharing therein. Thus they are [all] necessary.

What is his[4] opinion? If he holds that he who lends [money] to his neighbour in the presence of witnesses must repay him [likewise] before witnesses, then these[5] are interested witnesses, for should they say: ‘We did not repay him,’ he [the debtor] can say to them, ‘Then pay me!’[6] — But after all, he holds that he who lends money to his neighbour before witnesses need not repay him before witnesses, and since they can plead. ‘We returned it to the debtor,’ they can also testify, ‘We repaid the creditor.’ Now, however, that the Rabbis have instituted an oath of equity,[7] these witnesses [sc. the agents] must swear that they repaid him [the creditor], the creditor swears that he did not receive it [the repayment], and the debtor must repay the creditor.[8]

A MAN MAY GIVE HIS DAUGHTER [etc.]. We learnt elsewhere: A na'arah, who is betrothed[9] she or her father can accept her divorce. Said R. Judah: Two hands cannot have a privilege simultaneously, but [only] her father can accept her divorce. And she who cannot take care of her Get[10] cannot be divorced.[11] Resh Lakish said: Just as they differ in respect to divorce, so they differ in respect to kiddushin. R. Johanan maintained: They differ in respect to divorce [only], but as for kiddushin, all agree that her father [alone can accept kiddushin on her behalf] but not she herself. R. Jose son of R. Hanina said: What is R. Johanan's reason according to the Rabbis? As for divorce, since she reverts thereby to[12] parental control,[13] both she herself and her father [can accept it]. But kiddushin, which frees her from paternal authority, only her father [can accept it], but not she herself. But what of a declaration,[14] whereby she is freed from paternal control,[15] yet we learnt:

---

(1) Two men appointed agents to repay a debt can testify thereto.

(2) Through their testimony she is forbidden to all men, including themselves; what purpose can they have in lying?

(3) Lit., 'Cast his eye upon her' — and hence may be giving false testimony.
(4) R. Nahman's.
(5) Sc. the agents sent to repay.
(6) For he may have entrusted them the money before witnesses, which is the same as lending it to them. Hence they are personally concerned, and as such, inadmissible as witnesses. Cur. ed. proceed: But after all, he holds, etc. BAH gives the following version: Whilst if he holds that he who lends money to his neighbour before witnesses need not repay him before witnesses, what is the purpose of these witnesses? — But after all, he holds that when one lends money to his neighbour before witnesses he need not repay him before witnesses. Now, if he pleads, 'I myself repaid you,' that indeed is so (and further witnesses are not required). The circumstances here are that he pleads, 'I repaid you by an agent,' and for that very reason he requires witnesses. Whilst the witnesses themselves (who in this case are alleged to have been entrusted with the money for repayment), since they can plead, etc., (continuing as in our text).
(7) Lit., 'oath of inducement', v. B.M. (Sonc. ed.) p. 20 n. 4. By Biblical law, one must take an oath in respect of a rejected claim only if he partially admits it, but not if he entirely denies it. Hence, when the debtor pleads that he entrusted the money to two in the absence of witnesses, and they maintain that they returned it, thus altogether rejecting his claim, they are not liable to an oath. But the Rabbis imposed an oath even then: this is called an oath of equity.
(8) Notwithstanding the witnesses' oath. For the creditor can plead: 'I lent the money to the debtor, and thereby expressed my willingness to abide by his oath that he repaid me. But I cannot be forced to accept the oath of other persons.' The witnesses, on the other hand, cannot simply testify that they repaid the creditor, without swearing, because if they maintained that they had returned the money to the debtor, they would have to swear an oath of equity, and so become interested witnesses.
(9) V. Glos.
(10) V. Glos.
(11) I.e., an idiot cannot be divorced, even by her father's acceptance of the deed. V. Git. (Sonc. ed.) p. 304. n. 7.
(12) Lit., 'brings herself into.'
(13) Being only a na'arah and betrothed, not married.
(14) מאמר ma'amar. This is the technical term for the yabam's formal betrothal of his yebamah. which is accompanied by the gift of money, which is valid by Rabbinical law only, for by Biblical law cohabitation alone is recognised (supra 2a).
(15) If a betrothed maiden is widowed and the yabam makes a declaration, she is henceforth free from paternal control.

Talmud - Mas. Kiddushin 44a

No declaration may be made to a minor [widowed] from erusin[1] except with her father's consent;[2] whereas in the case of a na'arah, either her own or her father's consent [is required]![3] But if stated, it was thus stated: R. Jose son of R. Hanina said: What is R. Johanan's reason according to the Rabbis? Kiddushin, which requires her consent, [only] her father [can accept it] but not she;[4] divorce, which is even against her will, either she or her father [can accept it].[5] But a declaration [too] requires her consent, yet it is taught, either she or her father [can accept it]? — There the reference is to a declaration which is [made] against her will, and it is in agreement with Rabbi. For it was taught: If one makes a declaration to his yebamah without her consent,[6] Rabbi ruled: He acquires her;[7] but the Sages say: He does not.

What is Rabbi's reason? — He deduces it from intercourse with a yebamah: just as intercourse with a yebamah [acquires her even] against her will, so here too [sc. declaration, it is valid even] against her will. But the Rabbis hold: We learn from [ordinary] kiddushin: just as kiddushin must be with her[8] consent, so here too her consent is required. Wherein do they differ? — Rabbi maintains: The provisions of a yebamah are to be learnt from a yebamah. But the Rabbis hold: Kiddushin should be learned from kiddushin.[9]

Reason too supports R. Johanan's answer,[10] since the second clause states: Which is not so in the case of kiddushin.[11] Shall we then say that this refutes Resh Lakish?[12] — Resh Lakish can answer you: That agrees with R. Judah, who ruled: Two hands cannot have a privilege simultaneously.[13] If

R. Judah, [why state,] ‘which is not so in the case of kiddushin’; let him teach, which is not so in the case of divorce?[14] — That indeed is so: [but] as he teaches [the law of] declaration, which is similar to kiddushin, he also states: ‘which is not so in the case of kiddushin’. Now, on R. Judah's view, why does declaration differ?[15] — Because she already stands tied [to the yabam].[16] Now that you have arrived at this [distinction], R. Johanan[‘s view] also need not cause you any difficulty at the very outset:[17] a declaration is different, because she already stands tied.

We learnt: A MAN MAY GIVE HIS DAUGHTER IN BETROTHAL WHEN A NA'ARAH, HIMSELF OR THROUGH HIS AGENT: only HIMSELF OR THROUGH HIS AGENT, but not through herself or her agent:[18] this refutes Resh Lakish? — Resh Lakish can answer you: This too is in accordance with R. Judah. Can you then interpret this as R. Judah[‘s ruling]? But the second clause[19] teaches: If one says to a woman, ‘Be thou betrothed unto me with this date, be thou betrothed unto me with this one etc.’[20] Now we said thereon: Which Tanna [rules thus concerning] ‘Be thou betrothed, be thou betrothed?’[21] And Rabbah replied: It is R. Simeon, who maintained, ‘Unless he declared to each separately,’ [I take] an oath.’[22] And should you answer: It is all the opinion of R. Judah, who, however, agrees with R. Simeon in the matter of detailed enumeration,[23] yet does he hold thus? Surely it was taught: This is the rule: For a comprehensive statement only one [sacrifice] is incurred; for a detailed enumeration each one separately involves liability:[24] this is R. Meir's opinion. R. Judah said: [If he declares, ‘I take] an oath [that I am] not indebted to you, not to you, not to you,’ he is liable in respect of each separately. R. Eleazar said: [If he declares, ‘I am] not [indebted] to you, not to you, not to you, and not to you: [for this I take] an oath’: he is liable in respect of each.[25] R. Simeon said: He is never liable [for each separately] unless he declares [I take] an oath to each separately![26] — But the whole is in accordance with R. Simeon, who in the matter of agency agrees with R. Judah.[27]

R. Assi did not go to the Beth Hamidrash.[28] Meeting R. Zera, he asked him, ‘What has been taught to-day in the schoolhouse?’ ‘I too did not go,’ he replied: ‘but R. Abin was present, and he told me that the entire band [of disciples] agreed with R. Johanan;[29] and though Resh Lakish cried like a crane,[30] and when she is departed . . she may be [another man's wife],[31] none heeded him.’ ‘Is R. Abin reliable?’ he asked him, ‘Yes,’ he replied: ‘as from the sea into the frying pan!’[32] R. Nahman b. Isaac said: I [read in this story] neither R. Abin b. R. Hiyya nor R. Abin b. Kahana, but simply R. Abin. What does it matter? — In proving a self-contradiction.[33]

Raba asked R. Nahman:

---

(1) V. Glos.

(2) Otherwise it has no validity.

(3) This means that even where her action serves to free her from her father's control, her action has validity.

(4) In general, the consent of the person who cedes the woman is required. In the case of an adult that person is the woman herself; in the case of a na'arah or a minor it is her father.

(5) Seeing that their consent is not necessary, it does not matter who actually accepts the deed.

(6) Forcing the money of betrothal upon her and declaring, ‘Behold, thou art betrothed unto me.’

(7) Though she belongs to him in any case and cannot be free without halizah, she now requires a divorce too.

(8) The woman's.

(9) And a declaration takes the form of ordinary kiddushin.

(10) That the reference is to a declaration which was made against her will.

(11) Viz., only her father can receive her kiddushin.

(12) Since a distinction is drawn between a declaration and kiddushin, because the former does not require her consent whereas the latter does, the same applies to kiddushin and divorce.

(13) Hence in the case of kiddushin only her father may receive it.

(14) Which would be more remarkable: even in divorce, which does not require the wife's consent, R. Judah rules that only her father can accept it.

(15) That he agrees that she herself can receive it.
(16) Hence the further step of a declaration is an easier one, and can be made either to her father or to herself.
(17) Sc. the difficulty raised above from the teaching relating to the yabam's declaration.
(18) Which proves that a na'arah who has a father cannot betroth herself, in refutation of Resh Lakish.
(19) Infra 46a.
(20) The Mishnah continues: if a single one of them is worth a perutah, she is betrothed, but not otherwise. — For since he stated: ‘Be thou betrothed’ before each date separately, it is not the equivalent of saying: ‘Be thou betrothed unto me with all these dates.’
(21) That because he repeats it, each declaration is separately regarded.
(22) Shebu. 36b. If five men demand the return of their deposits from a certain person, who falsely denies liability, and takes an oath, ‘I swear that I did not receive a deposit from you, not from you, not from you, etc., he incurs a separate sacrifice on account of each (v. Lev. V, 21.26). R. Simeon maintained: He incurs only one sacrifice for all, unless he declares to each one separately, ‘An oath that I did not receive a deposit from you,’ ‘An oath that I did not receive a deposit from you,’ etc., — Hence the Mishnah on 46a, which is a sequel to 41a, agrees with R. Simeon, not R. Judah.
(23) Viz., that each statement is regarded as separate only if it is separately enumerated, as above.
(24) The meaning of these terms is discussed in Shebu. 38a.
(25) By adding ‘and’ before the last (which is absent in R. Judah's premise) and employing the word ‘oath’ after the enumeration, he makes his declaration equivalent to a number of separate statements.
(26) Thus R. Judah definitely disagrees with R. Simeon.
(27) Viz., only her father can accept kiddushin, but not she herself. — ‘Agency’ here does not refer to the question whether she can appoint an agent, as it is generally admitted that a na'arah certainly cannot (infra b), but whether she herself can rank as her father's agent (since Scripture vested the power in him — supra 3b.) — Maharsha.
(28) V. Glos.
(29) Supra 43b.
(30) I.e., vehemently protested.
(31) Deut. XXIV, 2: from this it is deduced that marriage and divorce are on a par (supra 5a), and thus it supports Resh Lakish.
(32) כמין ימא לטיגני He had as little time to forget as a fish that is caught in the sea and put straight into the pan. [Others explain the phrase as names of two places next to each other. Horowitz Palestine, p. 323 n. 9. takes it as a corruption of comminatio litigo, R. Zera cautioning R. Assi to occasion no strife by impugning the authority of R. Abin.]
(33) Should a statement by either of these contradict this assertion of R. Abin, it does not matter, as a different person may be meant.

Talmud - Mas. Kiddushin 44b

Can a na'arah appoint an agent to receive a divorce from her husband?[1] Does she rank as her father's hand, or as his court-yard?[2] Does she rank as her father's hand: just as her father can appoint an agent, so can she too appoint an agent. Or perhaps, she is as her father's court-yard, and [hence] she is not divorced until the Get actually reaches her hand. Now, is Raba doubtful about this? But Raba said: If he [the husband] writes a Get and places it in her slave's hand,[3] and he is asleep while she watches over him, it is a [valid] divorce; but if he is awake, it is not a [valid] divorce.[4] Now, why is it not a [valid] divorce if he is awake? [Surely] because he is as a court-yard guarded without her instructions. But if you think that she [a na'arah] is as her father's court-yard, then she should not be divorced even when the Get reaches her hand, since she is as her father's courtyard that is guarded without his instructions! Hence it must be obvious to him [Raba] that here she is as her father's hand, but this is his problem: is she as strong as her father's hand, so that she can appoint an agent, or not? — She cannot appoint an agent, he answered him.

He raised an objection: If a minor [ketannah] says: ‘Accept my divorce on my behalf,’ it is not a valid divorce until it reaches her hand.[5] Hence in the case of a na'arah it is a [valid] divorce![6] — The reference here is to one who has no father.[7] But since the second clause teaches: If her father says to him [the agent], ‘Go and accept the Get for my daughter’, should her husband wish to retract,[8] he

cannot:[9] this proves that the first clause refers to one who has a father? — The text is defective, and should read thus: If a minor says: ‘Accept my Get for me,’ it is not a [valid] divorce until it reaches her hand; but in the case of a na'arah it is a [valid] divorce. When is that said? If she has no father. But if she has a father and he says: ‘Go and accept the Get for my daughter’, and [then] the husband wishes to retract, he cannot.

It has been stated: If a minor [ketannah] is betrothed without her father's knowledge,[10] Samuel said: She requires both Get and mi'un.[11] Said Karna: This is inherently open to objection:[12] if Get, why mi'un, and if mi'un, why Get?[13] Said they [the scholars] to him: But there is Mar ‘Ukba and his Beth din at Kafri.[14] Then they reversed it[15] and sent it to Rab. Said he to them, ‘By God! she requires both Get and mi'un, yet Heaven forfend that[16] the seed of Abba b. Abba[17] should say thus.’[18] And what is the reason? — Said R. Aba son of R. Ika: She needs a divorce, in case her father consented to the kiddushin,[19] while she needs mi'un, in case her father did not consent to the kiddushin, and it is said that the kiddushin with her sister [by the same man] is invalid.[20]

R. Nahman said: Providing that they negotiated [with the father].[21] ‘Ulla said: She does not even require mi'un.[22] [What!] even though there were negotiations?[23] — He who learnt this did not learn the other.[24] Others say: ‘Ulla said: If a minor [ketannah] is betrothed without her father's knowledge, she does not even require mi'un.[25]

R. Kahana objected: And if [any among] all these[26] died, protested,[27] were divorced,[28] or found to be constitutionally barren,[29] their fellow-wives are permitted [to the yabam]. Now, who betrothed her?[30] Shall we say, her father betrothed her? is then mi'un sufficient? She requires a proper Get![31] Hence it must surely mean that she betrothed herself, yet it is taught that she requires mi'un![32] — He raised the objection and he [himself] answered it: [We] suppose she had been treated as an orphan during her father's lifetime.[33]

R. Hamnuna objected: He [her father] may not sell her to relations. On the authority of R. Eleazar it was said: He may sell her to relations.

---

(1) That she shall be divorced immediately the Get reaches his hand.

(2) The question is posited on the view of the Rabbis (supra 43b) that in the case of a betrothed na'arah either her father or she herself can receive the divorce. It further postulates that the power is actually vested in him, her own being in virtue of his, and the problem is whether she is regarded as his hand or as his domain. For if the Get is placed in his domain she is divorced, and so it may be that the Rabbis reason that she herself is no worse (being under her father's authority), and on that score only can she accept her divorce.

(3) The reference is to an adult wife.

(4) V. Git. 77a-b: the divorce may be placed in the wife's domain, e.g., her court-yard. But it must be guarded through her own will, not at the instance of another person. Now, a Gentile slave is as her domain: if he is asleep and she watches over him, he is guarded through her. But if he is awake he guards himself, and so falls within the latter category.

(5) Because a minor cannot appoint an agent.

(6) As soon as her deputy receives it.

(7) Then a na'arah can certainly appoint an agent, since she is not under paternal authority. But Raba's question refers to a na'arah who has a father.

(8) After the deputy receives it.

(9) Because she is already divorced by the agent's acceptance.

(10) All agree that such betrothal is invalid.

(11) V. Glos.

(12) Lit., ‘there is something within itself.

(13) Get is necessary where the marriage is valid by Biblical law, or where there is a Biblical tie; whereas mi'un dissolves a marriage that has Rabbinical force only.

(14) Let us ask him. [If Nehardea, the home of Samuel, is too distant to send for information, let us ask Mar ‘Ukba in

Kafri which is nearer to us. The reference is to ‘Ukba I. v. Funk. op. cit. I Note iv.] Kafri is a town in S. Babylon, Obermeyer, op. cit., p. 316.
(15) Ascribing Samuel's view to Karna and vice versa — possibly to see whether Karna's opinion expressed in Samuel's name would carry more weight.
(16) Lit., ‘have compassion upon.’
(17) Samuel's father.
(18) As reported to him.
(19) Then her betrothal is valid by Biblical law.
(20) If she is given a divorce, it will be assumed that her father consented to the betrothal, which had Biblical force. Consequently, should the same man then betroth her sister, it is quite invalid, since she is his divorced wife's sister (v. Lev. XVIII, 18, which is interpreted as applying to such a case). But her father may not have consented, and so neither the betrothal nor the divorce are Biblical, wherefore her sister's betrothal is valid and requires a divorce for its dissolution. (He could not keep the sister, for fear that the first marriage was legal.) Hence she needs mi'un, to draw attention to this possibility.
(21) And he consented (Tosaf. of Ri the Elder). Hence, when he subsequently betroths her without her father's knowledge, her father may thereafter consent, whereby the kiddushin becomes retrospectively valid, and so she needs a divorce. But otherwise she needs no divorce.
(22) Because a minor's action in her father's lifetime has not even Biblical force.
(23) Surely R. Nahman's reasoning is plausible.
(24) He who learnt that ‘Ulla differed from Samuel did not learn R. Nahman's proviso, and so assumed that Samuel gave his ruling even if there were no previous negotiations.
(25) It is one and the same, whether or not there were previous negotiations.
(26) The consanguineous relations enumerated in Yeb. 25, q.v. If A has a number of wives, one of whom, C, is interdicted to B, his brother, on the score of consanguinity, e.g., she is B's daughter, and A dies childless, all his other wives are exempt from yibum or halizah (q.v. Glos.), providing that C is alive and married to him at the time of his death.
(27) I.e., declared mi'un.
(28) Before his death.
(29) Even after his death; the marriage of such is invalid.
(30) This wife who protested.
(31) Since her father's betrothal is Biblically valid.
(32) Though her father was and is still alive (v. p. 224, n. 11.). This contradicts the last ruling reported in the name of ‘Ulla. — Mi'un only applies to the marriage of a minor.
(33) If a father marries (not merely betroths) his daughter as a minor and she is widowed or divorced as a minor, he has no more authority over her, and she is technically regarded as an orphan in her father's lifetime. If she then betroths herself while still a minor, her marriage is Rabbinically valid, and she can dissolve it on attaining her majority by mi'un.

Talmud - Mas. Kiddushin 45a

And both agree that he may sell her, as a widow, to a High priest, and as divorced or a haluzah, to an ordinary priest. Now, this widow, — what are the circumstances? Shall we say that her father betrothed her? Can he [subsequently] sell her? But a man cannot sell his daughter to servitude after marriage![1] Hence it must surely mean that she betrothed herself, and yet he calls her a widow?[2] — R. Amram replied in R. Isaac's name: The reference here is to kiddushin of designation, and it is in accordance with R. Jose son of R. Judah, who maintained: The original money was not given for the purpose of kiddushin.[3]

It was stated: If he [who betrothed her without her father's knowledge] dies, and she falls before his brother for yibum — R. Huna said in Rab's name: She must perform mi'un on account of his declaration, but requires no mi'un on account of his levirate tie.[4] How so? If he [the yabam] makes her a declaration, she requires Get, halizah, and mi'un. She needs a Get, lest her father consented to the kiddushin of the second [the yabam];[5] she needs halizah in case her father consented to the first

[brother's] kiddushin;[6] she needs mi'un, lest her father did not consent to the kiddushin of either the first or the second, and so it be said: Kiddushin with her sister has no validity.[7] But if he does not make a declaration to her, she merely requires halizah. For what will you say: let her also require mi'un, lest it be said that kiddushin with her sister is not valid[8] — but all know that [marriage with] the sister of a haluzah is [forbidden] by Rabbinical law [only],[9] for Resh Lakish said: Here Rabbi taught: The sister of a divorced woman is [forbidden] by Biblical law, whereas the sister of a haluzah, by Rabbinical law.[10]

Two men were drinking wine under willows[11] in Babylonia. [when] one of them took a goblet of wine, gave it to his fellow and said: 'Let thy daughter be betrothed to my son.' Said Rabina: Even on the view that we fear that the father may [subsequently] have consented,[12]

---

(1) Supra 18a.

(2) Shewing that the marriage is valid.

(3) V. supra 15b for notes on the whole passage.

(4) If the yabam makes a betrothal declaration to her, which, as already stated (supra p. 218, n. 8), is the Rabbinical equivalent of kiddushin in the case of a yabam, she needs mi'un in addition to the Get she requires. R. Huna proceeds to explain himself.

(5) The yabam's declaration was in the form of an ordinary betrothal. Hence, if the father did not consent to the first brother's kiddushin but did consent to the second's, she is betrothed to him, and needs a Get to dissolve the union.

(6) So that she is the second brother's yebamah. and requires halizah to gain her freedom.

(7) As on p. 224, n. 5. — Rashi observes that even if her father consented to the kiddushin of the first but not of the second, she needs mi'un, for she is only a haluzah in respect to the second, and his kiddushin with her sister is valid, whereas on account of the divorce it will be said that her sister's kiddushin is not valid. Hence the Talmud states: 'lest her father did not consent to the kiddushin of the first' unnecessarily — probably in order to achieve symmetry of style (but v. Tosaf.).

(8) On account of the halizah, which may be assumed to be certainly required by Biblical law.

(9) Hence if he does betroth her sister all know that it is Biblically binding, and a divorce is required.

(10) V. Yeb. 41a.

(11) Others: under an awning of mats.

(12) Supra.

Talmud - Mas. Kiddushin 45b

we [certainly] do not say: 'Perhaps the son consented.'[1] But perhaps, urged the Rabbis to Rabina, he [the son] had appointed him [the father] his agent? — A man is not so insolent as to appoint his father an agent. But perhaps he [the son] had shewn a desire for her in his presence?[2] Said Rabbah b. Simi to them: The Master [Rabina] has [once] distinctly stated that he does not accept this view of Rab and Samuel.[3]

A certain man betrothed [a minor] with a bunch of vegetables in a market place.[4] Said Rabina. Even on the view that we fear lest her father consented, that is only [when it is done] in an honourable manner, but not contemptuously. R. Aba of Difti asked Rabina: What displayed contempt? the vegetables, or [the fact that it was done in] a market-place?[5] The practical difference arises if he betroths her with money in the market place, or with a bunch of vegetables at home. What then? — Both, he replied, are contemptuous.[6]

A certain man insisted, '[Our daughter must be married] to my relation;' whereas she [his wife] maintained, 'To my relation.' She nagged him until he told her that she could be [married] to her relation. Whilst they were eating and drinking,[7] his relation went up to a loft and betrothed her. Said Abaye: It is written: The remnant of Israel shall not do iniquity, nor speak lies.[8] Raba said: It is a presumption that one does not trouble to prepare a banquet and then destroy it.[9] Wherein do they

differ? — They differ in the case where he did not trouble.[10] If she [a minor] became betrothed with her father's consent, and her father departed overseas, and she arose and married[11] Raba said: She may eat terumah[12] until her father comes and protests [against the nissu'in].[13] R. Assi said: She may not eat, lest her father return and protest, and so a zarah[14] will retrospectively be found to have eaten terumah. Such a case occurred, and Rab paid regard to[15] R. Assi's opinion. R. Samuel b. Isaac said: Yet Rab admits that if she dies he [her husband] is her heir,[16] [because] the ownership of money is vested in its possessor.[17]

If she became betrothed with [her father's] knowledge and married without his knowledge, and her father is present,[18] — R. Huna said: She may not eat [terumah]; R. Jeremiah b. Abba said: She may eat. 'R. Huna said: she may not eat': even on Rab's view that she may eat [in the first case], that is only there, since the father is absent;[19] but here, that the father is present, the reason he is silent is that he is angry.[20] 'R. Jeremiah b. Abba said: She may eat': even according to R. Assi, who ruled that she may not eat: it is only there, for her father might return and protest; but here, since he is silent, [it shows that] he does consent.

If she became betrothed and married without her father's knowledge, and her father is present, — R. Huna said: She may eat [terumah]: R. Jeremiah b. Abba said: She may not eat. Said 'Ulla: This [ruling] of R. Huna is 'as vinegar to the teeth, and as smoke to the eyes':[21] if there, that her kiddushin was Biblically valid,[22] you say that she may not eat, how much more so here!

---

(1) After his father betrothed him without his knowledge. — A father is very anxious to see his daughter married, but a man takes more care. One has no rights over his son's marriage, unless he is authorised.

(2) And then his father need not be formally appointed an agent, on the principle: one can confer a benefit on another without the latter's knowledge.

(3) That we fear her father's subsequent consent; hence we certainly do not fear the son's subsequent consent or his previous intimation. This is the true reason of Rabina's ruling. His statement, 'even on the view, etc.,' was merely to give it wider acceptance.

(4) Without her father's knowledge.

(5) To betroth with vegetables is contemptuous treatment: likewise it is undignified to betroth in a market place (bizayon, used in the text, connotes both contemptuous and undignified). Now, to what would the father really take exception?

(6) And the father's subsequent consent need not be feared.

(7) At the betrothal festivities, before the actual betrothal.

(8) Zeph. III, 13; hence the father, having given his word, certainly did not consent now. — She was a minor.

(9) It had been prepared for the wife's relation and would now be lost! Hence the father certainly did not consent. (Or, he had certainly not instructed his daughter secretly beforehand to accept the kiddushin.)

(10) According to Abaye there is no fear of the father's consent; according to Raba, there is.

(11) Her betrothed, i.e., nissu'in were performed (q.v. Glos.).

(12) If her husband is a priest, though she is not; v. Lev. XXII, 11, which includes such.

(13) Though she may not eat terumah until after the huppah (v. Glos.), which took place without her father's consent, we take his consent to the huppah for granted, since he consented to the kiddushin, unless he returns and objects.

(14) V. Glos.

(15) Lit., 'feared'.

(16) A husband is his wife's heir after nissu'in, but not after kiddushin.

(17) Before nissu'in, the money certainly belongs to her father, and is therefore deemed in his possession. Since we do not know whether he will give the huppah his retrospective consent, it remains so.

(18) Lit., 'here'.

(19) Hence his consent may be taken for granted.

(20) That she became married without asking him.

(21) Prov. X, 26.

(22) Since she had her father's consent at kiddushin.

Talmud - Mas. Kiddushin 46a

Talmud - Mas. Kiddushin 46a

[Hence] the disciple's view[1] is preferable. Raba said: What is R. Huna's reason? Because she was treated as an orphan during her father's lifetime.[2]

It was stated: If a minor became betrothed without her father's knowledge: Rab said: Both she and her father can repudiate [it]. R. Assi said: Her father, but not she herself. R. Huna — others state, Hiyya b. Rab-raised an objection to R. Assi: [If a man entice a virgin . . . she shall surely . . . be his wife]. If her father utterly refuse [to give her unto him]:[3] I only know that her father [can refuse]: how do I know [it of] herself? Because it is stated: 'If he utterly refuse', [implying] in all cases![4] — Said Rab to them '[the scholars before whom the objection was raised]: Be not misguided![5] He can answer you that [we] suppose he did not entice her for the purpose of marriage. If he did not entice her with marital intent, is then a verse necessary![6] — Said R. Nahman b. Isaac: It is to teach that he [her seducer] must pay the fine as for an enticed maiden.[7] R. Joseph said to him: That being so,[8] it was consequently taught: He shall surely pay a dowry for her to be his wife:[9] [this means] that she needs kiddushin from him. But had he seduced her with marital intent, why is kiddushin required?[10] — Said Abaye: [This does not follow:] She may need kiddushin with her father's knowledge.[11]

MISHNAH. HE WHO SAYS TO A WOMAN, 'BE THOU BETROTHED UNTO ME WITH THIS DATE, BE THOU BETROTHED UNTO ME WITH THIS ONE' — IF ANY ONE OF THEM IS WORTH A PERUTAH, SHE IS BETROTHED; IF NOT, SHE IS NOT BETROTHED, [IF HE SAYS,] 'WITH THIS AND WITH THIS AND WITH THIS ONE' — AND THEY ARE ALL TOGETHER WORTH A PERUTAH, SHE IS BETROTHED; IF NOT, SHE IS NOT BETROTHED. IF SHE EATS THEM ONE BY ONE, SHE IS NOT BETROTHED UNLESS ONE OF THEM IS WORTH A PERUTAH.[12]

GEMARA. Which Tanna taught: 'BE THOU BETROTHED, BE THOU BETROTHED'? — Said Rabbah: R. Simeon, who maintained, Unless he declares ['I take] an oath' to each one separately.[13]

WITH THIS AND WITH THIS AND WITH THIS ONE [- AND THEY ARE ALL TOGETHER WORTH A PERUTAH, SHE IS BETROTHED; IF NOT, SHE IS NOT BETROTHED. IF SHE EATS THEM ONE BY ONE, SHE IS NOT BETROTHED UNLESS ONE OF THEM IS WORTH A PERUTAH]. To what does this refer? Shall we say, to the first clause — why particularly if she eats them; even if she lays them down it is also thus, since he says: 'BE THOU BETROTHED UNTO ME WITH THIS ONE'?[14] But if to the second clause — [and that] even [if there is a perutah's worth] in the first [only]? But it is a debt![15] — Said R. Johanan: Behold a table, meat and knife, yet we have no mouth to eat![16] Rab and Samuel said: After all, it refers to the first clause, but it teaches what is most noteworthy.[17] [Thus:] It is unnecessary to teach that if she lays them down she is [betrothed] only if [one] is worth a perutah, and not otherwise. But if she eats them, I might argue that since her benefit is immediate, she resolves to cede herself [even for less than a perutah]. Hence we are informed [otherwise]. R. Ammi said: After all, it applies to the second clause; and what is meant by, UNLESS ONE OF THEM IS WORTH A PERUTAH? Unless the last is worth a perutah. Said Raba: From R. Ammi's [explanation] three [corol — laries] may be inferred; [i] If one betroths with a debt, she is not betrothed;[18] [ii] If one betroths [a woman] with a debt and a perutah [i.e., cash], her mind is set upon the perutah,'[19]

---

(1) The opinion of R. Jeremiah b. Abba, R. Huna's disciple.

(2) Since her father saw her becoming betrothed and married, and did not protest, he must either have renounced his authority over her or tacitly consented, for otherwise he would not have maintained silence so long.

(3) Ex. XXII, 15f.

(4) 'Utterly' is expressed in Heb. by the doubling of the verb, and indicates extension. The objection assumes that he enticed her for the purpose of kiddushin, since intercourse itself may be such (supra 2a).

(5) Lit., 'go not after the reverse' (of what is right).
(6) That her father or she herself can refuse to marry him — surely that is obvious.
(7) Even if she herself refuses him.
(8) That the verse refers to enticement without marital intent.
(9) Ibid.
(10) That itself was betrothal.
(11) Even if her enticement had been for the same purpose.
(12) The meaning of this is discussed in the Gemara.
(13) V. supra 44a for notes.
(14) So that each statement is separate; v, p. 221, n. 1.
(15) If he says: 'Be thou betrothed unto me with this one and this one, etc.,' and she eats them one by one, his statement must be considered as a whole. Now, as soon as she eats one she cannot be betrothed by it, since his statement was as yet incomplete, and it becomes a debt, which cannot effect kiddushin.
(16) The Mishnah stands before us, but it is inexplicable.
(17) Lit., 'it states it is unnecessary (to teach this, but even this).
(18) Otherwise there is no need to particularise the last.
(19) For here he betroths her with all the dates. But those she has eaten are a debt, as explained above, whilst the last, worth a perutah, is the coin actually given. Since the betrothal is valid, we must assume that she regards the last only, for if she regarded the debt and wished to be betrothed thereby, she could not.

Talmud - Mas. Kiddushin 46b

[iii] Money in general is returnable.[1]

It was stated: If one betroths his sister:[2] Rab said: The money is returnable; Samuel ruled: The money is a gift. Rab said: The money is returnable: one knows that kiddushin with a sister is invalid, hence he resolved and gave it as a deposit. Then let him tell her that it is a deposit? — He thought that she would not accept it. But Samuel holds, the money is a gift; one knows that kiddushin with a sister is invalid, and therefore he resolved and gave it as a gift. Then let him tell her that it is a gift? — He thought that she would feel humiliated.

Rabina raised an objection: If one separates his hallah[3] from the flour, it is not hallah,[4] and is robbery in the priest's hand.[5] Now why is it robbery in the priest's hand? Let us say that a man knows that hallah is not separated from flour, and therefore he resolved and gave it as a gift? — There it is different, as it may result in wrong.[6] For the priest may happen to possess less than five quarters of flour and this besides; he will then knead them together and think that his dough is fit [to be eaten], and thus come to eat it in the state of tebel.[7] But you say that a man knows that hallah is not separated from flour! — He knows, yet not fully.[8] He knows that hallah is not separated from flour, yet not fully: for he thinks, What is the reason? Because of the priest's trouble;[9] well, the priest has forgiven his trouble.[10]

Yet let it be terumah [i.e., hallah], but that it shall not be eaten until hallah has been separated[11] for it from elsewhere?[12] Did we not learn: [If one separates terumah] from a perforated [pot] for [the produce grown in] an unperforated pot,[13] it is terumah,[14] but it may not be eaten until terumah and tithes are separated for it from elsewhere![15] In respect of two utensils he will obey, but not in respect of one.[16] Alternatively: the priest will indeed obey; but the owner[17] will think that his dough has been made fit,[18] and so come to eat it in a state of tebel.[19] But you have said that 'a man knows that hallah is not separated from flour'? — He knows, but not fully. He knows that hallah is not separated from flour. Yet he does not know: for he thinks, what is the reason? On account of the priest's trouble: but he [the priest] has undertaken that trouble.[20]

Yet let it be terumah [i.e., hallah], but that he [the Israelite] shall make another separation.[21] Did

we not learn: [If one separates terumah] from an unperforated pot upon [the contents of] a perforated one, it is terumah,[22] yet he must make another separation.[23] — But we have explained it that he obeys in respect to two utensils, but not in respect of one.[24]

Does he then not obey? Surely we learnt: If one separates a cucumber [as terumah] and it is found to be bitter, or a melon, and it is found to be putrid, it is terumah, but he must make another separation.[25] — There it is different, for by Biblical law it is proper terumah,[26] by R. Elai's [dictum]. For R. Ilai said: How do we know that if one separates from inferior [produce] for choice, the terumah is valid?[27] Because it is said, and ye shall bear no sin by reason of it, whet ye have heaved from it the best thereof[28] now, if it is not hallowed, why bear sin?[29] Hence it follows that if one separates from inferior for choice [produce], his separation is terumah.

Raba said [reverting to the Mishnah]:

---

(1) If one gives money for kiddushin, which for some reason is invalid, the money is not a gift but a deposit, and returnable; otherwise, even if the first only is worth a perutah, the kiddushin is valid. For when he completes his statement, the first dates, already eaten, are neither a debt, since they need not be returned, nor a gift, not having been given as such. It would therefore be as though he had stated: Be thou betrothed unto me with this (the first date), but let not the betrothal take effect until I have given you some more,' in which case she becomes betrothed when she receives the others even if the first has been consumed.

(2) Which of course is invalid.

(3) V. Glos.

(4) Since Scripture wrote, Of the first of your dough (Num. XV, 20).

(5) If he does return it.

(6) Lit., 'desolation'.

(7) v. Glos. Five quarters of a kab of flour is the smallest quantity liable to hallah; further, even a priest must separate hallah on dough from which no separation has been made, though he keeps it for himself. Now, if he possesses less, and this completes the quantity, he thinks that it is hallah, and so not liable, and therefore kneads it together with the rest without separating hallah.

(8) Lit., 'he knows and does not know'.

(9) I.e., he should have it ready, without the trouble of kneading it.

(10) And he thinks therefore that it is hallah after all.

(11) Lit., 'brought forth',

(12) I.e., from a different dough.

(13) Produce grown in a pot whose bottom is perforated and is thus connected with the earth is liable to terumah; if unperforated, it is not liable. — Thus he separates what is liable for what is not.

(14) In the sense that the priest need not return it.

(15) Since it is actually tebel, as there was no liability for the unperforated pot. — Produce becomes real terumah only when the separation is made on account of corn that is liable thereto. — Hence the same would apply to hallah.

(16) When a priest is told that the produce separated as terumah from a perforated pot upon an unperforated one is not really terumah, and is itself liable, he obeys, as he recognises a distinction between the two. But when told that the hallah separated from flour is not hallah, though the separation is from the same utensil, he will refuse to separate hallah upon that itself.

(17) I.e., the Israelite who separated it in the first place.

(18) Whereas it has not.

(19) And for this reason the dough must be returned.

(20) Since he accepted it.

(21) Without making it necessary for the priest to return it.

(22) In the sense that the priest need not return it.

(23) The rule is that both that which is separated as terumah and that for which it is separated must be liable to terumah. Here the former is not, and hence another separation must be made. — The same should apply here.

(24) V. p. 232, n. 9; the same holds good of an Israelite,

(25) Though the separation was made from the same utensil which contained the rest. It is obvious that we do not fear that he will disobey, for if we did, the first would have to be returned to ensure a second separation.
(26) Hence it cannot be returned, as the Israelite will mix it with the other produce, which is forbidden. On the other hand, even if he refuses to make a second separation, no harm is done, since the first was Biblically valid and the produce is no longer tebel.
(27) Lit., 'his terumah is terumah'.
(28) Num. XVIII, 32. This implies that one bears sin if he does not heave the best.
(29) For his action would simply be void.

This was taught only if he said to her, ‘With this and with this and with this.’ But if he said to her, ‘[Be thou betrothed unto me] with these,’ even if she eats [them one by one], she is betrothed:[1] when she eats, she eats her own.[2] It was taught in accordance with Raba: [If he says] ‘Be thou betrothed unto me with an acorn, a pomegranate and a nut’; or if he says to her, ‘Be thou betrothed unto me with these’ — if they are all together worth a perutah, she is betrothed; if not, she is not betrothed. ‘[Be thou betrothed unto me] with this and this and this’ — if they are all together worth a perutah, she is betrothed; if not, she is not betrothed. ‘With this one’ whereupon she took and ate it; ‘with this one’ — and she took and ate it; ‘and also with this one, and also with this one’ — she is not betrothed unless one of them is worth a perutah. Now, what is meant by this [clause], ‘with an acorn, a pomegranate, and or a nut’? Shall we assume that he said to her, ‘either’ with an acorn, a pomegranate, or a nut’? ‘If they are altogether worth a perutah she is betrothed’! But he said: ‘or’! Again if it means, ‘with an acorn and a pomegranate and a nut’ — then it is identical with ‘with this and with this!’[3] Hence it must surely mean that he said to her, ‘With these’. But since the second clause teaches: ‘or if he said to her, "Be thou betrothed unto me with these,"’ it follows that the first clause does not refer to ‘with these’! Hence it [must be taken] as [an] explanatory [clause]. ‘Be thou betrothed unto me with an acorn, a pomegranate and a nut’, that is, where he said: ‘Be betrothed unto me with these’.[4] Now, the final clause teaches: ‘With this one and she took and ate it: if one of them is worth a perutah she is betrothed, but not otherwise. Whereas the first clause draws no distinction whether she eats or lays it down. This proves that whenever he says to her, ‘with these,’ if she eats, she eats her own. This proves it.

[Reverting to the final clause of the Mishnah,] That is well on the view that it refers to the second clause, and what is meant by, UNLESS ONE OF THEM IS WORTH A PERUTAH? Unless the last is worth a perutah. Then here too [in the Baraitha just quoted] it means, unless the last is worth a perutah. But according to Rab and Samuel, who maintain that it refers to the first clause, it being necessary to state the case of eating: here comprehensive statements are given, but not detailed enumerations?[5] — This agrees with Rabbi, who said: There is no difference between ‘the size of an olive, the size of an olive,’ and ‘the size of an olive and the size of an olive’: they are [both] detailed enumerations.[6]

Rab said: If one betroths [a woman] with a debt, she is not betrothed:[7] a loan is given to be expended.[8] Shall we say that this is disputed by Tannaim: If one betroths [a woman] with a debt, she is not betrothed; but some say she is betrothed. Surely they differ in this: one Master holds that a loan is given to be expended, whereas the other holds that it is not?[9] — Now, is that plausible? Consider the second clause: And both agree in respect to purchase that he acquires it;[10] but if you say that a loan is given to be expended, wherewith does he acquire it? — Said R. Nahman: Huna our companion relates this [Baraitha] to another matter. We suppose the reference here is to the case where he said to her, ‘Be thou betrothed unto me with a maneh,’ and the maneh was found to be short of a denar:[11] one Master holds that she is bashful to claim it;[12] the other, that she is not.[13] If so, when R. Eleazar said: [If he declares,] ‘Be thou betrothed unto me with a maneh,’ and he gives her a denar, she is betrothed, and he must make it up — shall we say that he stated this ruling in dependence upon Tannaim?[14] — I will tell you: when the maneh lacks [but] a denar, she may be bashful to claim it; when the maneh is short of ninety-nine, she is [certainly] not bashful to claim it.[15]

An objection is raised: If he says to a woman, ‘Be thou betrothed unto me with the deposit which I have in thy possession,’ and she goes and finds that it is stolen or destroyed; if the value of a perutah is left thereof, she is betrothed; if not, she is not betrothed. But in the case of a debt, even if a perutah's worth thereof[16] is not left, she is betrothed. R. Simeon b. Eleazar said on R. Meir's authority: A debt

(1) If they are collectively worth a perutah.

(2) The kiddushin begins to take effect as soon as she accepts the first one.

(3) Why state it twice.

(4) [MS.M. has a much shorter and simpler text: Now what is meant by this (clause) ‘with an acorn . . . or a nut’? E.g., where he said ‘be betrothed unto me with these’, and the final clause teaches ‘with this one’ etc.]

(5) How do they explain, ‘unless one of them is worth a perutah’? For the clause, ‘With this and this and this’ is a comprehensive statement, in so far as it is taught that if they are all together worth, etc. Hence there is no clause in the Baraitha equivalent to the first clause in the Mishnah. Now, according to R. Ammi, it is well, since in the Mishnah too ‘If she eats’ refers to the second clause, viz., likewise to his comprehensive statement. But according to Rab and Samuel it must refer to a detailed enumeration, viz., by this, by this (not and by this); but such a clause is absent in the Baraitha.

(6) If one sacrifices an animal with the expressed intention of eating the size of an olive thereof after the time limit, the sacrifice is ‘abomination’, and he is liable to kareth (q.v. Glos.); if to eat it without the boundaries fixed for its eating, the sacrifice is unfit, but he is not liable to kareth. In the case of a combined intention, the latter ruling applies. R. Judah rules: The intention first expressed determines its particular law. Thereon Rabbi said: There is no difference whether he declares, ‘I will eat the size of an olive after time, the size of an olive without the boundaries,’ or ‘I will eat the size of an olive after time and the size of an olive, etc.’: both are detailed enumerations, the first of which determines its law according to R. Judah, and not comprehensive statements (i.e., combined intentions). Consequently, this clause of our Baraitha, ‘With this one, etc.,’ was not taught by the same Tanna as the former, but in agreement with Rabbi that even when he adds the copulative and with this one, each is a separate declaration: ‘Be thou betrothed unto me with this one,’ ‘Be thou betrothed unto me with this one.’ Hence when it is stated: ‘If she ate, etc. ,’the same holds good even with greater force if she lays down each (v. Rab and Samuel's reasoning on 46a, which likewise applies here).

(7) Even if the money loaned is actually now in her possession.

(8) The debtor may expend it as he desires, and is not bound to put it in a business so that it should always be at hand when the creditor demands its return. Hence this money which she actually possesses is her own, and he gives her nothing at all. v. supra p. 21, n. 9.

(9) As explained in the previous note.

(10) If A sells land to B, B can acquire it in virtue of money he lent him previously (land being acquired by money, supra 26a), if A possesses the actual money loaned.

(11) The denar is the loan referred to.

(12) Hence she is not betrothed.

(13) She relies upon receiving it, and so the betrothal is valid.

(14) I.e., knowing that it is disputed by Tannaim.

(15) Hence all agree that she is betrothed.

(16) Of the actual money he lent her.

Talmud - Mas. Kiddushin 47b

is the same as a deposit. Now, they differ only in so far as one Master holds that a debt, even if a perutah's worth thereof is not left [is valid kiddushin], whereas the other holds it is [valid] only if a perutah's worth thereof is left, but not otherwise: but all agree that if one betroths [a woman] with a debt [the money being still in her possession], she is betrothed! — Said Raba: Is it logical that this [Baraitha] is correct;[1] surely it is corrupt! [For] what are the circumstances of this deposit? If she guaranteed against loss,[2] it is identical with a loan.[3] If she did not guarantee against loss — if so, instead of the second clause teaching, ‘but in the case of debt, even if a perutah's worth thereof is not left, she is betrothed’ — let a distinction be made and taught in the case [of deposit] itself: when is that? Only if she did not guarantee against loss; but if she did, even if a perutah's worth thereof is not left, she is betrothed. But amend it thus: in the case of debt, even if a perutah's worth thereof is left, she is not betrothed. R. Simeon b. Eleazar said on R. Meir's authority: Debt is as a deposit.

Wherein do they differ? — Said Rabbah: I found the Rabbis at the schoolhouse sitting and explaining. They differ as to whether a loan vests in its owner [sc. the creditor] in respect of return,

and likewise in respect of unpreventable accidents: one Master holds that a loan vests in the debtor, and likewise in respect of unpreventable accidents; and the other holds that it vests in the creditor, and even so in respect of unpreventable accidents.[4] But I told them , As for unpreventable accidents, all agree that it vests in the debtor. What is the reason? It is no worse than a loaned article:[5] if for a loaned article, which is returnable as it is, one is liable in respect of unpreventable accidents, how much more so for a debt![6] But here they [merely] differ as to whether a loan vests in its owner in respect of return.

If so, when R. Huna said: If one borrows an axe from his neighbour, if he clave [wood] therewith, he acquires it;[7] if not, he does not acquire it — shall we say that he gave his ruling as dependent upon [a dispute of] Tannaim?[8] — No. They differ only in respect of a [monetary] loan, which is not returnable as it is; but with the loan of an article which is returnable as it is, all agree [on the prin — ciple] 'if he clave therewith he indeed [acquires it,] but if he did not cleave therewith he does not acquire it'.[9]

Shall we say that this [Rab's dictum] is disputed by Tannaim? [For it was taught: If a man says to a woman:] 'Be thou betrothed unto me with a note of debt,' or if he has a loan in the hands of others[10] and transfers it to her,[11] R. Meir said: She is betrothed; the Sages ruled: She is not betrothed. Now, how is this 'note of debt' meant? Shall we say, a note of debt against others; then it is identical with 'a loan in the hands of others?' Hence it must surely mean a note against her debt,[12] and thus they differ in respect to betrothing [a woman] by a debt! — After all, it means a note of debt against others, and here they differ both on a debt contracted with a bond and a debt contracted verbally.[13] Concerning a debt contracted with a bond, wherein do they differ? In the dispute of Rabbi and the Rabbis. For it was taught: A note[14] is acquired by delivery; this is Rabbi's view.[15] But the Sages say: Whether he writes [a bill of sale] without delivering [the note itself] or whether he delivers it without writing [a bill of sale], he does not acquire it unless he both indites [a bill of sale] and delivers [the original note]. One Master agrees with Rabbi; the other does not agree with Rabbi.[16] Alternatively, none accept Rabbi's view, while here they differ in R. Papa's [dictum]. For R. Papa said: When one sells a note to his neighbour he must write for him [in the conveyance]: 'Acquire it together with all its obligations': one Master agrees with R. Papa; the other does not agree with R. Papa.[17] Alternatively, all agree with R. Papa. But here they differ over Samuel's dictum. For Samuel said:

---

(1) Lit., 'to be accepted.'

(2) To pay for any mishap.

(3) If lost or stolen, since it must be made good, just like a debt.

(4) All agree that a loan is given for expenditure: consequently, had she expended anything at all thereof, the betrothal is not valid. But here she had expended nothing of it: R. Simeon b. Eleazar holds that in such a case it vests in the creditor, and he can immediately demand its return, if he desires. Hence it is now that he gives it to the woman, and so she is betrothed. Likewise, should an unpreventable accident befall the money, the debtor is not responsible, since it is accounted as being in the creditor's possession. The first Tanna's view is the reverse.

(5) 'Milweh' applies to a monetary loan; 'She'elah', to the loan of an article.

(6) Which is certainly more in the debtor's possession, seeing that he is not bound to return the same coins.

(7) In the sense that it belongs to him for the period of the loan, and the lender cannot retract.

(8) Viz., that it agrees only with R. Meir. But according to the first Tanna, since an untouched loan does not stand in the creditor's possession and he cannot demand its return, the same applies here even if he did not cleave wood with it.

(9) Other coins may be substituted, but as for a loaned article, which must be returned itself, all agree that only if he clave therewith does he acquire, and not otherwise.

(10) I.e., he is a creditor.

(11) Lit., 'gave her (written) authority over them' to collect the debt for herself.

(12) I.e., against a debt she owes to him.

(13) The latter being 'a loan in the hands of others'.

(14) Lit., 'letters'.

(15) If A delivers his note against B to C, C acquires it forthwith.

(16) The circumstances being that he gave her the note, but did not write a bill of sale hereon.

(17) The circumstances being that he gave her the original note and wrote a bill of sale, but did not include this 'obligation' clause in it.

Talmud - Mas. Kiddushin 48a

If one sells a note of debt to his neighbour and then renounces it [the debt], it is renounced; and even an heir can renounce it.[1] One Master agrees with Samuel; the other does not agree with Samuel.[2] Alternatively, all agree with Samuel,[3] and here they differ in respect to the woman. One Master holds, The woman has full confidence [in him], reasoning, he will not leave me in the lurch and renounce [the debt] in favour of another; whereas the other Master holds, The woman too has no confidence.

Wherein do they differ concerning a debt contracted verbally? — In [the law of] R. Huna in Rab's name. For R. Huna said in Rab's name: [If A says to B,] 'The maneh which I have in your possession, give it to C': [if said] 'in the presence of the three of them' [viz., A, B and C], he acquires it. One Master holds, Rab ruled thus only of a deposit, but not of a loan;[4] and the other maintains that there is no difference between a deposit and a loan.[5]

[Again,] Shall we say that this[6] is disputed by Tannaim? [For it was taught: If he says:] 'Be thou betrothed unto me with a note:' R. Meir said: She is not betrothed; R. Eleazar said: She is betrothed; the Sages ruled: The paper is valued: if it is worth a perutah, she is betrothed; if not, she is not betrothed. How is this note meant: shall we say, a note of debt against others — then R. Meir is self-contradictory?[7] Hence it must mean her own note of debt,[8] and thus they differ in respect to betrothal by debt! — Said R. Nahman b. Isaac: The meaning here is that he betroths her with a deed unattested by witnesses,[9] R. Meir being in harmony with his view that the witnesses who sign dissolve [the marriage]; while R. Eleazar is in agreement with his opinion that the witnesses to the delivery dissolve it;[10] while the Rabbis are in doubt whether it is as R. Meir or R. Eleazar; therefore the paper is valued, [and] if it is worth a perutah she is betrothed, and if not, she is not betrothed.[11]

Alternatively, [we] suppose, that it was not written specifically for her sake, and they differ in respect to Resh Lakish's [view]. For Resh Lakish propounded: What if a deed of betrothal is not written expressly for her [the betrothed's] sake? Do we assimilate betrothal to divorce: just as divorce must be expressly for her sake, so must betrothal be likewise; or perhaps, [different] forms of betrothal are assimilated to each other: just as betrothal by money need not be for her sake, so betrothal by deed need not be for her sake? After propounding, he resolved it: Betrothal is assimilated to divorce, [for Scripture writes] and when she is departed . . . she may be [another man's wife].[12] One Master agrees with Resh Lakish; the other does not.[13]

Alternatively, all agree with Resh Lakish, and here the circumstances are that it [the deed] was written expressly for her sake but without her knowledge, and they differ in the same dispute as Raba and Rabina, R. Papa and R. Sherabia. For it was stated: If it is written for her sake but without her knowledge, — Raba and Rabina maintain: She is betrothed; R. Papa and R. Sherabia rule: She is not betrothed.[14]

Shall we say that it [Rab's dictum] is dependent on the following Tannaim? For it was taught: [If a woman says to a man,] 'Make me a necklace, earrings and [finger] rings, and I will be betrothed unto thee,'[15] as soon as he makes them, she is betrothed: this is R. Meir's view. But the Sages rule: She is not betrothed until the money reaches her hand. What is meant by this 'money'? Shall we say, those self-same valuables? hence it follows that in the first Tanna's view even those self-same valuables [need] not [reach her hand]; then wherewith is she betrothed?[16] Hence it must surely refer to

different money,[17] which proves that they differ over betrothal by debt. For it is assumed that all hold that wages are a liability from beginning to end, hence it is a debt;[18] surely then they differ in this: one Master holds, If he betroths [a woman] with a debt, she is betrothed, while the other holds that she is not? — No: all agree that if he betroths with a debt, she is not betrothed, but here they differ as to whether wages are a liability from beginning to end. One Master holds,

---

(1) Tosaf. suggests that the reason is that the sale of an IOU is only Rabbinically valid, and is therefore not strong enough to annul the first creditor's right of renunciation. [According to R. Tam (v. R. Nissim on Keth. 85b) it is based on the dual conception of the lien of the creditor or the debtor: (a) שעבוד הגוף a lien on his person; (b) שעבוד נכסים a lien on his property — a conception that has its parallel in the Greek and Old Babylonian Systems of Law. Whilst the latter is assignable, the former is not, and whenever the creditor chooses to renounce the inalienable part of his lien, the other automatically lapses; v. Neubauer. J. op. cit. pp. 112-114, n. 1.]

(2) The first Tanna agrees: hence the woman relies upon it, and the betrothal is valid.

(3) [And therefore in the case of an ordinary transaction of real estate, a note does not rank as money to confer possession upon the purchaser.]

(4) Hence in the case under discussion the woman is not betrothed.

(5) V. Git. (Sonc. ed.) p. 47. n. 3.

(6) Rab's dictum, supra 47a.

(7) V. supra 47b.

(8) Recording her debt.

(9) V. supra 2a; that is the note referred to here, but that it was not signed; it was, however, given to her in the presence of witnesses.

(10) This refers to a Get (q.v. Glos.) bearing no signature of witnesses. R. Meir holds that it is invalid, For only these witnesses give it its power of dissolution. R. Eleazar rules that it is valid, for the dissolution is really effected by the witnesses who attest its delivery. v. Git. 3b. The same applies to a deed of betrothal.

(11) Rashi and Tosaf. observe that the last clause must be omitted, For since we are in doubt, even if it is not worth a perutah she stands as doubtfully betrothed, and needs a divorce to free her.

(12) V. supra 95 for notes.

(13) Whilst the Rabbis are in doubt on the point.

(14) V. supra 9b for notes.

(15) In return for his labour, the gold being her own.

(16) Surely she must actually receive something!

(17) I.e., in addition to the jewels she must receive money.

(18) When a man does work, as he completes each perutah's worth his employer is liable for the payment of it. Consequently, when this goldsmith makes the jewellery, as soon as he finishes each perutah's worth of labour, she becomes indebted to him to the amount of a perutah, so that when he completes the work entirely, the fee, which is to effect betrothal, is a retrospective debt.

Talmud - Mas. Kiddushin 48b

Wages are a liability only at the end;[1] whilst the other holds that wages are a liability from beginning to end. Alternatively, all hold that wages are a liability from beginning to end, and that betrothal by debt is invalid, but here they dispute whether an artisan gains a title to the improvement of the utensil; one Master holds that an artisan does acquire title to the improvement of the utensil, and the other holds that an artisan does not acquire title to the improvement of the utensil.[2] Alternatively, all hold that an artisan does not obtain a title to the improvement of the utensil, and that wages are a liability from beginning to end, and that betrothal with debt is not valid, but the circumstances here are that he added a particle [of metal] of his own: one Master holds, [When one betroths a woman with a] debt and a perutah, her mind is set upon the perutah;[3] the other holds, her mind is set upon the debt.[4] And [they differ] in the [same] dispute as the following Tannaim. For it was taught: '[Be thou betrothed unto me] with the wage [owing to me] for the work I have done for thee, ' she is not betrothed; with 'the wage for what I will do for thee,' she is betrothed. R. Nathan said: 'With the

wage for what I will do for thee,' she is not betrothed; how much more so, 'with the wage [owing to me] for the work I have done for thee.' R. Judah the Prince said: In truth it was stated, whether [he declared], 'with the wage for what I have done,' or 'with the wage for what I will do for thee,' she is not betrothed; yet if he adds a consideration of his own, she is betrothed.[5] The first Tanna and R. Nathan differ in respect to wages.[6] R. Nathan and R. Judah the Prince differ in respect to [betrothal by] debt and a perutah: one holds that then her mind is set upon the debt, whereas the other holds that it is set upon the perutah.

MISHNAH. [IF A MAN SAYS TO A WOMAN], BE THOU BETROTHED UNTO ME WITH THIS CUP OF WINE,' AND IT IS FOUND TO BE OF HONEY, OR 'OF HONEY' AND IT IS FOUND TO BE OF WINE; 'WITH THIS SILVER DENAR,' AND IT IS FOUND TO BE OF GOLD, OR 'OF GOLD' AND IT IS FOUND TO BE OF SILVER; 'ON CONDITION THAT I AM WEALTHY,' AND HE IS FOUND TO BE POOR, OR 'POOR' AND HE IS FOUND TO BE RICH; SHE IS NOT BETROTHED. R. SIMEON SAID: IF HE DECEIVES HER TO [HER] ADVANTAGE,[7] SHE IS BETROTHED.

GEMARA. Our Rabbis taught: [Where he says] 'Be thou betrothed unto me with this cup' — one [Baraitha] taught: with that and its contents;[8] another taught; with that, but not with its contents; another taught: with its contents, but not with that itself. Yet there is no difficulty: one refers to water, another to wine, and the third to brine.[9]

IF HE DECEIVES HER TO [HER] ADVANTAGE, SHE IS BETROTHED, But does not R. Simeon agree [that if one sells] wine, and it is found to be vinegar, or, vinegar and it is found to be wine, both [the vendor and the purchaser] can retract?[10] This proves that some prefer wine and others prefer vinegar. So here too, some are pleased with silver and not with gold?[11] Said R. Shimi b. Ashi: I came across Abaye sitting and explaining this to his son: We deal here with a case where, for example, he said to his agent, 'Lend me a silver denar and go and betroth So-and-so on my behalf,' and he went and lent him a gold denar. One Master holds, [He was] particular [about this;][12] the other, that he merely indicated the place to him.[13] If so,[14] 'BE THOU BETROTHED UNTO ME' — BE THOU BETROTHED UNTO him is required; IF HE DECEIVES HER TO [HER] ADVANTAGE' — IF HE DECEIVES him TO [HIS] ADVANTAGE is required, 'IT IS FOUND [TO BE OF GOLD]' — but at the very outset it was of gold![15] — But, said Raba, I and a lion of our company, viz., R. Hiyya b. Abin, explained it, What are the circumstances here? If she said to her agent, 'Go forth and accept kiddushin on my behalf from So-and-so, who has proposed to me, "Be thou betrothed unto me with a silver denar"'; and went and was given a gold denar. One Master holds [she was] particular [about this]; the other, that she indicated the place to him. And what is [the meaning of] 'IT IS FOUND'?[16] It was wrapped up in a cloth.[17]

Abaye said: R. Simeon,[18] R. Simeon b. Gamaliel, and R. Eleazar, all hold that one merely indicates the place.[19] R. Simeon, as stated. 'R. Simeon b. Gamaliel:' for we learnt:

---

(1) When the work is returned the whole wages become a simultaneous liability; hence there is no debt, and the betrothal is valid.

(2) When a man is employed by the hour, day, etc., all agree that his wages are a liability from beginning to end. Here, however, we deal with a case where he contracted for the work irrespective of time. In respect to this we have two views: one view is that the artisan acquires title to the increase in the value of the material upon which he works as a result of the improvements he effects, and when he gives it back, he is really selling it for the agreed cost of his labour. Hence, the woman is betrothed, since she receives something for which she would have to pay now. The other view is that he does not so acquire; consequently, his wages are a liability and debt, just as those of a time worker; and so she is not betrothed.

(3) His labour is a debt, whilst his own additional material is certainly like a coin given now. Since we assume that her mind is set upon the perutah, she is betrothed.

(4) Because its value exceeds his small addition.
(5) This proves that in R. Nathan's opinion she is not betrothed even then.
(6) Whether they are a liability from beginning to end or only at the end, but if the work is already done and in her possession, it is certainly a debt, on all views.
(7) The object being better than described.
(8) That is understood to be his meaning, and if they are together worth a perutah, she is betrothed.
(9) Or, oil. If the cup is filled with water, her mind is set upon the cup, hence that must be worth a perutah. With wine, she thinks of the wine, not the cup; with brine, (or oil) which must remain for some time in the cup, her mind is set upon both (Rashi).
(10) This is a Mishnah in B.B. 83b.
(11) Tosaf.: she may need the silver for its metal.
(12) He wanted to borrow only a silver denar, not gold; hence the betrothal is invalid.
(13) I.e., he intimated to him that he was to betroth that woman with money, but was not particular about the exact coin.
(14) That the reference in the Mishnah is to the agent.
(15) The agent knew full well that he was giving a gold denar.
(16) For here too it was thus given at the very outset.
(17) And it was discovered to be gold only upon reaching the woman's hand.
(18) I.e., b. Yohai.
(19) In circumstances similar to the above.

Talmud - Mas. Kiddushin 49a

A plain divorce [bears] its witnesses on the inside; a folded one [bears] its witnesses on the outside.[1] If the signatures of a plain one are written on the outside, or of a folded one on the inside, both are invalid. R. Hanina b. Gamaliel said: If the signatures of a folded one are written on the inside it is valid, because it can be converted into a plain one.[2] R. Simeon b. Gamaliel said: It all depends on local custom.[3] Now, we pondered thereon: does not the first Tanna agree that local custom [is the determining factor]? To which R. Ashi[4] replied: In the place where a plain one is customary and a folded one is made, or in the place where a folded one is customary and a plain one is made, all agree that the objection [is valid]. Where do they differ? Where both are customary, and he [the husband] instructs him [the scribe], 'Make me a plain one,' and he goes and makes him a folded one. One Master holds that he particularised; the other, that he indicated a place to him.[5]

'R. Eleazar' — for we learnt: If a woman says: 'Accept a divorce on my behalf at such and such a place,' and he accepts it elsewhere: R. Eleazar ruled it valid. This shews that he holds that she merely indicated a place to him.

'Ulla said: The controversy [in the Mishnah] refers to a monetary advantage. But in an advantage of birth,[6] all agree that she is not betrothed. What is the reason? 'I do not want a shoe too large for my foot.' It was taught likewise. R. Simeon admits that if he deceives her by a superiority of birth she is not betrothed. R. Ashi said: This follows from our Mishnah too. For it states:[7] 'On condition that I am a priest,' and he is found to be a Levite, or 'a Levite', and he is found to be a priest, 'a Nathin,'[8] and he is found to be a mamzer,[9] or a mamzer', and he is found to be a Nathin [she is not betrothed]; and R. Simeon does not disagree. Mar, son of R. Ashi, demurred: If so, when it is stated: 'on condition that I have a daughter or maidservant [meguddeleth][10] that is grown up', whereas he has none; or on condition that he has not, and he has, which is a monetary advantage, does he not disagree there either! But [what you must say is that] he differs in the first clause,[11] and the same is understood of the second;[12] so here too [in respect to superiority] of birth, he differs in the first clause, and the same applies to the last clause. How compare! There, since both refer to a financial advantage, he differs in the first clause and the same is understood of the last. Here, however, that it is superiority of birth, if it is so that he disagrees, it should be taught. Alternatively, here too superior birth [is meant]. Do you think that meguddeleth means literally an adult; meguddeleth means of

superior breeding,[13] for she [the woman betrothed] can say: ‘It does not please me that she should take up my words and carry them about to the neighbours.’[14]

Our Rabbis taught: ‘On condition that I am a karyana,’[15] once he has read three verses [of the Pentateuch] in the synagogue,[16] she is betrothed. R. Judah said: He must be able to read and translate it. Even if he translates it according to his own understanding! But it was taught: R. Judah said: If one translates[17] a verse literally, he is a liar; if he adds thereto, he is a blasphemer and a libeller.[18] Then what is meant by translation? Our [authorised] translation.[19] Now, that is only if he said to her ‘karyana’. But if he says: ‘I am a kara,’[20] he must be able to read the Pentateuch, Prophets and Hagiographa with exactitude.[21] [If he says,] ‘On condition that I am learned’ — Hezekiah said: [In] Halachoth.[22] R. Johanan ruled: In Torah.[23] An objection is raised: What is Mishnah?[24] R. Meir said: Halachoth. R. Judah said: Midrash.[25]

---

(1) V. B.B. 160a.

(2) By leaving it unsewn.

(3) If it is customary to write a folded divorce, a plain one is invalid, and vice versa. For when a husband authorizes the scribe to write a divorce, it is tacitly understood that he wants it written in accordance with local custom; for notes v. B.B. 160a.

(4) Rashal in B.B. 165a reads Abaye. R. Ashi, being later than Abaye, is obviously an incorrect reading in an argument by the latter, unless it is assumed that Abaye merely made the statement cited above, the Talmud itself elaborating it; v. Kaplan, Redaction of the Talmud, p. 222.

(5) I.e., gave him a general intimation that he wanted a divorce to be indited.

(6) E.g., if he says, on condition that I am a mamzer (q.v. Glos.). and is found to be a Nathin, i.e., of higher caste.

(7) Infra b.

(8) V. Glos.

(9) V. Glos.

(10) V. infra p. 249, n. 8.

(11) Viz., in the Mishnah on 48b.

(12) Infra b.

(13) So Rashi.

(14) And because she is of superior breeding she has access to them and is listened to, where she would not be otherwise.

(15) I.e., able to read the Bible.

(16) In Talmudic times the reading of the Pentateuch, which was an important part of Sabbath and Festival services, was performed by a number of congregants, each of whom read not less than three verses, and not by a Reader, as to-day.

(17) This refers to the public translations in the synagogue alongside the Reading of the Law, which was also a feature of ancient times.

(18) Meharef and megaddef are synonyms. [Tosaf. In the name of R. Hananel cites Ex. XXIV. 10: ויראו את אלקי ישראל of which the literal rendering ‘they saw the God of Israel’ conveys a lie, as God cannot be seen, whilst the added words in the rendering ‘they saw the angel of the God of Israel’ involves a blasphemy; for further examples v. Harkavy, A., Teshuboth ha-Geonim, pp. 124ff.]

(19) The Aramaic translation known as Targum Onkelos; v. Bacher, Die Terminologie der Tannaiten, pp. 205 et seq., also art. ‘Targum’ in J.E.

(20) Likewise ‘reader’, but the word implies wider erudition.

(21) Of course, with full understanding.

(22) Rashi: traditional laws dating back to Moses. The probable meaning is traditional statements of laws in general, such as form the Mishnah, but without the exegetical knowledge of their derivation from the Bible, particularly the Pentateuch, v, Glos. s.v. Halachah.

(23) This is now assumed to mean the written law, i.e., the Pentateuch.

(24) ‘Learning’ a word of the same root as in the phrase ‘that I am learned’.

(25) Exegesis. The exegetical literature, e.g., Sifra and Sifre, containing the laws derived from the Pentateuch and the manner of derival. — Thus on both views the knowledge of the Torah alone is insufficient.

Talmud - Mas. Kiddushin 49b

— What is meant by Torah? The exegesis [Midrash] of the Torah. Now, that is only if he says to her [‘on condition that I am] tinyana [learned]:’ but if he says to her, I am a tanna, he must have learned law, Sifra, Sifre and Tosefta.[1] ‘On condition that I am a disciple [talmid],’ we do not say, such as Simeon b. ‘Azzai and Simeon b. Zoma,[2] but one who when asked a single question on his studies in any place can answer it,[3] even in the Tractate Kallah.[4] ‘On condition that I am a Sage,’ we do not say, like the Sages of Jabneh[5] or like R. Akiba and his companions, but one who can be asked a matter of wisdom[6] in any place and he can answer it. ‘On condition that I am mighty,’ we do not say, [he must be] like Abner the son of Ner[7] and Joab son of Zeruiah,[8] but as long as he is feared by his companions on account of his strength. ‘On condition that I am wealthy,’ we do not say, like R. Eleazar b. Harsom and R. Eleazar b. Azariah,[9] but as long as he is honoured by his fellow citizens on account of his wealth. ‘On condition that I am righteous,’ even if he is absolutely wicked, she is betrothed, for he may have meditated repentance in his thoughts. ‘On condition that I am wicked,’ even if he is completely righteous, she is betrothed, for he may have meditated idolatry in his mind.

Ten kabs of wisdom descended to the world: nine were taken by Palestine and one by the rest of the world. Ten kabs of beauty descended to the world: nine were taken by Jerusalem and one by the rest of the world. Ten kabs of wealth descended to the world: nine were taken by the early Romans and one by the rest of the world. Ten kabs of poverty descended to the world: nine were taken by Babylon and one by the rest of the world. Ten kabs of conceit descended to the world: nine were taken by Elam[10] and one by the rest of the world. But did not conceit descend to Babylon! But it is written: Then lifted I up mine eyes, and saw, and behold, there came forth two women, and the wind was in their wings; now they had wings like the wings of a stork: and they lifted up the ephah between the earth and the heaven. Then said I to the angel that talked with me, Whither do these bear the ephah? And he said unto me, To build her a house in the land of Shinar.[11] Whereon R. Johanan said: This refers to hypocrisy and conceit, which descended to Babylon! — Yes, it did come down hither, but made its way thither [to Elam]. This follows too because it is written, to build her a house:[12] this proves it. But that is not so, for a Master said: A sign of conceit is poverty, and poverty is found in Babylon! — By poverty,[13] poverty of learning is meant,[14] as it is written, we have a little sister, and she hath no breasts,[15] whereon R. Johanan said: This refers to Elam, which was privileged to study but not to teach.[16]

Ten kabs of strength descended to the world: nine were taken by the Persians, etc. Ten kabs of vermin descended to the world: nine were taken by Media, etc. Ten kabs of witchcraft descended to the world: nine were taken by Egypt,[17] etc. Ten kabs of sores descended to the world: nine were taken by swine, etc. Ten kabs of immorality descended to the world: nine were taken by Arabia, etc. Ten kabs of impudence descended to the world: nine were taken by Mesene.[18] Ten kabs of gossip descended to the world: nine were taken by women, etc. Ten kabs of drunkenness[19] descended to the world: nine were taken by Ethiopians, etc. Ten kabs of sleep descended to the world: nine were taken by slaves,[20] and one by the rest of the world.

MISHNAH. ‘[BE THOU BETROTHED UNTO ME] ON CONDITION THAT I AM A PRIEST,’ AND HE IS FOUND TO BE A LEVITE, OR ‘A LEVITE’ AND HE IS FOUND TO BE A PRIEST; A NATHIN,’[21] AND HE IS FOUND TO BE A MAMZER,[22] OR ‘A MAMZER’ AND HE IS FOUND TO BE A NATHIN; ‘A TOWNSMAN, AND HE IS FOUND TO BE A VILLAGER, OR ‘A VILLAGER’ AND HE IS FOUND TO BE A TOWNSMAN; ‘ON CONDITION THAT MY HOUSE IS NEAR TO THE BATHS,’ AND IT IS FOUND TO BE FAR, OR ‘FAR’ AND IT IS FOUND TO BE NEAR; ON CONDITION THAT HE HAS A DAUGHTER OR MAIDSERVANT[23] THAT IS GROWN UP,[24] AND HE HAS NOT, ‘OR ON CONDITION THAT I HAVE [THEM] NOT’, AND HE HAS; ‘ON CONDITION THAT HE HAS NO SONS’, AND HE

HAS, OR 'ON CONDITION THAT HE HAS SONS, AND HE HAS NONE-IN ALL THESE CASES, EVEN IF SHE DECLARES, IT WAS MY INTENTION TO BECOME BETROTHED TO HIM NOTWITHSTANDING,' SHE IS NOT BETROTHED. IT IS LIKEWISE SO IF IT WAS SHE WHO DECEIVES HIM.

GEMARA. A certain man sold his property with the intention of emigrating to Palestine, but when selling he said nothing.[25] Said Raba: That is a mental stipulation,[26] and such is not recognised.[27] How does Raba know this? Shall we say, from what we learnt:

---

(1) Sifra is a halachic commentary on Leviticus, also known as Torath Kohanim, the Law of the Priests. Sifre is a similar work on Numbers and Deuteronomy. In Sanh. 86a R. Johanan ascribes all anonymous passages in them to R. Judah and R. Simeon respectively. Tosefta ('addition') is a collection of laws not included by Rabbi in his compilation of the Mishnah, and of lesser authority. A number of Rabbis had such collections, but only those of R. Hiyya and R. Oshaia were considered authentic. The relation of the Tosefta to the Mishnah is one of the unsolved problems of Talmudic literature, but it is highly probable that part of it at least was intended as an elaboration of the Mishnah.
(2) These, though disciples, i.e., not ordained as Rabbis, were renowned for their wide erudition. Cf. Sotah, 49b, Yeb. 63b.
(3) [ואומרו Lit., 'he says it', Kaplan, op. cit. p. 203 explains this term as denoting the ability to discuss the point in question, and not merely to quote correctly from some text.]
(4) One of the extra-canonical tractates. Rashi: though it is short and not difficult, it is enough if he can answer a question in it. Others (v. Tosaf. Ri) the laws of Festivals (Kallah was the name given to the general assemblies in Elul and Adar, when the laws of the Festivals were popularly expounded.), in which most people were well-versed. V. J.E. s.v. Kallah; v. [Higger, M. מסכתות כלה pp. 13ff.].
(5) A town to the north west of Jerusalem, whither R. Johanan b. Zakkai transferred the great Sanhedrin after the fall of Jerusalem; v. Sanh. (Sonc. ed.) p. 204 n. 8.
(6) Rashi: a matter dependent on logic.
(7) Formerly Ishbosheth's chief general against David, but subsequently he went over to David; II Sam. II, 8 seqq; III, 12 seqq.
(8) David's chief general.
(9) Who were credited with enormous wealth: V. Yoma 35b and Shab. 54b.
(10) V. Sanh. (Sonc. ed.) p. 138, n. 1.
(11) Zech. V, 9f. Shinar is Babylon.
(12) Rashi offers two explanations: (i) the inf. 'to build' implies that it was only an intention, not subsequently carried out; (ii) the sing. 'her', instead of 'them', intimates that only one took up her permanent residence in Babylon, viz., hypocrisy.
(13) Which betokens conceit.
(14) The conceited man is too proud to seek learning from others.
(15) Cant. VIII, 8.
(16) V. Sanh. (Sonc. ed.) p. 238. n. 5. Which proves that their conceit prevented them from attaining sufficient knowledge to teach.
(17) Cf. Sanh. (Sonc. ed.) p. 460. n. 6.
(18) The island formed by the Euphrates, the Tigris and the Royal Canal.
(19) Var. lec, 'blackness'.
(20) Cf. B.M. 64b-65a.
(21) V. Glos.
(22) V. Glos.
(23) V. supra p. 245.
(24) [Meguddeleth, others: 'a hairdresser' Tosaf. Ri].
(25) And subsequently he was prevented from going.
(26) Lit., 'it is words that are in the heart'.
(27) Lit., 'words that are in the heart are no words'. Even though we know that that was his reason, e.g., he had mentioned it previously.

Talmud - Mas. Kiddushin 50a

[If his oblation be a burnt-offering of the herd, he shall offer it with a tale without blemish:] he shall offer it [at the door etc.]:[1] this teaches that he is compelled.[2] I might think, against his will-hence it is taught: 'with his free will'.[3] How is this possible? He is compelled, until he declares, 'I am willing'. Yet why, seeing that in his heart he is unwilling! Hence it must surely be because we rule; A mental affirmation is not recognised! — But perhaps it is different there, for we ourselves are witnesses that he is pleased to gain atonement. But [it follows] from the second clause: and you find it likewise in the case of women's divorce and slaves' manumission: he [the husband or master] is compelled, until he declares,'I am willing.'[4] Yet why: seeing that in his heart he is unwilling! Hence it must surely be because we say: A mental declaration is not recognised! — But perhaps it is different there, because it is a religious duty to obey the words of the Sages! — But, said R. Joseph, [it is deduced] from the following: If one betroths a woman and [then] declares, 'I thought her to be a priest's daughter, whereas she is the daughter of a Levite,' or 'a Levite's daughter and she is the daughter of a priest'; 'is poor, whereas she is wealthy', or 'is wealthy whereas she is poor' 'she is betrothed, because she has not deceived him. Yet why, seeing that he declares, 'I thought [etc.]'? But it must be because we say: A mental stipulation! — Said Abaye to him: Perhaps it is different there, for it [the ruling] is in the direction of stringency![5] — But, said Abaye, [it is deduced] from this: IN ALL THESE CASES, EVEN IF SHE DECLARES, 'IT WAS MY INTENTION TO BECOME BETROTHED TO HIM NOTWITHSTANDING', SHE IS NOT BETROTHED. Yet why, seeing that she declares, ' IT WAS MY INTENTION'? — But perhaps it is different there, for since he stipulated, it does not rest with her to set aside his stipulation! — But, said R. Hiyya b. Abin, this occurred at R. Hisda's,[6] and R. Hisda [went] to R. Huna's [academy, to discuss the matter], and it was solved from the following: If one says to his agent, 'Bring me [money] from the window [sill] or the chest,' and he brings it to him, even if the master says: 'I was thinking only of this [purse],'[7] yet since he brought him the money from this [place], the master is guilty of trespass.[8] Yet why, seeing that he says: 'I was thinking [etc.]ð? Hence it must surely be because we say that a mental declaration is null. Yet perhaps it is different there, because he comes to free himself from a sacrifice? — Then let him declare that he did it intentionally.[9] But it is unusual for a person to declare himself wicked? — Then let him say: 'I reminded myself.'[10] For it was taught: If the principal recollects [that it is of hekdesh] but not his agent, the latter is guilty of trespass.[11]

A certain man sold his property with the [express] intention of migrating to Palestine.[12] He migrated, but could not settle down. Said Raba: When one goes there, it is with the intention of settling, and this man has not settled.[13] Others state [that he ruled]: [He sold it] with the intention of migrating, and he has done so.[14] A certain man sold his property with the [express] intention of migrating to Palestine. Eventually he did not go. Said R. Ashi: He could have gone had he desired.[15] Others state [that R. Ashi declared]: Had he desired, could he have not gone?[16] Wherein do they differ? — They differ where an impediment cropped up on the road.[17]

MISHNAH. IF HE SAYS TO HIS AGENT, 'GO FORTH AND BETROTH TO ME SO-AND-SO IN SUCH AND SUCH A PLACE, AND HE GOES AND BETROTHS HER ELSEWHERE, SHE IS NOT BETROTHED. 'SHE IS IN SUCH AND SUCH A PLACE, AND HE BETROTHS HER ELSEWHERE, SHE IS BETROTHED.

GEMARA. Now, we learned the same of divorce: If he says: 'Give my wife a divorce in such and such a place,' and it is given to her elsewhere, it is invalid. 'She is in such and such a place,' and it is given to her elsewhere, it is valid. And both are necessary. For if we were informed this of kiddushin, where he comes to unite her to himself,[18] [he may have thought:] 'in this place I am popular and nothing will be said against me, but in that place I am hated and slander[19] will be piled up against me.'[20] But in respect to divorce, seeing that he comes to drive her away, I might argue

that he does not care.[21] And if we were informed this of divorce, [I might argue] in this place he is willing to be disgraced, but not in the other; [whereas] in respect to betrothal, I might argue that he does not care. Thus [both are] necessary. MISHNAH. IF HE BETROTHS A WOMAN ON CONDITION THAT SHE HAS NO VOWS UPON HER, AND IT IS FOUND THAT SHE HAS, SHE IS NOT BETROTHED, IF HE MARRIES HER[22] UNCONDITIONALLY, AND IT WAS FOUND SHE HAD VOWS UPON HER, SHE IS DIVORCED[23] WITHOUT HER KETHUBAH.[24] [IF HE BETROTHS HER] ON CONDITION THAT SHE HAS NO BLEMISHES, AND BLEMISHES ARE FOUND IN HER, SHE IS NOT BETROTHED. IF HE MARRIES HER UNCONDITIONALLY AND BLEMISHES ARE FOUND IN HER, SHE IS DIVORCED WITHOUT HER KETHUBAH. ALL BLEMISHES WHICH INCAPACITATE PRIESTS [TO SERVE AT THE ALTAR] RENDER WOMEN UNFIT.[25]

GEMARA. And we learned this likewise [in the tractate] on Kethuboth.[26] Here he [the Tanna] desires [to give the ruling on] betrothal, and settlements are taught incidentally to betrothal. There settlements are necessary [to be dealt with], and betrothal is taught incidentally to settlements.

MISHNAH. IF HE BETROTHS TWO WOMEN WITH THE VALUE OF A PERUTAH, OR ONE WOMAN WITH LESS THAN A PERUTAH'S WORTH, EVEN IF HE SUBSEQUENTLY SENDS GIFTS,[27]

---

(1) Lev. I, 3: the second 'he shall offer it' is superfluous.

(2) To fulfil his vow.

(3) E.V. that he may be accepted.

(4) This refers to those who are compelled to free their wives or slaves.

(5) I.e., we may be uncertain whether a mental stipulation is valid or not. Consequently she is betrothed, in the sense that she is not free to remarry. Nevertheless, if she accepts kiddushin from another, she may be betrothed to the second, the betrothal of the first being null on account of the mental condition, and so she will require a divorce from both.

(6) I.e., he was requested to give a judicial ruling on such a matter.

(7) Whereas he brought the money from a different purse lying in the same place.

(8) The money brought to him was sacred money, for the unwitting secular use of which one is liable to a trespass-offering. Now, if this is done through an agent: if the agent carries out instructions, the principal is liable; if he does not carry out instructions, he himself is liable. (The liability is incurred not for actual use, but for taking it to use it, whereby it is removed from the ownership of hekdesh.)

(9) Which involves no sacrifice.

(10) After my servant went to expend it on my instructions.

(11) Hence if he wished to free himself by a lie he could have had recourse to this statement which is considered effective, and so we believe him that he meant a different purse; and yet he, not his agent, is liable, which proves that a mental declaration is not valid.

(12) Stating thus at the time of the sale.

(13) Hence the sale is null.

(14) Hence notwithstanding his return the sale stands.

(15) Hence the sale is valid.

(16) Surely he could (Rashi) — hence the sale stands. [Others: (even) if he desires he cannot go. Hence the sale is null. V, Joseph Karo on Tur. H.M. 206, and commentaries a.l.]

(17) E.g., it became infested with highwaymen. According to the first version, R. Ashi declared that he nevertheless could have gone, e.g., by joining a large company of travellers; hence the sale stands. But according to the second version, 'could he have not gone,' it is implied that there was nothing to prevent him. Here, however, there was, and so the sale is null.

(18) Lit., 'bring her near'.

(19) Lit., 'words'.

(20) Hence he was particular that she should be betrothed only where he stated.

(21) And when he says. 'Divorce her in such and such a place,' he merely indicates where she is to be found.

(22) This refers to nissu'in. q.v. Glos.
(23) Lit., 'goes forth'.
(24) V. Glos.
(25) And they can be divorced without their kethubah.
(26) The Tractate dealing with women's settlements.
(27) Heb. siblonoth, cf. Gr. ** 'dona sponsalitia', the gifts which one usually sent his betrothed.

Talmud - Mas. Kiddushin 50b

SHE IS NOT BETROTHED, BECAUSE THEY WERE SENT ON ACCOUNT OF THE FIRST KIDDUSHIN.[1] IT IS LIKEWISE SO IF A MINOR BETROTHS.[2]

GEMARA. And it is necessary [to state both]. For if we were informed the case of a perutah's worth [for two women], [I might argue,] since money has gone forth from him, he may err [and think the kiddushin valid]. But [with respect to] less than a perutah's worth, I might say that he knows that kiddushin with less than a perutah's worth is invalid, and so when he sends gifts, he sends them as kiddushin.[3] And if these two cases were taught, that is because one may not be clear on a perutah's worth and less;[4] but when a minor betroths, all know that such betrothal is nothing; hence when he sends gifts, I might reason that he sends them as kiddushin. We are therefore informed otherwise.

It was stated: R. Huna said: We pay regard to[5] gifts: and Rabbah said likewise: We pay regard to gifts.[6] Rabbah said: An objection is raised against our teaching: EVEN IF HE SUBSEQUENTLY SENDS GIFTS, SHE IS NOT BETROTHED! — Abaye answered him: There the reason is as stated: BECAUSE THEY WERE SENT ON ACCOUNT OF THE FIRST KIDDUSHIN. Others state, Rabbah said: Whence do I know it?[7] From the reason stated: BECAUSE THEY WERE SENT ON ACCOUNT OF THE FIRST KIDDUSHIN: hence, it is [only] here, because he may err;[8] but elsewhere,[9] they [the gifts] may be kiddushin. And Abaye?[10] — The most remarkable case is taught.[11] It is unnecessary to state in general [that gifts are not betrothal], Seeing that he has not entered into the state of kiddushin at all.[12] But even here, when he has entered the state of kiddushin,[13] I might think that they [the gifts] are kiddushin:[14] hence we are informed [that it is not so].

What is our decision on the matter — R. Papa said: In that place where one [first] betroths and then sends gifts, we pay regard thereto;[15] but in that place where gifts are [first] sent and then one betroths, we have no fear. '[Where] one [first] betroths and then sends gifts'. — But that is obvious! — It is necessary [to state it] only where the majority [first] betroth and then send gifts; but the minority first send gifts and then betroth: I might argue, Let us pay regard to the minority; hence we are informed [otherwise].[16]

R. Aha son of R. Huna propounded to Raba: What if a deed of settlement became known in the market place?[17] — He replied: Simply because a marriage settlement becomes known in the market place we are to assume her a married woman! What is our decision thereon? — Said R. Ashi: 'Where betrothal is [first] performed and then a kethubah[18] is written, we pay regard thereto; but in the place where they first write a kethubah and then betroth. we have no fear. In the place where there is [first] betrothal and then writing' — but that is obvious! — It is necessary to state it only where scribes are rare: I might have thought that he just chanced to find a scribe:[19] hence we are informed [otherwise].

MISHNAH. IF ONE BETROTHS A WOMAN AND HER DAUGHTER OR A WOMAN AND HER SISTER SIMULTANEOUSLY,[20] THEY ARE NOT BETROTHED. AND IT ONCE HAPPENED TO FIVE WOMEN, AMONGST WHOM WERE TWO SISTERS, THAT A MAN GATHERED A BASKET OF FIGS, WHICH WAS THEIRS, AND WHICH WAS OF THE

SEVENTH YEAR,[21] AND DECLARED, BE — HOLD, BE YE ALL BETROTHED UNTO ME WITH THIS BASKET, AND ONE ACCEPTED IT ON BEHALF OF ALL: THE SAGES RULED, THE SISTERS ARE NOT BETROTHED.

GEMARA. Whence do we know it? — Said Rami b. Hama: Because Scripture saith, and thou shalt not take a woman to her sister, to be a rival to her [li-zeror]:[22] The Torah decreed that when they become rivals[23] to each other, he can have no marital connection with [even] one of them.[24] Said Raba to him: If so, how is it written, even the souls that do them shall be cut off from among their people:[25] but if kiddushin with her is not valid, is he then liable to kareth?[26] But, said Raba, the verse refers to consecutive [marriage],[27] and our Mishnah is in accordance with Rabbah, who said: That which cannot be [done] consecutively cannot be [done] simultaneously.

The text [stated]: 'Rabbah said: That which cannot be [done] consecutively cannot be done simultaneously.' Abaye raised an objection against him:

---

(1) But not as new kiddushin.

(2) And sends gifts on attaining his majority.

(3) And the fact that no declaration accompanies them makes no difference, such being unnecessary when preceded by marriage negotiations: v. supra 6a.

(4) He may have over-estimated the value of the article.

(5) Lit., 'fear'.

(6) If a marriage is arranged, and the would-be husband sends gifts in the presence of witnesses, we fear that these may be meant as kiddushin, and so she is a doubtful married woman. Should another man then betroth her, both must divorce her.

(7) That we pay regard to gifts.

(8) Thinking the first kiddushin valid.

(9) Where no kiddushin preceded the gifts.

(10) Does he accept this proof?

(11) Lit., 'he (the Tanna) says: "It is unnecessary".'

(12) The man not having given her previously any token of kiddushin.

(13) By actually offering something as such.

(14) For he discovered his error.

(15) If the gifts are first sent, we fear that they were meant for kiddushin.

(16) So the text in cur. edd. This however involves a difficulty: 'I might argue, let us fear the minority' implies that we are to impose a stringent ruling on that account, whereas here, by regarding the minority, we are lenient. Ri, quoted in Tosaf. s.v. dðv gives another reading: where gifts are first sent and then betrothal is performed — then it is obvious that she is not betrothed. It is necessary to state it only where the majority first send gifts and then betroth, yet a minority do the reverse. I might argue, let us fear the minority, so she is betrothed. Hence we are informed otherwise.

(17) A marriage settlement (kethubah) between a certain man and woman was seen, though it was not known whether they had actually become betrothed, and then she accepted kiddushin from another.

(18) V. Glos.

(19) And had the settlement drawn up before the betrothal, to take advantage of the scribe's presence.

(20) Saying, 'Be ye both betrothed unto me'.

(21) The Talmud discusses this below.

(22) Lev. XVIII, 18.

(23) Heb. zaroth, the technical designation of wives of the same husband in their relationship toward each other.

(24) It is now assumed that the verse refers to a simultaneous betrothal.

(25) Ibid. 29.

(26) V, Glos. in fact, he is not married to either, and so may take the sister.

(27) Lit., 'this after this'.

Talmud - Mas. Kiddushin 51a

Talmud - Mas. Kiddushin 51a

If one gives excessive tithes, his produce is made fit, but his tithes are unfit.[1] But why; let us say: That which cannot be [done] consecutively cannot be [done] simultaneously?[2] — Tithes are different, he replied, because it is possible in the case of half [grains]; for if one declares, 'Let half of each grain be sanctified [as tithe], it is sanctified.[3] But cattle tithes are impossible in halves,[4] and also impossible consecutively;[5] yet Rabbah said: If two [animals] came forth at the tenth, and he [their owner] proclaimed them both as 'tenth', the tenth and the eleventh are intermingled![6] — Cattle tithe is different, because it is valid in error. For we learnt: If the ninth was proclaimed 'tenth', the tenth, 'ninth', and the eleventh, 'tenth', all three are sanctified.[7] But what of the thanksgiving-offering which can neither be in error nor consecutively,[8] yet it was stated: If the thanksgiving-offering is slaughtered over eighty loaves, — Hezekiah said: Forty out of the eighty are sanctified; R. Johanan said: Not even forty out of the eighty are sanctified![9] — Was it not stated thereon: R. Joshua b. Levi[10] said: All agree that if he declared: 'Let forty out of the eighty be sanctified,' they are sanctified; 'forty are not to be sanctified unless eighty are sanctified,' they are not sanctified? They differ only where no specific statement is made:[11] one Master holds that his intention is [to arrange] for the risks;[12] the other, that his intention is for a large offering.[13] Now, why need Raba explain the Mishnah as Rabbah; let him deduce it from the fact that it cannot be followed by[14] intercourse?[15] — He [merely] explains it according to the view of Rami b. Hama.[16]

It was stated: Kiddushin which cannot be followed by intercourse, — Abaye says: It is valid kiddushin;[17] Raba said: It is not valid kiddushin. Raba said: Bar Ahina explained it to me: When a man taketh a woman and has intercourse with her;[18] [this teaches:] kiddushin[19] that can be followed by intercourse is [valid] kiddushin; that which cannot be followed by intercourse is not [valid] kiddushin.

We learnt: IF HE BETROTHS A WOMAN AND HER DAUGHTER OR A WOMAN AND HER SISTER SIMULTANEOUSLY, THEY ARE NOT BETROTHED. This implies, [if he betroths] one of a woman and her daughter or of a woman and her sister [without specifying which], she is betrothed: yet why, seeing that it is kiddushin which may not be followed by intercourse? Hence this refutes Raba! — Raba can answer you: Yet even on your view, consider the second clause: AND IT ONCE HAPPENED TO FIVE WOMEN, AMONGST WHOM WERE TWO SISTERS, THAT A MAN GATHERED A BASKET OF FIGS, WHICH WAS THEIRS, AND WHICH WAS OF THE SEVENTH YEAR, AND HE DECLARED, 'BEHOLD, YE ARE ALL BETROTHED UNTO ME WITH THIS BASKET, AND ONE ACCEPTED IT ON BEHALF OF ALL: THE SAGES THEN RULED, THE SISTERS ARE NOT BETROTHED. Thus, it is only the sisters who are not betrothed, but the strangers are. Now how is it meant? Shall we say that he declared: 'All of you'[20] — it is a case of 'you and the ass acquire', and such does not acquire.[21]

---

(1) Lit., 'spoiled'. After measuring off four measures, he separated one whole measure as tithe, instead of the half (= one tenth) due. Actually. however, only half becomes tithe, while the other half remains ordinary, untithed produce (tebel), and the two are inextricably mixed up. No man may eat tebel, not even a priest or a Levite, and hence the whole tithe is forbidden until it is made fit by a further proportionate separation.

(2) For if he first separates half a measure as tithe and then another half, the second is certainly not tithe. Accordingly, when he separates the whole simultaneously, none of it is tithe, on Rabbah's principle: why then is the produce fit?

(3) Hence, when he separates excessive tithes, it is as though he declared that only half of each grain in the whole measure shall be tithe. But one cannot betroth half a woman.

(4) One cannot count off nine animals and then declare the two halves of the next two as tithe.

(5) After declaring the tenth tithe, the eleventh cannot be declared likewise.

(6) One is actual tithe, and the other is treated as a peace-offering, though it is not known which is which. Yet why so? If he declares the tenth tithe and then the eleventh too, the second declaration is invalid. Why then is his simultaneous declaration valid?

(7) This is not the same as the case mentioned in the previous note, where the eleventh is deliberately and knowingly

called 'tenth'. — Hence, just as the eleventh is sanctified when it is designated 'tenth' in error, so are the tenth and the eleventh sanctified when designated simultaneously. But if one marries a second sister after the first in error, the second marriage is invalid; consequently they are invalid simultaneously.

(8) The thanksgiving-offering was accompanied by forty loaves, which were likewise sanctified (v. Lev, VII, 12ff: and Men. 76a). Now, if the animal is sacrificed to sanctify certain loaves, which, however, are not really those intended, they are not sanctified. Again, if after forty loaves are sanctified another forty are declared holy, the declaration is invalid.

(9) The controversy is assumed to centre on Rabbah's dictum. Hezekiah, R. Johanan's teacher, thus contradicts Rabbah.

(10) In 'Er. 50a and Men. 78b the reading is R. Zera, and the same is required here.

(11) I.e., he merely declares that the slaughtering of the sacrifice shall hallow the loaves.

(12) He brings eighty so that if the forty sanctified loaves become unfit for any reason the other forty may replace them. Hence forty are sanctified.

(13) That the eighty should be sanctified: hence none are. This therefore has no bearing on Rabbah's dictum.

(14) Lit., 'is not given over to'.

(15) For even if he betroths only one, but without specifying which, he cannot take either, for fear she is the sister of the betrothed, and Raba says below that such kiddushin is invalid.

(16) Who bases the ruling of the Mishnah on Lev. XVIII, 18.

(17) Hence he must divorce both, because of doubt.

(18) Deut. XXIV, 1.

(19) Implied by, when a man taketh, i.e., betroths.

(20) I.e., 'All of you be betrothed to me'.

(21) If one bestows gifts upon a living person and an unborn child simultaneously, not even the first acquires his gift, because the second cannot, — metaphorically, 'you and the ass acquire them'. Hence here too, since the sisters cannot acquire aught thereof as kiddushin, the others cannot either.

Talmud - Mas. Kiddushin 51b

Hence it must surely mean that he said: 'One of you,'[1] and it is taught that the sisters are not betrothed.[2] On Raba's view, the first clause is difficult; on Abaye's, the second. Abaye reconciles it according to his opinion. IF HE BETROTHS A WOMAN AND HER DAUGHTER OR A WOMAN AND HER SISTER SIMULTANEOUSLY, THEY ARE NOT BETROTHED; but if [he betrothed] one of a woman and her daughter or of a woman and her sister, she is betrothed. But if he says: 'She of you who is eligible for intercourse, let her be betrothed unto me,' she is not betrothed.[3] And thus IT ONCE HAPPENED TO FIVE WOMEN, AMONG WHOM WERE TWO SISTERS, THAT A MAN GATHERED A BASKET OF FIGS AND SAID, 'She of you who is eligible [for intercourse], let her be betrothed unto me': THE SAGES THEN RULED: THE SISTERS ARE NOT BETROTHED, Raba reconciled it with his opinion: If a man betroths one of a woman and her daughter or a woman and her sister, it is as though he betrothed A WOMAN AND HER DAUGHTER OR A WOMAN AND HER SISTER SIMULTANEOUSLY, AND THEY ARE NOT BETROTHED. AND IT THUS HAPPENED TO FIVE WOMEN, AMONG WHOM WERE TWO SISTERS, THAT A MAN GATHERED A BASKET OF FIGS AND DECLARED, 'Behold, all of you, and one of the two sisters, are betrothed unto me with this basket': THEN THE SAGES RULED: THE SISTERS ARE NOT BETROTHED.

Come and hear: If he gives his daughters in betrothal without specifying which, bogeroth[4] are not included.[5] But minors are included: yet why, Seeing that it is kiddushin which cannot be followed by intercourse?[6] which refutes Raba! — Raba can answer you: Here the circumstances are that there are only one bogereth and one minor. But 'bogeroth'[7] is taught! — By bogeroth, bogeroth in general are meant.[8] If so,[9] why state it? — We refer to the case where she [the bogereth] appointed him [her father] an agent.[10] I might have thought that when he accepted kiddushin he did it on her behalf: hence we are informed that a man does not put aside that by which he benefits.[11] But do we not refer [even] to where she said to him, 'Let my kiddushin be yours!' — Even so, a man does not leave undone an obligation [sc. marrying his daughter] which falls [primarily] upon himself,[12] to perform

one which does not.[13]

Come and hear: If one has two groups of daughters by two wives, and he declares, ‘I have given in betrothal my senior daughter, but do not know whether the senior of the seniors[14] or the senior of the juniors, or the junior of the seniors who is senior to the senior of the juniors,’ all are forbidden, excepting the junior of the juniors: this is R. Meir's opinion![15] — Here the circumstances are that they were [originally] known, and [only] subsequently mixed up.[16] This maybe proved, for it is taught: ‘I do not know,’ not, it is not known. This proves it. If so, why state it? — To counter R. Jose, who said: A man does not permit himself to be brought into doubt;[17] hence we are informed that one does bring himself into doubt.

Come and hear: If a man betrothed one of two sisters and does not know which, he must give a divorce to both![18] — Here [too] the circumstances are that they were [originally] known but only subsequently intermingled. This too may be proved, for it is taught: ‘he does not know,’ not, it is not known. If so, why state it? — The second clause is necessary: If he dies, and has one brother, he must perform halizah[19] with both; if he has two [brothers], one performs halizah and the other yibum;[20] yet if they forestall [the Rabbis’ ruling] and marry them, they are not compelled to divorce them,[21] [Thus:] only halizah and then yibum [is permissible], but not yibum and then halizah, because he may infringe [the interdict against] the sister of one bound to him by the Levirate tie.[22]

Come and hear: If two [strangers] betroth two sisters, and neither knows which, each must give two divorces![23] — Here too it means that they were [originally] known but [only] subsequently mixed up. This may be deduced too, for it is taught: ‘neither knows,’ not, it is not known: this proves it. If so, why state it?The second clause is necessary: If each dies, and each had one brother, this one must perform halizah with both, and the other must perform halizah with both. If one had one brother and the other two brothers,

---

(1) I.e., let the three strangers and one of you be betrothed to me.

(2) Proving that kiddushin which cannot be followed by intercourse is invalid.

(3) For neither is eligible.

(4) V. Glos.

(5) Because a father has no marriage rights over his adult daughters.

(6) As explained on p. 258, n. 2.

(7) Plural.

(8) I.e., in general when a man betroths his daughter without naming her, an adult is not meant.

(9) That he has only one adult and one minor daughter.

(10) To accept kiddushin on her behalf.

(11) Sc. the kiddushin of his minor daughter which belongs to him, whereas that of a bogereth is her own.

(12) Sc. the betrothal of his minor daughter.

(13) A bogereth can see to herself.

(14) From the earlier wife.

(15) This refutes Raba, since intercourse cannot follow such betrothal.

(16) He betrothed a particular daughter, but forgot which.

(17) V. Ned. 61b. So that all of whom there can be the least doubt are definitely excluded, and only the senior of the seniors is forbidden to strangers.

(18) Which again refutes Raba.

(19) V. Glos.

(20) V. Glos.

(21) Lit., ‘they are not taken out of their hands’.

(22) Lit., ‘he comes into contact with the sister etc’. — Thus: A betrothed X or Y, who are sisters, but does not remember which. On A's death, his brothers B and C perform halizah and yibum with X and Y respectively. Now, when B performs halizah with X, C may marry (perform yibum) Y. For if A had betrothed Y, she is C's yebamah, whom he

must marry; while if A had betrothed X, Y is a stranger to C, and he may certainly marry her. For though Y is then the sister of X, who was bound to him by the Levirate tie, and such is forbidden, that tie has already been dissolved by the halizah which B performed. But before the tie is dissolved by halizah marriage is forbidden; hence only that order is permissible, viz., halizah by one brother first and then yibum by the second, (Of course, that is only permissive: the second too may perform halizah, if he does not wish to marry her.) The prohibition mentioned in this note is only Rabbinical, and therefore not insisted upon if the brothers marry both sisters without consulting a Rabbi previously, Yeb. 23b,

(23) This too refutes Raba: v. p. 258, n. 2.

Talmud - Mas. Kiddushin 52a

the one [brother] must perform halizah with both, and of the two, one must perform halizah [first] and the other yibum; yet if they forestall [the Rabbis' ruling] and marry, they are not compelled to divorce them. Thus, only halizah and then yibum, but not yibum and then halizah, because he may infringe [the interdict against] a yebamah's marriage to a stranger.[1]

Come and hear: For Tabyumi learned: If A has five sons and B five daughters, and A declares; 'One of your daughters be betrothed to one of my sons,'[2] each requires five divorces. If one dies, each requires four divorces and halizah from one of them![3] And should you answer, here too it means that they were [originally] known and only subsequently mixed up — but it is taught: 'One of your daughters to one of my sons!'[4] This refutation of Raba is indeed a refutation. Now, the law agrees with Abaye in Y'AL KGM.[5]

IT HAPPENED TO FIVE WOMEN. Rab said: Four deductions follow from the Mishnah; yet Rab was sure only of three:[6] — [i] If one betroths [a woman] with seventh year produce, she is betrothed;[7] [ii] If he betroths her with a stolen article, even her own, she is not betrothed.[8] How does this follow? — Because it is stated: IT WAS THEIRS, AND IT WAS OF THE SEVENTH YEAR: thus, it is only because It was of the seventh year, and thus hefker;[9] but if of any other year,[10] it is not so.[11] [iii] A woman can be an agent for her companion,[12] even when she thereby becomes her rival.[13] And what is the fourth? — Kiddushin which cannot be followed by intercourse. — Then let him count it?[14] — Because he is doubtful whether it is [to be explained] according to Abaye or Raba.[15]

When R. Zera went up [to Palestine, from Babylon], he recited this pronouncement [of Rab] before R. Johanan. Said he to him: Did then Rab say thus! But did he himself not say [likewise]? Surely R. Johanan said: If one stole[16] [an article] and the owner did not abandon hope,[17] both cannot consecrate it: the one [the thief], because it is not his;[18] the other, because it is not [actually] in his possession! — He meant thus: Did Rab [truly] rule as I [did]?

An objection is raised: If one betroths a woman with an article of robbery, violence, or theft,[19] or if he snatches a sela' out of her hand and betroths her therewith, she is betrothed? — There it refers to her own robbery.[20] But since the second clause teaches 'or if he snatches a sela' out of her hand,' it follows that the first clause refers to robbery in general? — It is an explanation. If one betroths a woman with robbery. How so? If he snatches an article out of her hand and betroths her therewith.

---

(1) Lit., 'a yebamah to the market place'. — The general reasoning is the same as in the previous case. When the one brother frees both sisters by halizah, the others may perform halizah and yibum. But before the one brother has performed his task, one of the sisters may be his yebamah, and so neither of the other two brothers can perform yibum.

(2) His sons had authorised him.

(3) This contradicts Raba.

(4) Shewing that there was doubt at the very outset.

(5) An abbreviation of six laws; v. Sanh. (Sonc. ed.) p. 159, n. 3. The K stands for kiddushin which cannot be followed

by coition. In every other controversy between Abaye and Raba the halachah is as the latter.
(6) As explained below — Lit., 'he held three in his hand.'
(7) Though it is free to all.
(8) 'Even her own' — and we do not say that her acceptance proves that she has forgiven him and renounced her rights therein, so that it ceases to be stolen property.
(9) V. Glos. Hence it is not stolen.
(10) Lit., 'the other years of the septennate.'
(11) But the betrothal is invalid.
(12) To accept kiddushin on her behalf.
(13) Zarah, q.v. Glos.
(14) Why is he in doubt?
(15) Supra 51a and b. According to their respective interpretations the Mishnah proves either that it is valid or that it is not; but Rab was not sure which interpretation was correct.
(16) Gazal denotes theft by violence.
(17) Of its return. Yi'ush is a technical term, despair or abandonment, whereby a stolen (or lost) article formally passes out of its first ownership into that of the person actually in possession. — The thief is then liable for having removed it from the ownership of the victim.
(18) But it is technically his if the owner abandons it.
(19) An article of robbery is one stolen by violence; 'theft' denotes stolen in secret; 'violence', an article forcibly taken from its owner and paid for.
(20) I.e., he robbed her, cf. p. 262, n. 7: the argument rejected there is admitted here.

Talmud - Mas. Kiddushin 52b

But our Mishnah [deals with] her own robbery,[1] yet Rab said: She is not betrothed?

There is no difficulty: in the one case, he had [previously] negotiated [with her for marriage];[2] in the other, he had not negotiated.

A certain woman was washing her feet in a bowl of water, when a man came, snatched a zuz from his neighbour, threw it to her and exclaimed: 'Thou are betrothed unto me!' Then that man went before Raba, who said to him; None pay regard to R. Simeon's dictum, viz.: Robbery in general involves the owner's abandonment.[3]

A certain aris[4] betrothed [a woman] with a handful of onions.[5] When he came before Raba he said to him, 'Who renounced it in your favour?'[6] Now, that applies only to a handful;[7] but as for a bunch, he [the aris] can say to him [the landowner], 'As I have taken a bunch, do you take one: one bunch is the same as another.'[8]

A certain agent-brewer[9] betrothed [a woman] with a measure of beer.[10] Then the owner of the beer came and found him. Said he to him, 'Why did you not give [her] of this [beer, which is] stronger?' When he came before Raba, he said to him. 'Go to the better' was said only in reference to terumah.[11] For it was taught: In which case was it ruled that if one separates [terumah] without [the owner's] knowledge, his separation is valid? If one enters[12] his neighbour's field, gathers [the crops] and separates [terumah] without permission: and he [the owner] resents it as [akin to] theft, his separation is not valid; otherwise, it is. And how does one know whether he resents it as theft or not? If the owner comes and finds him, and says to him, 'Go to the better [produce]': and better [crops] are found, the separation is valid;[13] if not, it is invalid.[14] If the owner gathers [crops] and adds [to that already separated], in both cases his separation is valid. But here he acted thus[15] through shame;[16] hence she is not betrothed.

MISHNAH. IF ONE [A PRIEST] BETROTHS [A WOMAN] WITH HIS PORTION,[17]

WHETHER [IT IS OF] THE HIGHER OR OF THE LOWER SANCTITY,[18] SHE IS NOT BETROTHED.[19] [IF] WITH SECOND TITHE,[20] WHETHER UNWITTINGLY OR DELIBERATELY, HE DOES NOT BETROTH [HER]: THIS IS R. MEIR'S VIEW.[21] R. JUDAH SAID: IF UNWITTINGLY, HE HAS NOT BETROTHED [HER]; IF DELIBERATELY, HE HAS. [IF] WITH HEKDESH,[22] IF DELIBERATELY, HE HAS BETROTHED HER; IF UNWITTINGLY, HE HAS NOT: THIS IS R. MEIR'S VIEW. R. JUDAH SAID: IF UNWITTINGLY, HE HAS BETROTHED HER; IF DELIBERATELY, HE HAS NOT.[23]

GEMARA. Shall we say that our Mishnah does not agree with R. Jose the Galilean? For it was taught: [If any one sin] and commit a trespass against the Lord [. . . then he shall bring his guilt-offering]:[24] this is to include lower grade sacrifices as his [the individual's] property:[25] this is R. Jose the Galilean's opinion! — You may even say that it agrees with R. Jose the Galilean: he stated [that view] only whilst it [the animal to be sacrificed] is alive, but not after it is killed. What is the reason? When they[26] acquire [thereof], it is from the table of the Most High that they acquire [it].[27] This may be deduced too; because it is stated: IF ONE BETROTHS [A WOMAN] WITH HIS PORTION, WHETHER [IT IS OF] THE HIGHER OR OF THE LOWER SANCTITY, HE HAS NOT BETROTHED HER.[28]

Our Rabbis taught: After R. Meir's demise, R. Judah announced to his disciples, ‘Let not R. Meir's disciples enter hither, because they are disputatious and do not come to learn Torah but to overwhelm one with halachoth.’[29] Yet Symmachus forced his way through and entered. Said he to them: Thus did R. Meir teach me: If one betroths [a woman] with his portion, whether of the higher or of the lower sanctity, he has not betrothed [her]. Thereupon R. Judah became incensed with them and exclaimed: ‘Did I not say to you, Let not R. Meir's disciples enter hither, because they are disputatious and do not come to learn Torah but to overwhelm me with halachoth: how then does a woman come to be in the Temple Court?’[30] Said R. Jose, Shall it be said: Meir is dead, Judah angry, and Jose silent: what is to become of the words of the Torah? Cannot a man accept kiddushin on his daughter's behalf in the Temple Court? And cannot a woman authorize a messenger to receive her kiddushin in the Temple Court? Again, what if she forces herself in?[31]

It was taught: R. Judah said: She is betrothed;[32] R. Jose ruled: She is not betrothed. Said R. Johanan: Both derive [their views] from the same verse: This shall be thine of the most holy things, reserved from the fire.[33] R. Judah holds, ‘thine’ [implies] for all thy needs;[34] whereas R. Jose maintains it is as [what is offered on] ‘the fire’:[35] just as the fire is for consumption only,[36] so that too is for consumption [by the priest] only.[37]

R. Johanan said:

---

(1) Since it states ‘IT WAS THEIRS’.

(2) Then she accepts it as kiddushin, and thereby it ceases to be robbery, as explained.

(3) V. n. 1. I.e., if we do not know whether the owner abandons the article or not, we assume that he does. Raba told him that this ruling is disregarded: hence the betrothal was invalid.

(4) A tenant-farmer, who pays a certain percentage of his crops as rent.

(5) Rashi. Jast.: leaves of onions, leek.

(6) The onions belong partly to the landlord; did he renounce his portion? I.e., it is theft, and the betrothal is invalid.

(7) Being an indeterminate quantity.

(8) Hence the kiddushin would be valid.

(9) Rashi: who brewed beer from dates supplied to him, receiving a fixed percentage of the profits.

(10) Others, reading ‘pirzuma’, the second run of barley beer.

(11) V. n. 6. infra.

(12) Lit., ‘descends into’.

(13) For this proves that he meant what he said.

(14) For he thus sarcastically shewed his resentment. Now, this criterion applies only to terumah, since it must be separated in any case.
(15) Bidding him take stronger beer.
(16) Being ashamed to express an objection.
(17) Of the sacrifices.
(18) Sacrifices were of two degrees of sanctity: the higher (holy of holies), e.g., the sin-offering, and the lower (less holy), e.g., the peace-offering. The former were eaten by priests only; the latter, partly by priests and partly by their Israelite owners.
(19) Because it is regarded as God's, not the priests'.
(20) Which the Israelite separated and ate in Jerusalem.
(21) He regards second tithe too as God's.
(22) V. Glos.
(23) The reasons are explained in the Gemara.
(24) Lev. V, 21. The trespass referred to is repudiation of liability with a false oath.
(25) If one swears falsely that he did not vow a peace-offering, which is of the lower sanctity, he incurs this sacrifice. Though this law does not hold good in respect to God's property (deduced from, 'and deal falsely with his neighbour' ibid.), the phrase 'against the Lord' shews that even where there is an element of sanctity this sacrifice is involved. Hence it includes lower grade sacrifices, and thus teaches that these rank as the individual's property; this contradicts the ruling of the Mishnah.
(26) The owner and the Priest.
(27) I.e., having been sacrificed, it is certainly God's.
(28) 'HIS PORTION' implies that it is already divided — viz., after its death.
(29) To prove one ignorant.
(30) Sacrifices of the higher sanctity might not be taken out of the Temple Court, not even into the women's compartment. Rashi observes that women were forbidden to enter the Temple Court. Tosaf. holds this to be an error, and explains: how then does a woman come to be in the Temple Court for such a purpose? For that is too unusual to be dealt with.
(31) And accepts kiddushin, though she has no right to be there at all, according to Rashi; or, 'forces' is used metaphorically: what if she insists on entering there for that purpose, though it is unusual? (so presumably understood by Tosaf.)
(32) When given the priests' portion as kiddushin.
(33) Num. XVIII, 9.
(34) Which includes betrothal.
(35) Sc. on the altar.
(36) The portion belonging to God is consumed by fire on the altar, and cannot be disposed of in any other way.
(37) And he cannot put it to any other use.

Talmud - Mas. Kiddushin 53a

A vote was taken [among scholars] and it was resolved: He who betroths with his portion, whether of the higher or of the lower sanctity, has not betrothed. But Rab maintained: The dispute continues.[1] Said Abaye: Reason supports R. Johanan. For it was taught: How do we know that meal-offerings may not be apportioned as against sacrifices?[2] From the verse, and every meal-offering that is baked in the oven . . . shall all the sons of Aaron have.[3] I might think that meal-offerings may not be apportioned as against sacrifices, seeing that they cannot replace them in poverty, yet meal-offerings may be apportioned as against fowl-offerings, since they do replace them in poverty:[4] therefore it is stated, and all that is dressed in the frying pan . . . shall all the sons of Aaron have.[5] I might think that meal-offerings cannot be apportioned as against fowl-offerings, since the latter are blood species and the former a species of flour, but that fowl-offerings may be apportioned as against [animal] sacrifices, since both are blood species; therefore it is stated, and in the baking pan.[6] I might think, fowl-offerings may not be apportioned as against animal sacrifices, since the preparation of the former is by hand, whereas that of the latter is with a utensil;[7] but that meal-offerings can be

apportioned as against meal-offerings,[8] since the preparation of both is by hand:[9] therefore it is stated, and every meal-offering mingled with oil . . . shall all the sons of Aaron have.[10] I might think that a baking pan [offering] shall not be apportioned as against a frying pan [offering], or a frying pan [offering] as against a baking pan [offering], because one is made soft and the other hard;[11] but that one baking pan [offering] may be apportioned as against another,[12] and one frying pan [offering] against another, since both are hard or soft respectively; therefore it is said, or dry, shall all the sons of Aaron have.[13] Now, I might think that sacrifices of the higher sanctity[14] may not be [so] apportioned, yet those of the lower sanctity may be;[15] therefore it is stated: ‘[shall all the sons of Aaron have], a man as his brother,’ and in proximity thereto,if [he offers it] for a thanksgiving:[16] just as higher sanctity sacrifices may not be [so] apportioned, so also offerings of the lower sanctity. ‘A man’ [teaches]: a man takes a share, even if he has a blemish, but not a minor, even if he is without blemish. Now, who is the author of an anonymous teaching in the Sifra? R. Judah:[17] And he states that it is not capable of apportionment at all.[18] This proves it.

Said Raba: And was it not taught as Rab too? But it was taught: The modest withdrew their hands, but the greedy shared.[19] [No.] By ‘shared’ is meant snatched [other priests’ shares]. As the second clause states: It happened that one snatched his own and his neighbour's portion, and he was called Ben Hamzan[20] [robber] until the day of his death. Said Rabbah son of R. Shila: What verse [have we]?[21] — Rescue me, O my Lord, out of the hand of the wicked, Out of the hand of the unrighteous and violent [homez].[22] Rabbah said, [We learn it] from the following: learn to do well, seek judgment, set right the man of violence.[23]

WITH SECOND TITHE, WHETHER UNWITTINGLY OR DELIBERATELY, HE HAS NOT BETROTHED [HER]: THIS IS R. MEIR'S VIEW. R. JUDAH SAID: IF UNWITTINGLY, HE HAS NOT BETROTHED [HER]; IF DELIBERATELY, HE HAS etc. How do we know this? Said R. Aha son of Raba on the authority of tradition:[24] and all the tithe of the land, whether of the seed of the land, or the fruit of the tree, is the Lord's: it is holy unto the Lord:[25] ‘unto the Lord’, and not for betrothing a woman therewith. But what of the terumah of the tithe,[26] whereof it is written, thus ye shall also offer an heave-offering unto the Lord [of all your tithes],[27] — yet we learnt: If one betroths with terumoth,[28] she is betrothed? — That is because ‘unto the Lord’ is not written there.[29] But what of hallah,[30] whereof it is written, [of the first of your dough] ye shall give unto the Lord,[31] — yet we learnt: If one betroths [a woman] with terumoth,[32] she is betrothed? — That is because ‘holy’ is not written there. But what of the seventh year, whereof it is written: For it is a jubilee; it shall be holy unto you,[33] yet we learnt: If one betroths with seventh year produce, [the woman is] betrothed?[34] — That is because ‘unto the Lord’ is not written there. But what of terumah, whereof it is written: Israel is holy unto the Lord, the first-fruits [i.e., terumah] of his produce,[35] — yet we learnt: If one betroths [a woman] with terumoth, she is betrothed? — That refers to Israel.

---

(1) There was no vote on the matter, in which case R. Judah would have revoked his ruling.

(2) One priest to receive meal-offerings and another portions of animal sacrifices to the equivalent value.

(3) Lev. VII, 9f; this implies that all the priests must share in the meal-offerings themselves.

(4) V. Lev. V, II.

(5) Ibid. This insistence that every kind of meal-offering shall be divided among all the priests shews that under no circumstance may they be divided against anything else.

(6) Lev. VII, 9. This being unnecessary for meal-offerings, which have already been dealt with in two verses, apply its teaching to the case under discussion.

(7) Fowl-offerings had their necks wrung by hand; animal sacrifices were slaughtered with a knife.

(8) One kind against another.

(9) The priest taking a handful of the meal and burning it on the altar-ibid. V, 12.

(10) I.e., each kind must be divided by all,

(11) The mahabath (baking pan) was very shallow, and the flour mingled with oil formed a thin dough which was fried by the fire; but the marhesheth (frying pan) was deep: this caused a thick dough which the fire could only cook.

(12) Do you take my portion in A's offering and give me your portion in B's.
(13) This further insistence teaches that each must keep his own.
(14) As the meal-offering.
(15) Do you take my portion of A's peace-offering and I will take yours in B's.
(16) Which is of lower sanctity.
(17) V. p. 247, n. 1.
(18) As explained: one portion cannot be exchanged for another. This proves that in his final opinion the priest's portion is not his own, to do as he likes with, but a gift from God to be consumed.
(19) This describes the state in the Temple after the death of Simeon the Just. Raba assumes that ‘shared’ means that they traded in their portions, bartering one for another. This must agree with R. Judah, who regards the priest's portion as his private property, to be used as he wishes, and shews that there was no majority decision.
(20) [A violent person. Ben (lit., ‘son’) expressing an attributive idea. V. Gesenius-Kautzsch Hebrew Grammar, 128t.]
(21) That hamzan connotes a man of violence, a robber.
(22) Ps. LXXI, 4.
(23) Isa. I, 17.
(24) I.e., it came to him anonymously; Kaplan, Redaction of the Talmud, p. 227.
(25) Lev, XXVII, 30.
(26) The tithe was given to the Levite, who further gave a tenth thereof, called the terumah of the tithe, to the priest.
(27) Num. XVIII, 28.
(28) Plur. of terumah, and this including the terumah of the tithe, v. infra 58a.
(29) It is the emphatic ‘it is the Lord's’ which teaches that it may not be used for betrothal.
(30) V. Glos.
(31) Num. XV, 21; unto the Lord is the same word in Heb. as it is the Lord's.
(32) Pl. of terumah; hallah is included in that term.
(33) Lev. XXV, 12.
(34) V. Mishnah on 50b re the man who betrothed five women with seventh year produce: the strangers among them were legally betrothed.
(35) Jer. II, 3.

Talmud - Mas. Kiddushin 53b

But does that not follow automatically?[1] Rabin the Elder explained it before Rab:[2] Scripture saith, it is [hu] — it must remain in its natural form.[3]

[IF] WITH HEKDESH, IF DELIBERATELY, HE HAS BETROTHED HER; IF UNWITTINGLY, HE HAS NOT: THIS IS R. MEIR’ S VIEW. R. JUDAH SAID: IF UNWITTINGLY, HE HAS BETROTHED HER; IF DELIBERATELY, HE HAS NOT. R. Jacob said: I heard from R. Johanan two [reasons on the laws concerning] the unwitting [use of] tithes [for betrothal], according to R. Judah, and the unwitting [use of] hekdesh, on R. Meir's view, [that] in both cases a woman is not betrothed therewith. One [reason] is that the woman does not wish it;[4] the other, that both do not desire it. But I do not know which is which.[5] Said R. Jeremiah: Let us consider. As for tithes, she is unwilling because of the trouble of the journey;[6] he, however, is pleased that the woman should become his without effort.[7] But as for hekdesh, both are unwilling that hekdesh should be secularised through them.[8] But R. Jacob maintained: The logic is the reverse. Can we not argued as for tithes, she is unwilling on account Of the trouble of the journey, whilst he is unwilling on account of the risks of the journey.[9] But as for hekdesh: it is indeed well that she is unwilling that hekdesh is secularised through her;[10] but is he then unwilling that the woman should become his without effort?[11]

Raba asked R. Hisda: The woman [it is said.] is not betrothed; does the money[12] pass out into hullin? — Seeing that the woman is not betrothed,[13] how is the money to pass out into hullin? R. Hiyya b. Abin asked R. Hisda: How is it in the case of purchase?[14] — In the case of purchase too, he

replied, he gains no title. Thereupon he raised an objection: A shopkeeper ranks as a private individual: this is R. Meir's view. R. Judah maintained: A shopkeeper is as a money-changer.[15] Thus, they differ only in so far as one Master holds that a shopkeeper ranks as a money-changer. and the other regards him as a private individual. Yet all [including R. Meir] agree that if he expends it, trespass is committed?[16] — He argues on R. Judah's opinion. In my view, even if he expends it there is no trespass;[17] but even on your view,[18] you should at least agree with me that a shopkeeper is as a private individual. To which he answered him: No; he is as a money-changer.

Rab said:

---

(1) Since Israel is likened to terumah and as such designated ‘holy to the Lord’, it follows that the same applies to terumah.

(2) The reason of the Mishnah with reference to the second tithe.

(3) I.e., the tithe must be used just as it is given to the Levite, viz., consumed by him, and not diverted to another purpose.

(4) Had she known what it was, she would not have accepted it as kiddushin, and therefore it is betrothal in error.

(5) For which opinion he gave the first reason, and for which the second — The practical difference is this: where the first reason applies — if the woman explicitly declares that she had no objection, the betrothal is valid, and it may be assumed that the man too was willing.

(6) It has to be taken to Jerusalem.

(7) Giving her the tithe actually saves him trouble.

(8) When he gives her hekdesh he withdraws it from its sacred ownership and it becomes secular (hullin). But since this involves a sacrifice, it may be assumed that both are unwilling.

(9) Rashi offers two explanations: (i) Since the tithe must be consumed in Jerusalem, he must bear the risks of the road-risks to which a woman is more exposed than a man, for until it reaches Jerusalem it has no value. For if she redeems it, the money must be carried to Jerusalem, and so he is in the same position. (ii) Even if he bears no responsibility for the risks of the road, yet if she loses it she may be resentful with him for having betrothed her with something of which she derived no benefit, and therefore he too is displeased. Tosaf. accepts the second.

(10) Since she has no particular benefit therefrom — he would have given her something else.

(11) I.e., without any outlay of his own for the present.

(12) Which is hekdesh.

(13) So that his statement is null.

(14) On R. Meir's view, what if one unwittingly buys an article with money belonging to hekdesh; does he acquire it or not?

(15) Me'il. 21b. If the Temple treasurer deposits money of hekdesh with a money-changer and it is bound up, he may not use it; if he does, he is liable for trespass, not the treasurer. If loose, he may use it, for the treasurer knows that he is continually in need of change, and by giving it to him loose he tacitly authorizes him to use it: therefore, if he does, the treasurer is liable. But if he deposits it with a private individual, whether loose or bound up, the bailee may not expend it; therefore if he does use it he is liable. A shopkeeper stands midway between the two.

(16) Now, one is liable for trespass only if the money actually becomes hullin: but that in turn demands that the action shall be effective and the purchase valid.

(17) Because his action is invalid. (Consequently R. Meir must hold that trespass is possible only when one eats food of hekdesh.)

(18) That expenditure is trespass.

Talmud - Mas. Kiddushin 54a

We have scrutinised R. Meir[‘s views] from every angle, and have not found that hekdesh, unwittingly used, is not secularised; if deliberately, it is.[1] But our Mishnah refers to priestly tunics which were not worn out, since they stand[2] to be used, for the Torah was not given to angels.[3] Come and hear: Worn out priestly tunics involve trespass: this is R. Meir's view. Surely the same holds good even if they are not worn out?[4] — No: only when they are worn out.[5]

Come and hear: Trespass can be committed with the new ones, but not with the old. R. Meir said: Trespass can be committed with the old too; for R. Meir used to say: Trespass can be committed with the surplus of the Chamber.[6] Yet why; let us say, since they stand to be used, for the Torah was not given to angels [no trespass is committed with them]. For the walls of the city and its towers came out of the Chamber surplus, as we learnt: The city wall and its towers and all city requirements were provided for out of the chamber surplus![7] — Say not 'R. Meir', but 'R. Judah'.[8]

Come and hear: For it was taught: R. Ishmael b. R. Isaac said: If the stones of Jerusalem fall out [of their place in the walls], no trespass is incurred with them: this is R. Meir's view! — Say not, 'R. Meir', but, 'R. Judah'. If R. Judah, is then Jerusalem [the city itself] sanctified? But we learnt: 'As the lamb', 'As the Temple sheds of cattle' or 'As the wood', 'As the [altar] fire', 'As the altar', 'As the Temple', [or] 'As Jerusalem . . .' R. Judah said: He who says: 'Jerusalem', has said nothing.[9] And should you answer, that is because he did not say: 'As Jerusalem',[10] — surely it was taught: R. Judah said: He who says: 'as Jerusalem' has said nothing, unless he relates his vow to that which is sacrificed in Jerusalem![11] —

---

(1) I.e., not a single statement by R. Meir elsewhere warrants this assumption, which is implicit in R. Johanan's explanation of the Mishnah.

(2) Lit., 'were given'.

(3) Lit., 'ministering angels'. Since the tunics are still fit For service, their unwitting use is no trespass, because they were sanctified in the first place on this tacit understanding. For the priests cannot be expected to disrobe immediately they finish the service and not wear them a moment after. Consequently, they do not pass out of the ownership of hekdesh through unwitting use, and therefore R. Meir holds that she is not betrothed.

(4) Thus proving that their unwitting use involves trespass. (There is no liability to a trespass-offering for the deliberate use of hekdesh.)

(5) Being unfit for service, they are not to be used.

(6) There was an annual tax of one shekel for the public sacrifices payable between the first of Adar and the first of Nisan. The money was placed in a chamber and with it were bought sacrifices between Passover and Pentecost. If the tax was paid between the second of Nisan and the first of Sivan in the year it fell due, it was placed in special chests, which bore the inscription, 'New shekels', with which were bought sacrifices between Pentecost and Tabernacles. The same applied to the shekels paid between the second of Sivan and first of Tishri. The chests were then placed in the shekel chamber where they were divided into three baskets, (v. Shek. III, I, 2.) If the tax was not paid in the year it was due but in the following, it was placed in other chests marked 'old shekels.' These, together with the surplus from the chamber fund each year, were not used for sacrifices but for general town purposes, such as repairing the walls, etc.

(7) This proves that though the money might be used for that, yet if it was unwittingly employed for another purpose, liability is incurred. Hence the same should apply to the priestly tunics.

(8) For R. Judah does indeed hold the view expressed in the last note, as shewn in our Mishnah too,

(9) I.e., the vow is invalid; v. Ned. (Sonc. ed.) p. 27.

(10) I.e., Jerusalem itself is sanctified, and so a vow that something (e.g., food) shall be as Jerusalem is valid and renders the object forbidden. But R. Judah's reason is that the vower omitted 'as'.

(11) For notes v. Ned. (Sonc. ed.) p. 28, n. 3,

Talmud - Mas. Kiddushin 54b

Two Tannaim differ as to R. Judah's view.[1]

'Ulla said on Bar Pada's authority: R. Meir used to say that hekdesh, deliberately used, is secularised; unwittingly, it is not secularised.[2] And only in respect to sacrifice was it said that it is secularised by unwitting [misuse].[3] But since it is not secularised, whereby does he become liable to a sacrifice?[4] But when Rabin came [from Palestine], he explained it in Bar Pada's name: R. Meir used to say that hekdesh, deliberately used, is secularised; unwittingly, is not secularised. And only

in respect of consumption was it said that it is secularised by unwitting misuse.[5]

R. Nahman said in R. Adda b. Ahaba's name: The halachah agrees with R. Meir in respect to [second-] tithe, since the Tanna taught his view anonymously;[6] and the halachah is as R, Judah in respect to hekdesh, since the Tanna taught his view anonymously.

[We learnt anonymously] as R. Meir in respect to [second-] tithe. To what is the reference? For we learnt. Fourth year vintage:[7] Beth Shammai maintain: It is not subject to a fifth[8] or removal;[9] Beth Hillel rule: It is. Beth Shammai rule: The law of fallings and gleanings apply to it;[10] Beth Hillel say: It is all for the vault.[11] What is Beth Hillel's reason? — They deduce the meaning of ‘holy’ from [second-] tithe:[12] just as tithe is subject to a fifth and removal, so is fourth year vintage too. While Beth Shammai do not deduce the meaning of ‘holy’ from tithe. Now, when Beth Hillel rule that it is as [the second-] tithe, with whom do they hold? If with R. Judah, why is it all for the vault, but he maintains that the [second-] tithe is secular property?[13] Hence surely [they agree] with R. Meir.[14]

‘[We learnt anonymously] as R. Judah in respect to hekdesh.’ To what is the reference? — For we learnt: If he [the Temple treasurer] sends it[15] by a responsible person[16] and recollects[17] before it reaches the shopkeeper's hands, the latter is guilty of trespass when he expends it.[18] Yet did we not learn [anonymously] as R. Judah in respect to [second-] tithe? But we learnt: If one redeems his own second-tithe, he must add a fifth,[19] whether it was his [in the first place] or given to him as a gift.[20] Whose [view] is this? Shall we say: R. Meir's? Can one give it as a gift: surely he maintains that [second-] tithe is sacred property? Hence it must surely be R. Judah's![21] — No. After all, it is R. Meir's, but the circumstances are that [the donor] gave it to him [mixed up] in its tebel,[22] and he holds that unseparated gifts[23] rank as unseparated.[24]

Come and hear: If one redeems his own fourth year plantings,[25] he must add a fifth, whether it was [originally] his or given to him as a gift. Who is the author of this? Shall we say: R. Meir? Can one give it away; surely he deduces the meaning of ‘holy’ from second-tithe?[26] Hence it must surely be R. Judah![27] — [No.] After all, it is R. Meir; but here the circumstances are that he gave it in its budding stage;[28] and this does not agree with R. Jose, who maintained: Budding fruit is forbidden [as ‘orlah],because it counts as fruit.[29] Come and hear: If he drew into his possession the [second-] tithe [of another] to the value of a sela’, and had no time to redeem it[30] before it appreciated to two, he must pay a sela’[31] and thus profits a sela’, and the second-tithe is his.[32] Now, whose view is this? Shall we say: R. Meir's; why does he profit a sela’, Scripture saith, And he shall give the money, and it shall be assured to him?[33] Hence it must surely be R. Judah's! — It is indeed R. Judah's, but here we have one anonymous teaching, whereas there we have two.[34] But if an anonymous [ruling] was intentionally taught,[35] what does it matter whether there is one or two? — Said R. Nahman b. Isaac, The halachah is as R. Meir, since we learnt his view in Behirta.[36]

---

(1) According to the first who deals with trespass, R. Judah holds Jerusalem to be sanctified; according to the second, on vows, it is not.

(2) I.e., ‘Ulla agrees with R. Johanan supra 53b.

(3) The Torah decreeing a sacrifice (Lev. V, 15). as though it were converted to hullin. Nevertheless it actually remains hekdesh.

(4) Seeing that his act is null.

(5) I.e., when the object is actually consumed; then it has obviously passed out of the ownership of hekdesh.

(6) As explained below. It is a general principle that if the view of an individual is found cited in a Mishnah anonymously, that is the halachah.

(7) The first three year's vintage of a vineyard, as the first three years’ crop of any tree, was forbidden; the fourth year's was permitted, but on the same terms as second-tithe, viz., it had to be eaten in Jerusalem.

(8) If one redeems it and expends the money in Jerusalem, he need not add a fifth, which is necessary in the case of second-tithe.

(9) If an Israelite separated tithes but did not render them to their rightful owners, he might not keep them in his own house beyond the end of the third and the sixth years of the Septennate, but had to remove and give them to their owners. Likewise, second-tithe might not be kept in the house after that, but had to be taken to Jerusalem. This does not apply to fourth year vintage.
(10) Heb. peret and 'olleloth respectively. Peret, single grapes that fall off during vintaging; 'olleloth, small single bunches, which must not be vintaged but left for the poor, v. Lev, XIX, 10.
(11) I.e., it must all be gathered, to be made into wine.
(12) Fourth year produce, Lev. XIX, 24: But in the fourth year all the fruit thereof shall be holy; second-tithe, ibid. XXVII, 30: and all the tithe of the land, . . is the Lords; it is holy unto the Lord.
(13) With respect to fallings and gleanings it is written: Lev. XIX, 10: and thou shalt not glean thy vineyard, neither shalt thou gather the fallen fruit of thy vineyard. 'Thy' excludes sacred property, which is God's. But if Beth Hillel agree with R. Judah, second-tithe is secular, and since fourth year vintage is assimilated thereto, that also is likewise.
(14) And since the halachah is always as Beth Hillel, that is the equivalent of an anonymous teaching as R. Meir.
(15) Money of hekdesh.
(16) Pikeah, lit., 'bright', 'understanding', connotes the opposite of a deaf-mute, idiot, or minor, who are irresponsibles.
(17) That it is hekdesh.
(18) But not the treasurer; for since he recollected that it was hekdesh, its expenditure is not unwitting as far as he is concerned, and a trespass-offering is incurred only for unwitting misuse: v. Lev. V, 15, and sin through ignorance. This proves that it becomes hullin by unwitting, not deliberate use. For if deliberate use likewise secularises it, the treasurer should he liable, since its secularisation was pursuant to his action, which at the outset was unwitting.
(19) Lev, XXVII, 31: and if a man will redeem aught of his tithe, he shall add unto it the fifth part thereof.
(20) 'His', that it was separated of his own produce; 'given to him as a gift,' that somebody had tithed his produce and then given him the tithe.
(21) And it was taught anonymously.
(22) l.e., he gave him untithed corn, which therefore contained some second-tithe.
(23) 'Gifts' is the technical term for the priestly and Levitical dues, and here includes the second-tithe, though that belonged to the Israelite.
(24) There is an opposing view that they rank as already separated. According to that, if A gives B untithed corn (tebel), what should be separated is already separated, and therefore since on the present hypothesis this agrees with R. Meir that second-tithe is sacred property and cannot be given away, the tithe in it remains A's. Hence it is explained that he holds that it ranks as unseparated and so it can be given to B together with the rest.
(25) V. p. 273, n, 10.
(26) V. supra. Hence it is sacred property.
(27) Thus we have an anonymous Mishnah in agreement with R. Judah in respect to second-tithe.
(28) When the fruit is recognisable, after the flower has dropped off.
(29) On that view fourth year fruit, being sacred property, could not be given away. But here we hold that the term 'fourth year fruit' is as yet inapplicable, because it is not fruit at all.
(30) By paying the owner the money.
(31) , Because he acquired it by meshikah (v. Glos.) and it appreciated in his possession.
(32) Because the second-tithe is secular property, hence it is acquired by meshikah.
(33) Hence tithe is acquired only by money, not meshikah. Actually there is no such verse, and this would appear to be a free paraphrase of Lev. XXVII, 19: then he shall add the fifth part of the money of thy estimation unto it, and it shall be assured to him; Tosaf. Shab. 128a s.v. i,bu. V. supra p. 12, n. 6. — The verse refers to the redemption of a sanctified field, and since R. Meir regards the second-tithe as sacred property, its teaching applies to that too.
(34) The anonymous Mishnah agreeing with R. Meir is found twice, in M.Sh. V, 3 and 'Ed. IV, 5; that agreeing with R. Judah is found only in M.Sh. IV, 6.
(35) Thus, to shew that it is the halachah; v. p. 273. n. 9.
(36) Lit., 'selected (Mishnah).' another name for 'Eduyyoth. This consists of testimonies by scholars on traditional laws, which were examined and declared authentic.

Talmud - Mas. Kiddushin 55a

We learnt elsewhere: If an animal is found between Jerusalem and Migdal Eder[1] or an equal distance [from the city] in any direction: the males are burnt-offerings; the females are peace-offerings.[2] Now, can males be only burnt-offerings and not peace-offerings![3] — Said R. Oshaia: The reference here is to one who comes to accept responsibility for its value; and this is its meaning: we fear that they may be burnt-offerings; it being in accordance with R. Meir, who ruled: Hekdesh can be deliberately converted into hullin.[4] But can [an object of] intrinsic sanctity[5] be redeemed? Did we not learn: There cannot be consecutive trespasses in respect of sacred objects,[6] excepting in the case of [consecrated] animal[s] and vessels of ministry.[7] How so? If a man rode on a [dedicated] cow, then his neighbour came and rode, and then another came and rode, all are guilty of trespass. If he drank out of a golden goblet, then his neighbour came and drank, and then another, all are guilty of trespass? — The latter[8] is according to R. Judah; the former,[9] R. Meir. But from R. Judah we may understand R. Meir's view. Does not R. Judah maintain that hekdesh may be unwittingly converted into hullin, and yet intrinsic sanctity cannot be secularised;[10] hence according to R. Meir too, although hekdesh, by deliberate misuse, is secularised, yet intrinsic sanctity cannot be secularised![11] — There he does not intend to withdraw it into hullin; here he does.[12] But when do you know R. Meir to hold this? [Only] in the case of higher sanctity;[13] do you know him [to hold this view] in respect to lower sanctity?[14] — Said one of the Rabbis to him [the questioner], R. Jacob by name, It follows a fortiori: If objects of the higher sanctity can be secularised, surely those of the lower sanctity can be! It was stated likewise. R. Hama b. ‘Ukba[15] said in R. Jose son of R. Hanina's name: R. Meir used to assert, Hekdesh is secularised by deliberate conversion, but is not secularised by unwitting conversion; this applies to objects of both higher and lower sanctity, a fortiori: if objects of higher sanctity can be secularised, surely those of lower sanctity can be.

---

(1) Gen, XXXV, 21. Lit., ‘Fold Tower,’ a place not far from Jerusalem, on the road to Bethlehem.

(2) Most cattle that wandered out of Jerusalem had been consecrated for sacrifices, and cattle found within this distance were feared to have strayed out. The females are peace-offerings, since only males could be burnt-offerings (Lev. I, 3).

(3) Surely not. They may be the latter: how can they be sacrificed as burnt-offerings?

(4) The animal itself can certainly not be sacrificed. But if a person wishes to accept responsibility, redeem it, and so clear up all doubt, he must reckon with the possibility of its being a burnt-offering. Hence he must bring two animals or two sums of money and declare: ‘If this found animal is a burnt-offering, let it be redeemed by one animal, or by one sum, which shall be likewise a burnt-offering, and the other shall be a peace-offering. Whereas if it is a peace-offering, let it be redeemed by the second, and the first be a burnt- offering, while the animal found becomes hullin.

(5) Lit., ‘sanctity of the body,’ i.e., an animal which is sacred and without blemish, so that it can be offered on the altar; as opposed to monetary sanctity, e.g., a consecrated animal which subsequently receives a blemish; it cannot be sacrificed itself, but must be redeemed and another animal bought with the money, which is sacrificed.

(6) For when the first commits trespass they become hullin and cease to be subject to further trespass.

(7) Used in the Temple. These do not become hullin when secularly used, because they cannot be redeemed as long as they are fit for their purpose.

(8) The Mishnah just quoted.

(9) On the finding of an animal.

(10) For the latter Mishnah, which agrees with R. Judah, must refer to unwitting use, since no offering is incurred for deliberate misuse, and yet it teaches that animals of intrinsic sanctity involve consecutive trespasses, which proves that they are not secularised by the first misuse.

(11) For unwitting misuse, in R. Judah's opinion, is the same as deliberate misuse in R. Meir's.

(12) I.e,, deliberate conversion, according to R. Meir, is stronger than unwitting misuse, on R. Judah's opinion, and therefore it secularises even intrinsic sanctity.

(13) I.e., anything which is entirely used in the service of the Temple. E.g., an article consecrated for Temple repair, and a sacrifice of the higher sanctity, which belonged entirely to God, none of it being eaten by its owner.

(14) And the Mishnah on a strayed animal refers to such, since it may be a peace-offering, which is of the lower sanctity.

(15) Cur. ed.: Akiba; but a R. Hama b. R. Akiba is unknown in the Talmud.

Talmud - Mas. Kiddushin 55b

Talmud - Mas. Kiddushin 55b

Now, R. Johanan was astonished thereat:[1] is then a man bidden, 'Arise and sin, that you may achieve merit!'[2] But, said R. Johanan, we wait until it is blemished;[3] then two animals are brought, and a stipulation made.[4]

The Master said: 'Males are burnt-offerings.' But perhaps it is a thanksgiving-offering?[5] — A thanksgiving-offering too is brought .[6] But then loaves are required?[7] — Loaves too are brought. Yet perhaps it is a guilt-offering?[8] — A guilt-offering requires a two year old [animal], whereas a yearling was found. Then perhaps it is a guilt-offering of a leper or a nazir?[9] — These are rare. Yet perhaps it is a Passover sacrifice? — One takes great care of the Passover sacrifice in its season,[10] and when not in its season[11] it is a peace — offering.[12] Yet perhaps it is a firstling or tithe? — In what respect? That it may be eaten when blemished?[13] Here too, it is eaten when blemished.[14]

The Master said: 'Females are peace-offerings.' But perhaps it is a thanksgiving-offering? — He brings a thanksgiving-offering. But then loaves are required? — Loaves too are brought. But perhaps it is a sin-offering? — A sin-offering is a yearling, whereas a two year old was found. Yet perhaps it is a sin-offering which has passed its year?[15] — That is rare. Then what if a yearling is found? — It was taught: Hanina b. Hakinai said: A yearling she-goat is [sacrificed] as a sin-offering. 'As a sin-offering' — can you think so![16] — But, said Abaye, it is [treated] as a sin-offering:[17] it is led into a stable and left to perish.

Our Rabbis taught: An animal may not be bought with second-tithe money;[18]

---

(1) At R. Oshaia's explanation, supra a, top.

(2) For even if deliberate conversion is effective in respect of intrinsic sanctity, it is nevertheless forbidden; Men. 101a.

(3) When it loses its intrinsic sanctity — i.e., it may no longer be sacrificed, and as such must be redeemed, whereby it becomes hullin.

(4) V. p. 277, n. 1.

(5) Which may likewise be a male.

(6) I.e., two animals are sanctified; cf. p. 277, n. 1.

(7) V. Lev, VII, 2.

(8) And that cannot be settled by bringing a third, because a guilt-offering cannot be vowed but must be incurred by sin.

(9) V. Glos. These were yearlings.

(10) Animals were separated for that purpose on the tenth of Nisan and sacrificed on the fourteenth. During this time they were carefully guarded, and could not have strayed.

(11) I.e., if these are not sacrificed then.

(12) Which he does bring.

(13) I.e., the fear that it may be a firstling or tithe can affect only the question of their redemption when blemished; for these cannot be redeemed, even when blemished, but must be eaten in semi-sanctity, i.e., they must not be killed in the general abattoirs nor weighed with the ordinary weights, in order to emphasize their character.

(14) In the same manner as firstlings and tithes.

(15) Having been lost a long time.

(16) It may not be one, nor is a stipulation possible (v. p. 277, n. 1), since a sin-offering cannot be vowed.

(17) Which for any reason may not be sacrificed, e.g., if its owner dies.

(18) Without Jerusalem. Either because it may become emaciated through the journey (one explanation by Rashi), or for fear that its owner may be tempted to keep it at home for breeding (Tosaf.).

Talmud - Mas. Kiddushin 56a

and if one does buy: if unwittingly, the money must be returned to its place;[1] if deliberately, it must be brought up and consumed in the Place.[2] R. Judah said: That holds good if he intentionally bought it in the first place for a peace-offering;[3] but if it was his intention to turn the second-tithe money

into hullin,[4] whether unwittingly or deliberately,[5] the money must be returned to its place.[6] But did we not learn: R. JUDAH SAID: IF DELIBERATELY, HE HAS BETROTHED [HER]?[7] — Said R. Eleazar: The woman knows that the second-tithe money does not become hullin through her [acceptance thereof as kiddushin], and so she will go up and expend[8] it in Jerusalem.[9]

R. Jeremiah demurred: But what of unclean cattle, slaves, and real estate, in regard to which a man knows that second-tithe money is not secularised by [the purchase of] them; yet we learnt: Unclean cattle, slaves, and land may not be bought with second-tithe money, even in Jerusalem; and if he does purchase [them], he must eat to the value thereof?[10] But [say] here [in the Mishnah] the reference is to a woman, a haberah,[11] who knows.[12]

The Master said: 'If he does purchase [them], he must eat to the value thereof.' Yet why: let the money return to its place, as there? — Said Samuel:

---

(1) The owner. The vendor is compelled to return the money, which must have been given in error. For the purchaser would surely rather carry money than drive an animal to Jerusalem,

(2) Sc. Jerusalem.

(3) Like all animals purchased with second-tithe money.

(4) I.e., he bought the animal intending to eat it outside Jerusalem (Rashi). Tosaf.: He stipulated that the animal should remain hullin, while the vendor should expend the money in Jerusalem.

(5) Whether he knew the money was of second-tithe or not.

(6) If unwittingly, because it was a transaction in error, as above; if deliberately, as a punishment to the vendor for acting as an accessory (Rashi). Tosaf.: In both cases, for fear that the vendor may eat the animal outside Jerusalem, thinking that the stipulation is invalid.

(7) V. Mishnah 52b. This shews that since there is no error, the Rabbis did not nullify the transaction as a penalty (Rashi). Tosaf.: This shews that we do not fear that the woman may expend the money outside Jerusalem, as otherwise his act would be nullified: why then do we fear it in the case of the vendor?

(8) Lit., 'eat'.

(9) Hence there is no question of penalizing anyone (Rashi). Tosaf.: But the vendor thinks that since when one usually buys an animal with second-tithe money, the animal becomes sanctified and the money hullin, so is it now, the stipulation being unable to abrogate normal practice.

(10) I.e., he must take fresh money and declare, 'Wherever the first money is, let it be redeemed by this,' and expend it in Jerusalem. But we do not assume that the vendor himself will take the money thither.

(11) Fem. of haber, associate, one who is learned and very strict in all matters of tithes and laws of purity. Some suggest that the unsettled state of Palestine during the Maccabean wars led to the neglect of tithes and Levitical purity by the masses, the so-called 'am ha-'arez (lit., 'people of the land'), and this, in turn, by reaction, was responsible for the promotion of associations (haburoth), the members of which (haberim) were pledged strictly to observe these laws, V. J.E. art, 'Haber'.

(12) That second-tithe money does not become hullin by her acceptance, and therefore she will expend it in Jerusalem. But the average seller does not know these laws.

Talmud - Mas. Kiddushin 56b

This [holds good] if he [the vendor] has fled. Thus, the reason is that he has fled, but otherwise, we penalize the vendor:[1] but let us penalize the purchaser?[2] — Not the mouse steals, but the hole steals![3] Yet but for the mouse, what harm is done by the hole! — It is reasonable that where the transgression lies, there we impose a penalty.[4]

MISHNAH. IF HE BETROTHS [A WOMAN] WITH 'ORLAH, OR KIL'AYIM[5] OF THE VINEYARD, OR AN OX CONDEMNED TO BE STONED,[6] OR THE HEIFER WHICH IS TO BE BEHEADED,[7] OR A LEPER'S BIRD-OFFERINGS,[8] OR A NAZIRITE'S HAIR, OR THE FIRSTLING OF AN ASS, OR MEAT [SEETHED] IN MILK,[9] OR HULLIN[10] SLAUGHTERED

IN THE TEMPLE COURT, SHE IS NOT BETROTHED.[11] IF HE SELLS THEM AND BETROTHS [HER] WITH THE PROCEEDS,[12] SHE IS BETROTHED.[13]

GEMARA. WITH ‘ORLAH: How do we know it? — Because it was taught: They shall be as uncircumcised unto you: it shall not be eaten:[14] thus I know only the prohibition of eating; whence do we know [that all] benefit [is forbidden], [i.e.,] that one must derive no benefit therefrom, [e.g.,] not dye nor kindle a lamp therewith? From the verse: ‘Then ye shall count the fruit thereof as uncircumcised,’ which includes all.

[WITH] KIL'AYIM OF THE VINEYARD. How do we know it? — Said Hezekiah, Scripture saith, [Thou shalt not sow thy vineyard with divers seeds:] lest [the fruit of thy seed which thou hast sown, and the fruit of thy vineyard,] be defiled [tikdash]:[15] i.e., tukad esh [it shall be burnt in fire]. R. Ashi said: [Interpret,] Lest it be as sanctified.[16] If so, just as a sanctified object transfers its character to its purchase price,[17] and itself becomes hullin, so should kil'ayim of the vineyard transfer its character to its purchase price, and itself become hullin?[18] Hence it must clearly be [explained] as Hezekiah.

[WITH] AN OX CONDEMNED TO BE STONED. How do we know it? — Because it was taught: From the implication of the verse, the ox shall be surely stoned,[19] do I not know that it is nebelah,[20] which is forbidden as food? Why then is it stated, and his flesh shall not be eaten?[19] It informs you that if it was killed after the trial was ended,[21] it may not be eaten, How do we know that benefit [is forbidden]? From the verse, and the owner of the ox shall be clear. How is this implied? — Said Simeon b. Zoma: As a man may say to his friend, ‘So-and-so has gone out clear from his property, and has no benefit whatsoever from it.’ Now, how do you know that this [verse], ‘and his flesh shall tot be eaten,’ comes [to teach the law] if it is [ritually] killed after the trial is ended: perhaps where it is killed after sentence, it is permitted, and this [verse], ‘and it shall not be eaten,’ refers[22] to when it is indeed stoned, and [its teaching is that of] R. Abbahu in R. Eleazar's name. For R. Abbahu said in R. Eleazar's name: Wherever it is said: It shall not, be eaten, thou shalt not eat, ye shall not eat, the prohibitions of both eating and benefit [in general] are understood, unless the writ expressly states [otherwise], as it does in the case of nebelah![23] — That is only where the prohibition of food is derived from, it shall not be eaten;[24] but here the prohibition of eating follows from, ‘it shalt surely be stoned’: for should you think that it is written to intimate prohibition of benefit, Scripture should state, ‘and he shall not benefit’,[25] or, ‘it shall not be eaten’: why add, ‘its flesh’? [To shew that] even if it is slaughtered like [other] flesh, it is [still] forbidden.

Mar Zutra objected: Yet perhaps that is only if one examines a stone, [finds its edge perfectly free from a notch] and kills therewith, for it looks like stoning; but not if it is slaughtered with a knife? — Is then a knife stipulated in the Torah?[26] Moreover, it was taught: One may slaughter with everything,[27] with a stone, glass, or a reed haulm.

But now that the prohibitions of both eating and benefit are derived from, ‘it shall not be eaten,’ what is the purpose of this [clause], ‘and the owner of the ox shall be clear’?[28] — In respect of the benefit of its skin.[29] I might think, ‘its flesh shall not be eaten’ is written: [hence] its flesh is forbidden while its hide is permitted. Now, according to those Tannaim who employ this verse: ‘and the owner of the ox shall be clear’, as referring to half ransom and indemnification for children,[30] how do they know [that] the benefit of the hide [is forbidden]? — From ‘eth besaro’ [‘its flesh’], meaning, that which is joined to its flesh.[31] And the other?[32]

---

(1) By making him return the money.

(2) That he should spend an equal sum in Jerusalem, or go to the vendor and declare, ‘The money you hold is redeemed by this money I have,’ and then expend the new money in Jerusalem (Tosaf.).

(3) The vendor makes possible this misuse of the money.

(4) The transgression, i.e., the money wrongly expended, lies with the vendor: hence he is penalized by the cancellation of the sale.
(5) V. Glos.
(6) V. Ex. XXI, 28f.
(7) V. Deut. XXI, 1-9.
(8) V. Lev. XIV, 1ff.
(9) Ex. XXIII, 19.
(10) V. Glos.
(11) Because all benefit of these is forbidden; hence she receives nothing of value.
(12) Lit., 'their money'.
(13) Because their forbidden character is not transferred to the money.
(14) Lev. XIX, 23.
(15) Deut. XXII, 9.
(16) Hence forbidden. Thus on both versions all benefit of kil'ayim is forbidden.
(17) Lit., 'holds its money', i.e., if sold, its prohibition passes on to the money paid.
(18) Whereas the Mishnah states that its prohibition is not transferable.
(19) Ex. XXI, 28,
(20) V. Glos.
(21) I.e., after sentence.
(22) Lit., comes.
(23) Deut. XIV, 21: Ye shall not eat any nebelah: thou mayest give it unto the stranger . . . or sell it unto a foreigner. Now, a stoned ox is nebelah, and so I might think that benefit is permitted; therefore Scripture states that its flesh shall not be eaten, thus intimating the contrary. And as to the verse 'and the owner of the ox shall be clear', it is needed for some other deduction v. infra.
(24) Then R. Abbahu's exegesis shews that 'eating' includes all benefit.
(25) When both eating and general benefit are to be forbidden, it is reasonable that the former only is mentioned as including the latter. But when only the latter is needed, the former already being known, surely benefit should be expressly stated?
(26) The Torah does not state that only a knife must be used in ritual killing: hence no distinction can be drawn.
(27) Which has a cutting edge free from notches. — Nevertheless, it had to be sharp enough to cut through the wind pipe and the gullet without undue delay; v, J.D. 23, – 4.
(28) Which was interpreted in the same way; supra.
(29) Teaching that even that is forbidden.
(30) Ransom, v. Ex. XXI, 28-30, 35f; it might be thought, by comparing these verses, that half ransom is payable. Payment for child: v. ibid. 22; I might think that the same holds good when the damage is done by a man's ox. Therefore 'and the owner of the ox shall be clear' (E.V. quit) teaches that he is free from both.
(31) Regarding eth, the sign of the acc., as an extending particle.
(32) What does eth teach on his view?

Talmud - Mas. Kiddushin 57a

He does not interpret eth.[1] As it was taught: Simeon the Imsonite[2] — others state, Nehemiah the Imsonite, — interpreted every eth in the Torah,[3] but as soon as he came to, thou shalt fear [eth] the Lord thy God,[4] he refrained.[5] Said his disciples to him, 'Master, what is to happen with all the ethin[6] which you have interpreted?' 'Just as I received reward for interpreting [them],' he replied: 'so do I receive reward for retracting.'[7] Subsequently[8] R. Akiba came and taught: Thou shalt fear [eth] the Lord thy God, that is to include scholars.[9]

THE HEIFER WHICH IS BEHEADED: How do we know it? — Said the School of R. Jannai: 'Forgiveness' is stated in connection therewith,[10] as with sacrifices.[11]

A LEPER'S BIRD-OFFERINGS: How do we know it? — For the School of R. Ishmael taught:

Qualifying and atoning [sacrifices] are mentioned within [the Temple], and qualifying and atoning [sacrifices] are mentioned without: just as with the qualifying and atoning [sacrifices] mentioned within [the Temple], qualifying is made equal to atoning [sacrifices], so with the qualifying and atoning [sacrifices] mentioned without, the qualifying [sacrifice] is made equal to that which atones.[12] It was stated: From what time are a leper's birds forbidden?[13] R. Johanan maintained: From the time of slaughter;[14] Resh Lakish said: From the time they are taken.[15] 'R. Johanan maintained, From the time of slaughter,' it is the slaughter that renders it forbidden. 'Resh Lakish said: From the time they are taken' — it is learned from the heifer that is to be beheaded. Just as the heifer that is to be beheaded is [forbidden] while it yet lives,[16] so are the leper's birds [forbidden] while yet alive. And from what time is the heifer that is to be beheaded itself forbidden? — Said R. Jannai: I have heard a time limit for it, but have forgotten it: while our colleagues maintain,[17] Its descent to the rugged valley,[18] that renders it forbidden.[19] If so, just as the heifer that is to be beheaded is not forbidden from the time it is taken, so are the leper's birds not forbidden from when they are taken? — How now! There it has another determining point;[20] but here, is there any other determining point?[21]

R. Johanan raised an objection to Resh Lakish: Of all clean birds ye may eat:[22] this includes the bird that is set free.[23] But these are they of which ye shall not eat:[24] that includes the slaughtered bird.[25] But should you think that it is forbidden while yet alive, is it necessary [to state it] after slaughter? — You might argue: It is analogous to sacrifices, which are forbidden whilst alive,[26] yet the slaughtering comes and qualifies them [as food]; therefore we are told [otherwise].

He raised an objection: If it is slaughtered and found to be trefa,[27] he must take a companion for the second,[28] and benefit from the first is permitted. But should you think that it is forbidden while yet alive, why may one benefit from the first![29] — The circumstances here are, e.g., it was found to be trefa in its inwards,[30] so that no sanctity fell upon it at all.

He raised an objection: If it is slaughtered without the hyssop, the cedar wood and the scarlet thread,[31] — R. Jacob said: Since it was set aside for its religious purposes it is forbidden; R. Simeon said: Since it was not slaughtered according to its regulations, it is permitted. Now, they differ only in so far as one Master holds that an unfit slaughtering[32] is designated slaughtering;[33] while the other Master holds that such is not designated slaughtering; but all agree at least that it is not forbidden while yet alive? — It is [a controversy of] Tannaim. For the School of Ishmael taught: 'Qualifying' and 'atoning' are mentioned within [the Temple], and 'qualifying' and 'atoning' are mentioned without: just as with the 'qualifying' and 'atoning' mentioned within, 'qualifying' is made equal to 'atoning', so with the 'qualifying' and 'atoning' mentioned without, 'qualifying' is made equal to 'atoning'.[34]

The text [above stated]: 'Of all clean birds ye may eat: this includes the bird that is set free. But these are they which ye shall not eat: that includes the slaughtered bird.' But may I not reverse it? — Said R. Johanan on the authority of R. Simeon b. Yohai: We do not find live creatures [permanently] forbidden.[35] R. Samuel son of R. Isaac demurred: Do we not? But

---

(1) As indicating extension or having any particular significance apart from its grammatical one.

(2) Jast. conjectures that it may mean from Amasia, in Pontus.

(3) As an extending particle.

(4) Deut. VI, 13.

(5) Considering it impossible that this fear should be extended to another.

(6) Pl. of eth.

(7) Lit., 'separating' (myself from them). Since the eth in one verse has no particular significance, it can have none elsewhere. — It is a tribute to his character that although he must have interpreted an enormous number, he was prepared to admit his error and set them all aside.

(8) Lit., 'until'.
(9) Who are the depositaries of God's word; hence the verse exhorts obedience to religious authority.
(10) V. Deut. XXI, 8.
(11) Betrothal with which is invalid.
(12) 'Qualifying' means a sacrifice whose purpose it is to qualify one to enter the Temple and partake of sacred food, i.e., to purify him from uncleanness; 'atoning', a sacrifice to atone for sin. Now, in his purification rites, a leper brought birds, which were sacrificed without the Temple (Lev. XIV, 2ff.) and an animal guilt-offering, which was sacrificed within the Temple (vv. 10-13). Though technically called a guilt-offering, its purpose was nevertheless purificatory, since he had not sinned. Again, the purpose of the beheaded heifer, whose rites were performed without the Temple, was atonement. Whilst within the Temple, all other guilt-offerings, excepting the leper's, had the same object. Now, just as Scripture draws no distinction between a leper's guilt-offering (qualifying) and other guilt-offerings (atonement) which are sacrificed within the Temple, so is no distinction drawn between 'qualifying' and 'atoning' without the Temple, i.e., between a leper's birds and the beheaded heifer. Since therefore betrothal with the latter is invalid, it is likewise so with the former.
(13) That no benefit may be derived from them.
(14) Then the slaughtered one becomes forbidden, while the other (v. Lev, XIV, 7), is likewise forbidden from then until it is actually freed. — Tosaf.
(15) I.e., set aside for that purpose. On the bird that is freed v. preceding note
(16) Like all sacrifices, which are forbidden as soon as they are dedicated.
(17) Lit., 'take it up to say'.
(18) V. Deut. XXI, 4 and Sot. (Sonc. ed.) p. 235, n. 6,
(19) But not as soon as it is taken.
(20) Whilst alive, viz., its descent etc.
(21) If not from when it is taken, what other point of demarcation during its lifetime is possible?
(22) Deut. XIV, 11.
(23) 'All' is an extension.
(24) Ibid. 12.
(25) Both referring to the leper's birds.
(26) From when they are dedicated.
(27) V. Glos.
(28) But not a fresh pair.
(29) For perhaps it was not trefa when taken, in which case, being fit for its ultimate purpose. it became forbidden. How then was that prohibition lifted?
(30) The type of trefa which must have been with it from the very beginning when taken.
(31) V. Lev. XIV, 4.
(32) I.e., unfit to achieve its object, owing to the absence of the hyssop etc.
(33) Hence it is forbidden.
(34) V. p. 284, n. 9. Hence, just as sacrifices ('atoning') are forbidden while alive, so are the leper's birds ('qualifying') too. Thus the School of Ishmael disagrees with R. Jacob and R. Simeon.
(35) Hence 'they which ye shall not eat' cannot include the bird that is freed.

Talmud - Mas. Kiddushin 57b

what of a designated animal[1] and a worshipped animal,[2] which though living creatures, are yet forbidden?[3] — They are forbidden only in respect of the Most High, but are indeed permitted for ordinary use.[4] R. Jeremiah demurred: But animals, active or passive participants in bestiality attested by witnesses, are living creatures and yet forbidden?[5] But, said R. Johanan, we do not find as a rule live creatures that are [permanently] forbidden.[6]

The School of R. Ishmael taught: Because Scripture saith, and he shall let go the living bird it to the open field:[7] just as the field is permitted, so is this [bird] too permitted. Does 'field' come to teach this? But it is required for what was taught. 'Field' [teaches] that one must not stand in Joppa[8]

and cast it into the sea, or in Gabbath[9] and cast it to the wilderness, or stand without the city and throw it into the city; but he must stand within the city and throw it beyond the wall. And the other?[10] — If so, Scripture should write, 'field': why 'the field'? Hence both are inferred. Raba said: The Torah did not order, 'Send it away', for a stumbling-block.[11]

WITH A NAZIRITE'S HAIR, How do we know it? Because Scripture saith, He shall be holy, he shall let the locks of the hair of his head grow long,[12] [teaching], his growth shall be holy.[13] If so, just as a holy object stamps its purchase price[14] and itself passes out into hullin, so should the nazirite's hair stamp its purchase price and itself pass out into hullin?[15] — Do we then read kodesh? We read kadosh.[16]

WITH THE FIRSTLING OF AN ASS. Shall we say that our Mishnah does not agree with R. Simeon? For it was taught: Benefit is forbidden from the firstling of an ass: this is R. Judah's opinion; but R. Simeon permits it! — Said R. Nahman in Rabbah b. Abbuha's name: This means after its neck was broken,[17] and so agrees with all.[18]

MEAT [SEETHED] IN MILK. How do we know it? — For the School of R. Ishmael taught: Thou shalt not seethe a kid in its mother's milk [is stated] three times:[19] one is a prohibition against eating, one a prohibition of benefit [in general], and one a prohibition of seething.[20] Our Mishnah does not agree with the following Tanna. For it was taught: R. Simeon b. Judah[21] said: Meat [seethed] in Milk may not be eaten, but benefit is permitted, for it is said: For thou art an holy people unto the Lord thy God. Thou shalt not seethe a kid in its mother's milk;[22] whilst elsewhere it is said: And ye shall be holy men unto me: [therefore ye shall not eat any flesh that is torn of beasts in the field; ye shall cast it to the dogs.]:[23] just as there it may not be eaten, yet benefit is permitted, so here too.

AND HULLIN SLAUGHTERED IN THE TEMPLE COURT. How do we know it? — Said R. Johanan on R. Meir's authority: The Torah decreed, slaughter mine [i.e., sacrifices] in mine [i.e., the Temple] and thine [i.e., hullin] in thine [i.e., without the Temple]: just as mine [slaughtered] in thine is forbidden,[24] so is thine [slaughtered] in mine forbidden. If so, just as thine in mine is punished by kareth,[25] so is mine in thine punished by kareth? — Scripture saith, and he hath not brought it unto the door of the tent of meeting, to offer it as a sacrifice unto the Lord . . . then he shall be cut off:[26] for a sacrifice [slaughtered without] there is punishment of kareth, but not for hullin slaughtered in the Temple Court. [That being so,] it [the analogy] may be refuted: as for mine in thine [being forbidden], that is because it is punished by kareth! — But, said Abaye, [it is deduced] from this: and he shall kill it [at the door of the tabernacle of the congregation],[27] and he shall kill it [before the tabernacle of the congregation],[28] and, and he shall kill it [before the tabernacle of the congregation],[29] are three superfluous verses.[30] Now, why are they stated? Because it is said: If the place [which the Lord thy God shall choose to put his name there] shall be far from thee . . . then thou shalt kill [of thy herd etc.],[31] [teaching] you may kill far from the place [sc. the Temple], but not in the place, thus excluding hullin, [viz.,] that it may not be killed in the Temple Court. Again, I know this only of unblemished animals, which are eligible to be sacrificed: whence do I know to include blemished ones? I include blemished animals, since they are of a fit species.[32] Whence do I know to include beasts?[33] I include beasts, since they require shechitah,[34] as a [domestic] animal,[35] How do I know to include birds?[36] Therefore it is stated, and he shall kill it, and he shall kill it, and he shall kill it.[37] I might think, One may not kill [hullin in the Temple Court]; yet if he does, it is permitted [to eat it]: therefore it is stated: If the place be far from thee, then thou shalt kill . . . and thou shalt eat: you may eat what you kill far from the place, but not what you kill in the place, thus excluding hullin killed in the Temple Court.[38] Now, I know this only of unblemished animals,

---

(1) An animal designated as an idolatrous sacrifice.

(2) One itself worshipped as an idol.

(3) As sacrifices.

(4) Lit., 'for a layman'.
(5) These are stoned, and benefit is forbidden as soon as they are sentenced.
(6) Hence it is illogical to reverse it.
(7) Lev. XIV, 7.
(8) Jaffa. On the sea coast.
(9) Later name For Gibbethon, in the territory of Dan. It bordered on the desert.
(10) The School of R. Ishmael: how do they know this?
(11) To order it to be freed and at the same time forbidden is a stumbling-block before any person who may capture and eat it, ignorant of its nature.
(12) Num. VI, 5.
(13) Hence forbidden.
(14) If sold; i.e., the money becomes sacred.
(15) Whereas the Mishnah (q.v. 56b) states the reverse.
(16) Not a nominal form but a verbal form. I.e., he himself is not holiness, but in a holy state, and hence not as strong as holiness itself, which teaches that his sanctity is nontransferable. — Actually, the word as written (ase) might read kodesh, but according to tradition (masorah) it is read kadosh.
(17) If unredeemed; v. Ex. XIII. 13.
(18) The Baraitha adds that R. Simeon agrees in that case.
(19) Ex. XXIII, 19; XXXIV, 26; Deut. XIV, 21.
(20) Even without the intention of eating it.
(21) Rashi (infra 58a) appears to read: R. Simeon b. Yohai. But in Bek. 10a the reading is, R. Simeon b. Judah on the authority of R. Simeon (i.e., b. Yohai).
(22) Deut. ibid.
(23) Ex. XXII, 30: 'casting to the dogs' is benefit.
(24) The consecrated animal is forbidden while yet alive, and becomes permitted through the sprinkling of its blood on the altar, which is absent if it is not killed in the Temple. The prohibition, dating from while it is alive, is naturally of benefit in general.
(25) V. Glos.
(26) Lev. XVII, 4.
(27) Lev. III, 2.
(28) Ibid. 8.
(29) Ibid. 13.
(30) They all refer to the killing of peace-offerings, and all imply a limitation: it, i.e., the peace-offering, is to be killed by the Tabernacle, but not others.
(31) Deut. XII, 21.
(32) I.e., fit for sacrifice.
(33) Hayyah, wild beast (e.g., the deer), as opposed to behemah, domestic animal.
(34) V. Glos.
(35) Hence, both may not be done in the Temple Court.
(36) Shechitah is not explicitly stated in the Bible in their case.
(37) One intimates that beasts shall not be killed in the Temple Court; one, fowls; as for the third, two explanations are offered: (i) that it excludes blemished animals; or (ii) that it teaches that these may not be eaten if killed within the Temple. — Hence, when the Baraitha states: I include blemished animals because . . . beasts because . . . the meaning is that these might be deduced by analogy, but for the three verses quoted.
(38) That it may not be eaten.

Talmud - Mas. Kiddushin 58a

which are eligible to be sacrificed; how do I know to include blemished ones? I include blemished animals, seeing that they are of a fit species. And how do I know to include beasts? I include beasts, because they require shechitah, as domestic animals. How do I know to include birds? Therefore it is stated, and he shall kill it, and he shall kill it, and he shall kill it.[1] I might think, One may not kill

[hullin in the Temple]; yet if he does, he may cast it to dogs: therefore it is taught, [ye shall not eat any flesh that is torn of beasts in the field], ye shall cast it to the dogs:[2] 'it' ye may cast to the dogs, but not hullin killed in the Temple Court.

Mar Judah met R. Joseph and R. Samuel, son of Rabbah b. Bar Hanah, standing by the door of Rabbah's academy. Said he to them: It was taught: If one betroths [a woman] with the firstling of an ass, meat [seethed] in milk, or hullin killed in the Temple Court, R. Simeon maintained: She is betrothed; while the Sages rule: She is not betrothed. This proves that in R. Simeon's opinion hullin killed in the Temple Court is not Biblically forbidden.[3] But the following contradicts it: R. Simeon said: Hullin that was killed in the Temple Court must be burned, and likewise a beast of chase killed in the Temple Court![4] They were silent. When they came before Rabbah [and put the difficulty to him], he exclaimed: That controversialist [Mar Judah] has prompted you! The circumstances here[5] are that it was killed and found to be trefa. R. Simeon following his general view. For it was taught: If one kills[6] a trefa,[7] or if one kills [an animal] and it is discovered to be a trefa, both being hullin in the Temple Court,--R. Simeon holds that benefit is permitted; but the Sages forbid it.[8]

IF HE SELLS THEM AND BETROTHS HER WITH THE PROCEEDS, SHE IS BETROTHED. How do we know it? — Since the Divine Law revealed in reference to idolatry, [and thou shalt not bring an abomination into thine house,] lest thou be a cursed thing like it,[9] [which means,] whatever you produce out of it is as itself,[10] it follows that all other objects forbidden in the Torah are permitted.[11] Let us [rather] learn from it?[12] — Because idolatry and seventh year [produce] are two verses that come with the same teaching, and such do not illumine [others].[13] Idolatry, as stated. What about seventh year [produce]? — It is jubilee; it shall be holy unto you:[14] just as a holy object stamps its purchase price [with its own sacred character]. so does seventh year [produce] likewise. If so, just as a holy object stamps its purchase price but itself becomes hullin, so does the seventh year [produce] stamp its purchase price and itself becomes hullin?[15] Therefore it is stated: 'it shall be,' [meaning], it shall remain [be] in its present form. How so? If one buys meat with seventh year produce, both must be removed [from the house] in the seventh year;[16] [if he purchases] fish with the meat, the meat passes out [from seventh year provisions] and the fish enters [i.e., takes its place]; [if he barters] the fish for wine, the fish passes out and the wine enters; oil for the wine, the wine passes out and the oil enters. Thus, how is it? The last on each occasion is stamped with [the nature of] the seventh year, while the [original] produce itself remains forbidden. Now, that is well on the view that [two verses with the same teaching] do not illumine [others]; but on the view that they do, what can be said? — Limitations are written. Here it is written: 'lest thou be a cursed thing like it';[17] and there it is written, it is jubilee: [thus,] only it, but nothing else.[18]

MISHNAH. IF ONE BETROTHS [A WOMAN] WITH TERUMOTH,[19] TITHES, [PRIESTLY] GIFTS, THE WATER OF PURIFICATION AND THE ASHES OF PURIFICATION,[20] SHE IS BETROTHED, EVEN IF AN ISRAELITE.[21]

GEMARA. 'Ulla said: The benefit of disposal[22] does not rank as money. R. Abba [thereupon] raised an objection against 'Ulla: IF ONE BETROTHS [A WOMAN] WITH TERUMOTH, TITHES, [PRIESTLY] GIFTS, THE WATER OF PURIFICATION AND THE ASHES OF PURIFICATION, SHE IS BETROTHED, EVEN IF AN ISRAELITE![23] — He answered: This refers to an Israelite who inherited tebalim[24] from his maternal grandfather[25] [who was] a priest. Now he [Tanna of the Mishnah] holds that unseparated gifts are as though already separated.[26]

R. Hiyya b. Abin asked R. Huna: Does the benefit of disposal rank as money or not? — Said he to him: We have learned it: IF ONE BETROTHS [A WOMAN] WITH TERUMOTH, TITHES, [PRIESTLY] GIFTS, THE WATER OF PURIFICATION AND THE ASHES OF PURIFICATION, SHE IS BETROTHED, EVEN IF AN ISRAELITE. But did we not interpret it as referring to an Israelite who inherited tebalim from his maternal grandfather [who was] a priest, he questioned?

(1) I.e., since the three verses shew that these may not be killed in the Temple Court, just as an unblemished animal, they also shew that they are like it too in that they may not be eaten.
(2) Ex. XXII, 30.
(3) For if it were, it is worthless, since one may derive no benefit from it. But if it is Biblically permitted, she receives something of value, and is betrothed; when the Rabbis then forbid all benefit from it, they cannot thereby nullify a betrothal that is Biblically valid. — The reason of this Rabbinical interdict is that one seeing it may mistake it for a sacrifice that became unfit after it was killed, so that its blood could not be sprinkled, and think that one may benefit from such, whereas that is forbidden.
(4) But burial is insufficient. Now, if the interdict is only Rabbinical, why this stringency? Granted that it may be necessary in the case of an animal, which can be mistaken for a sacrifice which became unfit after it was killed (which must be burned, not buried), yet why demand it for a beast of chase, which cannot be mistaken? Hence the interdict must be Biblical: then it is logical that the Rabbis were stringent in the method of disposal.
(5) With the case of betrothal.
(6) I.e., by ritual shechitah.
(7) Perceptible as such even before it is killed.
(8) In R. Simeon's view, if the slaughter does not qualify it for food, because it is otherwise forbidden, it is not slaughter at all, and no interdict which would normally result from the killing takes effect. Therefore one may benefit therefrom and it is valid for betrothal.
(9) Deut. VII, 26.
(10) I.e., if an idol is sold, the money too is accursed, viz., forbidden.
(11) Sc. the money received for them if sold.
(12) That others are similar.
(13) V. p. 169, n. 7.
(14) Lev. XXV, 12.
(15) In the sense that it is no longer subject to seventh year prohibitions.
(16) I.e., private ownership must be renounced.
(17) The text as emended by Maharsha.
(18) I.e., the peculiar laws of idolatry and seventh year produce as stated here do not apply to anything else.
(19) Plur. of terumah, v. Glos.
(20) V. Num. XIX.
(21) I.e., even if he who betroths is an Israelite; that is the assumed meaning. Now, an Israelite has no direct benefit in these, save the indirect one of being able to dispose of them to whatever priest or Levite he desires; and she too has only the same benefit. Since the Mishnah rules that the betrothal is valid, it follows that this benefit of disposal is considered to possess a monetary value.
(22) V. preceding note; lit., 'the benefit of pleasure' — the pleasure of disposing to whomever one desires.
(23) This proves the reverse; v. n. 5.
(24) Pl. of tebel, q.v. Glos.; lit., 'tebalim fell to him'.
(25) Lit., 'from the house of the father of his mother'.
(26) Even a priest had to separate the priestly gifts. but retained them for himself. Hence the priestly dues contained in these tebalim belong to the heir, who may sell, since he cannot eat them himself, and so they rank as money. But ordinary gifts which must be given away do not rank as money.

Talmud - Mas. Kiddushin 58b

— He replied: You are huza'ah.[1] So he was ashamed, for he thought that he meant it with reference to the subject.[2] I meant this, he reassured him, R. Assi of Huzal[3] agrees with you.

Shall we say that it[4] is a controversy of Tannaim? [For it was taught.] He who steals his neighbour's tebel must pay him the value of his tebel:[5] this is Rabbi's view. R. Jose son of R. Judah said: He must pay only for the hullin it contains. Surely they differ in this: one Master holds that disposal rights are money, while the other maintains that they are not? — No: all agree that disposal