

## Mishna - Mas. Orlah Chapter 1

MISHNAH 1. IF ONE PLANTS [A FRUIT-TREE] TO SERVE AS FENCING<sup>1</sup> OR TO PROVIDE BEAMS,<sup>2</sup> IT IS EXEMPT FROM [THE LAW OF] 'ORLAH.<sup>3</sup> R. JOSE SAYS: EVEN IF HE INTENDED<sup>4</sup> ONLY THE INWARD [-FACING PART OF THE TREE]<sup>5</sup> FOR FOOD, AND THE OUTWARD [-FACING PART] FOR FENCING, THE INWARD [-FACING PART] IS SUBJECT [TO 'ORLAH], AND THE OUTWARD [-FACING PART] IS EXEMPT.<sup>6</sup>

MISHNAH 2. IF AT THE TIME WHEN OUR FOREFATHERS CAME INTO THE LAND<sup>7</sup> THEY FOUND [A TREE ALREADY] PLANTED IT WAS EXEMPT,<sup>8</sup> IF THEY<sup>9</sup> PLANTED [A TREE], WHILST THEY HAD NOT YET CONQUERED [THE LAND],<sup>10</sup> IT WAS SUBJECT. IF ONE PLANTED A TREE<sup>11</sup> FOR [THE USE OF] THE MANY,<sup>12</sup> IT IS SUBJECT. BUT R. JUDAH DECLARES IT EXEMPT.<sup>13</sup> IF ONE HAS PLANTED [A TREE] IN THE PUBLIC DOMAIN,<sup>14</sup> OR IF A NON-ISRAELITE HAS PLANTED,<sup>15</sup> OR IF A ROBBER<sup>16</sup> HAS PLANTED ON A BOAT,<sup>17</sup> OR [IT IS A TREE] THAT HAS GROWN OF ITSELF,<sup>18</sup> IT IS SUBJECT TO 'ORLAH.

MISHNAH 3. IF A TREE WAS UPROOTED<sup>19</sup> AND THE HARD SOIL<sup>20</sup> TOGETHER WITH IT,<sup>21</sup> OR IF A STREAM SWEPT IT AWAY AND THE HARD SOIL TOGETHER WITH IT,<sup>21</sup> [THEN] IF IT COULD HAVE LIVED<sup>22</sup> IT IS EXEMPT,<sup>23</sup> BUT IF [IT COULD] NOT, IT IS SUBJECT.<sup>24</sup> IF THE HARD SOIL HAS BEEN DETACHED FROM ITS SIDE,<sup>25</sup> OR IF A PLOUGHSHARE SHOOK IT, OR IF SOMEONE SHOOK IT,<sup>26</sup> AND ONE RESET<sup>27</sup> IT WITH EARTH,<sup>28</sup> [THEN] IF IT COULD HAVE LIVED,<sup>29</sup> IT IS EXEMPT, BUT IF NOT — IT IS SUBJECT.

MISHNAH 4. IF A TREE WAS UPROOTED<sup>30</sup> AND ONE ROOT THEREOF IS LEFT,<sup>31</sup> IT IS EXEMPT.<sup>32</sup> NOW HOW MUCH MUST THE [THICKNESS OF THE] ROOT BE?<sup>33</sup> R. SIMEON B. GAMALIEL SAID IN THE NAME OF R. ELIEZER B. JUDAH A MAN OF BERTOTHA:<sup>34</sup> AS [THICK AS] A PIN [USED FOR] STRETCHING.<sup>35</sup>

MISHNAH 5. IF A TREE WAS UPROOTED AND IT HAS A BENT-DOWN [AND ROOTED] SHOOT,<sup>36</sup> AND IT [THE TREE] DERIVES SUSTENANCE FROM IT [THE SHOOT], THE OLD [TREE] TURNS TO BE [CONSIDERED] LIKE THE SHOOT.<sup>37</sup> IF ONE BENT [AND ROOTED] A SHOOT THEREFROM<sup>38</sup> YEAR AFTER YEAR, AND IT BECAME DETACHED, ONE COUNTS<sup>39</sup> FROM THE TIME IT BECAME DETACHED.<sup>40</sup> THE CONNECTING SHOOT OF VINES,<sup>41</sup> AND A CONNECTING SHOOT [GROWING] ON ANOTHER CONNECTING SHOOT, EVEN IF ONE ROOTED THEM IN THE SOIL,<sup>42</sup> ARE PERMITTED [FOR CONSUMPTION].<sup>43</sup> R. MEIR SAID: IN AN INSTANCE<sup>44</sup> WHERE ITS<sup>45</sup> [PRODUCTIVE] CAPACITY<sup>46</sup> IS GOOD, IT IS PERMITTED, BUT IN AN INSTANCE WHERE ITS [PRODUCTIVE] CAPACITY IS DEFICIENT,<sup>47</sup> IT IS PROHIBITED. SO, TOO, IF A BENT-DOWN [AND ROOTED] SHOOT HAS BECOME DETACHED AND IT IS FULL OF FRUIT, [THEN] IF IT<sup>48</sup> INCREASED<sup>49</sup> TWO HUNDREDFOLD,<sup>50</sup> IT IS PROHIBITED.<sup>51</sup>

MISHNAH 6. IF A SHOOT OF 'ORLAH OR OF THE 'MIXTURE OF THE VINEYARD'<sup>52</sup>, BECAME MIXED UP WITH [OTHER] SHOOTS,<sup>53</sup> IN SUCH AN EVENT ONE MAY NOT GATHER [THE FRUIT]; BUT IF ONE HAS GATHERED [IT], IT IS NEUTRALIZED IN TWO HUNDRED-AND-ONE,<sup>54</sup> PROVIDED ONLY THAT [IN GATHERING THE FRUIT] HE DID NOT ACT DELIBERATELY.<sup>55</sup> R. JOSE SAID: EVEN IF HE ACTED DELIBERATELY, IT BECOMES NEUTRALIZED IN TWO HUNDRED-AND-ONE.<sup>56</sup>

MISHNAH 7. LEAVES, SPROUTS, SAP OF VINES,<sup>57</sup> AND VINE-BUDS<sup>58</sup> ARE PERMITTED IN RESPECT OF ORLAH<sup>59</sup> AND REBA 'I,<sup>60</sup> ALSO TO A NAZIRITE,<sup>61</sup> BUT ARE

PROHIBITED IN [THE EVENT OF THEIR COMING FROM] AN ASHERAH.<sup>62</sup> R. JOSE SAID: VINE-BUDS ARE PROHIBITED BECAUSE THEY ARE FRUIT.<sup>63</sup> R. ELIEZER SAID: IF ONE CURDLES [MILK] WITH THE RESINOUS SUBSTANCES OF [A TREE LIABLE TO] ORLAH, IT IS PROHIBITED.<sup>64</sup> R. JOSHUA SAID: I HAVE RECEIVED AN EXPLICIT TRADITION<sup>65</sup> THAT IF ONE CURDLES [MILK] WITH THE RESINOUS SUBSTANCE OF THE LEAVES, OR WITH THE RESINOUS SUBSTANCE OF THE ROOTS, IT IS PERMITTED,<sup>66</sup> BUT WITH THE RESINOUS SUBSTANCE OF THE UNRIPE BERRIES, IT IS PROHIBITED, BECAUSE THESE ARE FRUIT.<sup>67</sup>

MISHNAH 8. GRAPES LESS THAN A THIRD GROWN,<sup>68</sup> AND GRAPE-STONES,<sup>69</sup> AND GRAPE-HUSKS,<sup>70</sup> AND THE TAMAD<sup>71</sup> MADE OF THESE, THE SKIN OF A POMEGRANATE AND ITS SPROUTINGS,<sup>72</sup> THE SHELLS OF NUTS, AND FRUIT-STONES,<sup>73</sup> ARE PROHIBITED IN RESPECT OF 'ORLAH, ASHERAH AND A NAZIRITE,<sup>74</sup> BUT PERMITTED IN RESPECT OF REBA'I.<sup>75</sup> UNDERRIPE FRUIT<sup>76</sup> IS PROHIBITED [IN RESPECT OF] ALL OF THEM.<sup>77</sup>

MISHNAH 9. R. JOSE SAID: ONE MAY PLANT A SHOOT<sup>78</sup> OF [A TREE WHICH IS] 'ORLAH,<sup>79</sup> BUT ONE MAY NOT PLANT A NUT OF [A TREE WHICH IS] 'ORLAH, BECAUSE IT IS FRUIT,<sup>80</sup> AND ONE MAY NOT GRAFT [PALM BRANCHES BEARING] EARLY DATE BERRIES<sup>81</sup> BELONGING TO [A TREE WHICH IS] 'ORLAH.<sup>82</sup>

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(1) Sc. to the orchard or field on the outskirts of which he plants it.

(2) I.e., to be ultimately lopped or cut down for timber, either for building or for fuel.

(3) In Lev. XIX, 23 it is enjoined: And when ye shall have planted all manner of trees for food, then ye shall count the fruit thereof as forbidden (lit., 'uncircumcised', 'orlah'); three years shall it be as forbidden unto you. Thus only trees grown to provide food for human consumption are subject to this law of 'orlah.

(4) Lit., 'he said'; cf. the use of the verb in, e.g., I Kings V, 19.

(5) I.e., the fruit on the branches spreading towards the interior of the field or orchard.

(6) Also if he intended the upper part of the tree for food and the lower for timber or vice versa, only the part meant for food is liable to 'orlah (V. T.J.).

(7) I.e., the Land of Israel, led by Joshua.

(8) Because 'orlah applies only 'when ye shall have planted' (Lev. loc cit.).

(9) 'They' in the impersonal sense. I.e., someone planted, whether Israelites or non-Israelites

(10) Sc. completely, but as long as they had already entered it.

(11) On his private ground.

(12) I.e. he intends to waive his property-rights in the fruit, which is thus to become available gratis to the general public. Such a tree is subject to 'orlah in accordance with the hermeneutical application of the wording of the text (Lev. loc. cit.) 'shall be forbidden unto you' ( **לך** ) which as a plural has an 'extending' effect (Ribbui) on the application of the precept, viz., to make the latter include even trees planted for unrestricted public benefit.

(13) In his opinion, if a word or expression having the force of 'extending' is followed by another word or expression itself of similar force, then the latter is to be interpreted as having the effect of 'limiting' (Men. 89a). In our case the wording 'when ye shall have planted all manner of trees for food' by itself might have operated as 'extending' the application of the law of 'orlah to all trees whether the owner, at the time of planting, intends to retain his right to the fruit, or not; but the immediately following wording forbidden unto you' (which, too, on its own has the force of 'extending') has now the effect of 'limiting' the application of the law to trees planted for producing fruit intended to be the owner's property.

(14) But for his own benefit.

(15) For an Israelite, whether the non-Israelite is paid to do it, or he does it of his own free will without pay (Maim.) on an Israelite's ground (Bert.); but L. says, whether on an Israelite's or a non-Israelite's ground, as long as it is for an Israelite, nor does it make any difference whether it is in the Land of Israel or outside thereof — the only difference being that in Palestine the liability to 'orlah is directly derived from Scripture, whereas in other lands (v. infra III, 9) 'orlah is an ancient tradition.

(16) I.e., one who had acquired another person's ground by forcible means in face of protest; Bert. adds, only if the original owners have given up hope of recovering their property. L. says he cannot see why this should make a difference here.

(17) Made of earthenware, and which touches the ground (v. Hal. II, 2). Earthenware permits tree-roots to strike through and absorb sap from the ground beneath it (v. T.J.). If the boat is made of wood, liability to 'orlah would apply only if the boat has a hole or crack, since otherwise wood does not allow roots to strike through.

(18) I.e., was planted unintentionally (v. Rashi to Sot. 43b). Sc. in a fruit cultivated area, but not if in uncultivated or forest land; in the latter kind of place such a tree is exempt from 'orlah, unless it produces enough fruit to make worth while the trouble taken over it (sc. in conveying it to inhabited quarters). So T.J., v. however Rash to our Mishnah.

(19) Sc. after the three years of 'orlah had passed.

(20) Lit., 'rock'.

(21) And such tree was reset into soil.

(22) From the soil adhering to it, without the adding of more soil.

(23) Even when reset in new soil, because it derives its sustenance from and through the soil in which it was originally planted, and in respect of which it had already served the 'orlah period.

(24) Because it derives its sustenance from a new source, and is therefore accounted as a tree newly planted.

(25) By wind or flood.

(26) I.e., pulled it up, but not right out, and shook off the earth and replaced the tree in the same spot.

(27) Lit., 'made it (up)'.

(28) Reading: **בַּעֲפָר** I.e., the loosened soil and/or other earth. Another reading is **כַּעֲפָר**: (by shaking etc.), he made it (viz. the hardened soil) like dust (or loose earth).

(29) Without the attention mentioned.

(30) V. supra Mish. 3, n. 7.

(31) Sc. fast in the soil.

(32) Since it continues without interruption to derive its sustenance from its original soil, in which position it has already served the 'orlah period.

(33) Sc. so that, through its having remained in the soil, the tree might be exempt from 'orlah.

(34) In Upper Galilee. Baer (in Siddur Abodath Israel, to Aboth III,7) identifies it with Berothah (Ezek. XLVII, 16) and Berothai (II Sam. VIII, 8) which places have not been precisely located (v. BDB).

(35) **מִיתוֹן**; var. lec **מִיתוּחַ** sc. cloth after weaving or thread in embroidery v. fast.

(36) **בְּרִיכָה**, a shoot bent down and its top set into the soil (where it strikes roots) whilst this shoot remains attached to the stem.

(37) Sc. in respect of 'orlah. Now that the tree is uprooted, the whole tree derives the whole of its sustenance through a new channel, viz., the bent and rooted shoot, and the old tree as well as the bent shoot are liable to 'orlah. As long as the tree stood and the shoot was attached to it, the latter, not with standing its top being sent in the soil, was considered as deriving most of its sustenance through the medium of the old stem (and was therefore at that time exempt from 'orlah).

(38) I.e., a (secondary) shoot which sprouted out of an original bent shoot.

(39) Sc. the three years of 'orlah.

(40) As soon as the shoot is detached from the tree it begins a new life of its own, and is therefore liable to orlah as if it were a newly planted tree.

(41) It is usual to trail and graft a long shoot of one vine on another vine.

(42) The middle of a connecting shoot is sometimes set into the soil.

(43) Such connecting shoots are not subject to 'orlah because being still attached to the old vine, they are presumed to be drawing the bulk of their sustenance from the latter.

(44) Lit., 'place'.

(45) I.e., that of the parent vine.

(46) Lit., 'strength', vitality'.

(47) Lit., 'bad'.

(48) I.e., the fruit.

(49) After the shoot became detached.

(50) V. Kil. V, 6; cf. infra 6.

(51) The overwhelming quantity of fruit having been produced as from a new source of sustenance, the whole of the

fruit is subject to 'orlah. This applies also to a tree with fruit on it, which was completely uprooted and then replanted.

(52) This is prohibited in Deut. XXII, 9, v. Kil. VIII, 1. In the case of a vineyard a whole bed, and not merely one shoot, must be understood here.

(53) And one cannot definitely distinguish the prohibited from the permitted.

(54) I.e., if the permitted trees are two hundred times as many as the prohibited, the latter, if not identifiable, are considered as neutralized in the total, and all the trees are permitted.

(55) The provision whereby the prohibition attaching to any prohibited commodity is neutralized through the latter being indistinguishably mixed with a given multiple of like permitted commodity, is valid only when such a state of affairs is an unintentional fait accompli; but not if deliberately contrived.

(56) It should be noted that he does not dispute the principle on which the first-stated opinion is based (v. note 2), but he rules to the contrary on the ground that no Rabbinic precautionary prohibition is enacted for unlikely contingencies — and it is unlikely that one should plant a new tree among other, older trees without some distinguishing mark (v. Rashi to Git. 54b). In the case of a vineyard, it may be that he is aware of having accidentally made one of his vines kil'ayim, but he does not know which vine (v. T.J.).

(57) Which oozes out when a vine is cut during the month of Nisan (about April).

(58) Incipient grape berries.

(59) Since those parts of the tree are not looked upon as 'fruit' to which alone the law of 'orlah applies, according to Lev. XIX, 23, 'ye shall declare the fruit thereof forbidden ('orlah)', v. Sifra ad. loc.

(60) Lit., 'the fourth', sc. year in age. Lev. XIX, 24 says of the tree the fruit of which had been prohibited as 'orlah' for three years, And in the fourth year all the fruit thereof shall be holy, for giving praise unto the Lord. The technical term for this fruit is neta' (the plantation of) reba'i. The fruit of the fourth year could not be eaten without having been first redeemed in the same manner as the Second Tithe.

(61) According to Num. VI, 1-4, a man who takes the vow to be a Nazirite, shall abstain from wine and strong drink: he shall drink no vinegar of wine, or vinegar of strong drink, neither shall he drink any liquor of grapes, nor eat fresh grapes or dried. All the days of his Naziritship shall he eat nothing that is made of the grape-vine, from the pressed grapes even to the grape-stone. As Scripture says: 'he shall not drink . . . nor eat' the prohibition applies only to such portions of the vine which it is usual to consume either as food or drink, and not to those other parts of the vine enumerated in the Mishnah.

(62) A tree (or grove) which is itself an object of worship, or under which an idol has been placed. Not only is the planting or the appointing of an Asherah prohibited (Deut. XVI, 21) and its destruction, in the Land of Israel, commanded (ibid. XII, 2-3). but according to the general rule (ibid. XIII, 18) and there shall cleave nought of the thing devoted (sc. to idolatry) to thy hand, no benefit whatsoever may be enjoyed from even the most insignificant portion of an Asherah or of any other idolatrous object.

(63) I.e., ultimately.

(64) Since, in R. Eliezer's view, the resinous substance is considered as 'fruit'.

(65) Lit., 'I have heard in explicit form'. Halevy (Doroth II, p. 265 ff) says the traditions ( **שועו** ) cited by the Tannaim were from two main sources: (a) Teachers who transmitted early Mishnayoth, or decisions arrived at in the schools, literally as heard by them, but without elucidation. Such teachers are designated in T.J. **רבה דמתניתא** , and in T.B. **רבו שלמדו מקרא ומשנה** , (v. B.M. 33 and Rashi ad. loc.). (b) Teachers who explained the reasons for the main laws, and taught in what circumstances and how these were to be varied. Sometimes a scholar had not managed to get such elucidation from the latter kind of teacher, so he brought the matter before the Assembly of Scholars where it was clarified and amplified by one of the scholars (called in T.J. **רבה דאולפנא** and in T.B. **רבו שלמדו חכמה** ). In our case both R. Eliezer and R. Joshua had learnt the general rule that the resinous substance of a tree which is 'orlah was prohibited, but R. Joshua had, in addition, (from his **רבו דאולפנא** ) detailed instruction as to its application and was able to supply it to his colleagues in Jamnia, when the main rule was stated by R. Eliezer.

(66) Because this resinous substance is from parts of trees which are definitely not considered as 'fruit'.

(67) Which can be and — in certain circumstances — are consumed. R. Joshua's amplified form of the rule is the accepted law.

(68) Which have fallen off a vine (L.). For the term **ענקוקלות** meaning 'undeveloped grapes', v. Dictionaries.

(69) **חרצנים** .

(70) **וגים** cf. Num. VI, 4. Our translation follows Targum Jonathan and R. Judah in Nazir 34b (so also Maim.); but R.

Jose (Nazir loc. cit.) reverses the identifications as does also Targum Orkelos, v. Ibn Ezra to Num. loc. cit.

(71) תמוך a drink made by allowing grape-stones or husks or lees to steep in water (for a continuous period, a derivative of תמיד ; v. Ma'as. V. 6.

(72) The flower-like leaves on top of the pomegranate. These sproutings and the peel are prohibited in respect of 'orlah, not because they are considered fruit, but because they can be used for dyeing, and it is prohibited to dye with 'orlah (v. infra III, 1).

(73) E.g., of dates, olives or peaches.

(74) In the Nazirite's case the Mishnah thinks of grape-husks and stones; cf. supra Mishnah 7. n. 8.

(75) Reba'i, like the Second Tithe, is subject to a prohibition of eating (outside Jerusalem) only (but not of otherwise enjoying benefit therefrom), so that the prohibition applies only (a) to fruit ripe enough to be eaten (and not e.g., to grapes only a third grown), and (b) to such parts of the fruit as are normally eaten (and therefore not to skin, nut-shells, fruit-stones, etc.).

(76) Fruit which has fallen off the tree when it had grown more than a third of the normal full size of that particular fruit, i.e., when in a more developed condition than ענקוקלות (undeveloped grapes).

(77) Viz., 'orlah, Asherah, Naziritship, or (since such fruit can be eaten) even reba'i.

(78) Sc. on which there is no fruit.

(79) Because it is only the fruit, but neither the stem nor the branch, that is prohibited in respect of 'orlah.

(80) He agrees, however, that in the event of one having already (planted) fruit of 'orlah (without having known the law), or having already bent down and rooted, or grafted a branch of 'orlah bearing fruit-buds, the fruit grown from these is permitted (after the three years of orlah), in conformity with the principle referred to infra II, 10, n. 6; v. 'A.Z. 48b and commentaries.

(81) According to M. Sh. I, 14 these are considered as fruit in all respect except that of tithes.

(82) As this Mishnah reads, this statement may be either anonymous, or yet another statement by R. Jose, but in T.J. it is established that it is by R. Jose.

## Mishna - Mas. Orlah Chapter 2

MISHNAH 1. TERUMAH, TERUMAH-OF-THE-TITHE OF DEMAI,<sup>1</sup> OR HALLAH<sup>2</sup> OR FIRST-RIPE FRUITS,<sup>3</sup> BECOME NEUTRALIZED IN A HUNDRED-AND-ONE,<sup>4</sup> AND LESSER QUANTITIES OF THESE ARE RECKONED TOGETHER [AS FORMING THE STATUTORY MINIMUMS]. AND IT IS NECESSARY TO TAKE OFF [FROM THE MIXTURE AN AMOUNT EQUAL TO THAT OF THE CONSECRATED PRODUCE CONTAINED THEREIN].<sup>5</sup> 'ORLAH AND MIXED-SEEDS' OF THE VINEYARD<sup>6</sup> BECOME NEUTRALIZED IN TWO-HUNDRED-AND-ONE,<sup>7</sup> AND [LESSER QUANTITIES OF THESE] ARE RECKONED TOGETHER [AS FORMING THE STATUTORY MINIMUM]. AND IT IS NOT NECESSARY TO TAKE OFF [FROM THE MIXTURE AN AMOUNT EQUAL TO THAT OF THE CONSECRATED PRODUCE CONTAINED THEREIN].<sup>8</sup> R. SIMEON SAID: [LESSER QUANTITIES OF THESE<sup>9</sup> ] ARE NOT RECKONED TOGETHER [AS FORMING A STATUTORY MINIMUM].<sup>10</sup> R. ELIEZER SAID: THEY ARE RECKONED TOGETHER IN [INSTANCES IN WHICH THERE IS INVOLVED THE PRINCIPLE OF A 'QUANTITY] IMPARTING FLAVOUR',<sup>11</sup> BUT NOT FOR IMPOSING A PROHIBITION [IN OTHER CIRCUMSTANCES].<sup>12</sup>

MISHNAH 2. TERUMAH GOES TOWARDS NEUTRALIZING 'ORLAH, AND 'ORLAH<sup>13</sup> TERUMAH. IN WHAT [DEFINED] MANNER? [FOR INSTANCE] IF A SE'AH OF TERUMAH HAS 'ORLAH, OR THREE KABS OF MIXED-SEEDS OF THE VINEYARD [FELL IN]. THIS IS [AN INSTANCE] WHEREIN TERUMAH GOES TOWARDS NEUTRALIZING 'ORLAH, AND 'ORLAH TERUMAH.

MISHNAH 3. 'ORLAH GOES TOWARDS NEUTRALIZING 'MIXED-SEEDS', AND 'MIXED-SEEDS' 'ORLAH, AND 'ORLAH 'ORLAH.<sup>14</sup> IN WHAT [DEFINED] MANNER? [FOR INSTANCE] IF A SE'AH OF 'ORLAH HAS FALLEN INTO TWO HUNDRED [SE'AH]S AND

AFTERWARDS THERE FELL IN A SE'AH AND OVER OF 'ORLAH, OR A SEAH AND OVER<sup>15</sup> OF 'MIXED-SEEDS' OF THE VINEYARD. THIS IS [AN INSTANCE] WHEREIN 'ORLAH GOES TOWARDS NEUTRALIZING 'MIXED-SEEDS', AND 'MIXED-SEEDS' 'ORLAH, AND 'ORLAH 'ORLAH.<sup>14</sup>

MISHNAH 4. WHATEVER ONE CAUSES TO FERMENT,<sup>16</sup> OR SEASONS,<sup>17</sup> OR MAKES MEDUMMA<sup>18</sup> WITH TERUMAH OR 'ORLAH OR WITH 'MIXED-SEEDS' OF THE VINEYARD,<sup>19</sup> IS PROHIBITED; BETH SHAMMAI SAY: IT ALSO BECOMES UNCLEAR,<sup>20</sup> BUT BETH HILLEL SAY: IN ANY CIRCUMSTANCES NOTHING RENDERS UNCLEAR UNLESS THERE BE OF IT [A QUANTITY IN SIZE] 'LIKE AN EGG'.<sup>21</sup>

MISHNAH 5. DOSETHAI [A MAN OF] KEFAR YATHMAI<sup>22</sup> WAS ONE OF THE DISCIPLES OF THE SCHOOL OF SHAMMAI, AND HE SAID: I RECEIVED A TRADITION<sup>23</sup> FROM SHAMMAI HA-ZAKEN<sup>24</sup> WHO SAID: NEVER DOES ANYTHING RENDER UNCLEAR<sup>25</sup> UNLESS THERE BE OF IT [A QUANTITY IN SIZE] 'LIKE AN EGG'.<sup>26</sup>

MISHNAH 6. NOW IN REFERENCE TO WHAT [CASES] DID THEY SAY<sup>27</sup> 'WHEN ANYTHING CAUSES FERMENTATION OR SEASONS<sup>28</sup> OR MAKES MEDUMMA' [IT IS PROPER] TO RULE STRINGENTLY'? [IN THE CASE OF] A SPECIES [MIXED] WITH ITS [LIKE] SPECIES; 'TO RULE [SOMETIMES] LENIENTLY, AND [SOMETIMES] STRINGENTLY'? [IN THE CASE OF] A SPECIES [MIXED] WITH [SOMETHING] NOT ITS [LIKE] SPECIES. IN WHAT [DEFINED] MANNER [OF A MIXTURE OF SPECIES, SHOULD ONE RULE STRINGENTLY]? IF LEAVEN OF WHEAT FELL INTO DOUGH OF WHEAT<sup>29</sup> AND THERE BE OF IT [THE ADMIXTURE] A QUANTITY SUFFICIENTLY [LARGE] TO CAUSE FERMENTATION, [THEN] WHETHER THERE BE OF IT A QUANTITY SUFFICIENTLY [SMALL] TO BECOME NEUTRALIZED IN ONE-HUNDRED-AND-ONE, OR THERE BE OF IT [A QUANTITY] NOT SUFFICIENTLY [SMALL] TO BECOME NEUTRALIZED IN ONE-HUNDRED-AND-ONE, IT [THE MIXTURE] IS PROHIBITED,<sup>30</sup> [ALSO] IF THERE BE OF IT [THE ADMIXTURE] A QUANTITY NOT SUFFICIENTLY [SMALL] TO BECOME NEUTRALIZED IN ONE-HUNDRED-AND-ONE, [THEN] WHETHER THERE BE OF IT [A QUANTITY] SUFFICIENTLY [LARGE] TO CAUSE FERMENTATION, OR THERE BE OF IT [A QUANTITY] NOT SUFFICIENTLY [LARGE] TO CAUSE FERMENTATION, [THE MIXTURE] IS [LIKewise] PROHIBITED.<sup>31</sup>

MISHNAH 7. [THEY SAID 'IT IS PROPER] TO RULE [SOMETIMES] LENIENTLY AND [SOMETIMES] STRINGENTLY' IN [REFERENCE TO] A SPECIES [MIXED] WITH NOT ITS [LIKE] SPECIES. IN WHAT [DEFINED] MANNER? [FOR INSTANCE] IF POUNDED BEANS<sup>32</sup> WERE BOILED TOGETHER WITH LENTILS,<sup>33</sup> AND THERE IS OF THEM [THE FORMER] [A QUANTITY] SUCH AS IMPARTS FLAVOUR, [THEN] WHETHER THERE BE OF THEM [A QUANTITY] SUFFICIENTLY [SMALL] TO BECOME NEUTRALIZED IN ONE-HUNDRED-AND-ONE, OR THERE BE OF THEM [A QUANTITY NOT SUFFICIENTLY SMALL] TO BECOME NEUTRALIZED IN ONE-HUNDRED-AND-ONE, IT [THE MIXTURE] IS PROHIBITED;<sup>34</sup> [BUT] IF THERE BE NOT OF THEM [A QUANTITY] SUCH AS IMPARTS FLAVOUR, [THEN] WHETHER THERE BE OF THEM [A QUANTITY SUFFICIENTLY SMALL] TO BECOME NEUTRALIZED IN ONE-HUNDRED-AND-ONE, OR THERE BE NOT OF THEM [A QUANTITY SUFFICIENTLY SMALL] TO BECOME NEUTRALIZED IN ONE-HUNDRED-AND-ONE, IT [THE MIXTURE] IS PERMITTED.<sup>35</sup>

MISHNAH 8. IF LEAVEN OF HULLIN HAS FALLEN INTO DOUGH, AND THERE WAS OF IT SUFFICIENT TO CAUSE FERMENTATION, AND AFTER THAT<sup>36</sup> THERE FELL IN LEAVEN ONE TERUMAH OR LEAVEN OF 'MIXED-SEED' OF THE VINEYARD, OF WHICH [TOO] THERE WAS SUFFICIENT TO CAUSE FERMENTATION, IT [THE DOUGH] IS

PROHIBITED.<sup>37</sup>

MISHNAH 9. IF LEAVEN OF HULLIN HAS FALLEN INTO DOUGH AND CAUSED IT TO FERMENT, AND AFTER THAT THERE FELL IN LEAVEN OF TERUMAH OR OF 'MIXED-SEEDS' OF THE VINEYARD, OF WHICH THERE WAS SUFFICIENT TO CAUSE FERMENTATION, IT [THE DOUGH] IS PROHIBITED;<sup>38</sup> BUT R. SIMEON DECLARES [IT] PERMITTED.<sup>39</sup>

MISHNAH 10. [THE ADMIXTURE OF] SEASONINGS<sup>40</sup> [CONSISTING] OF TWO OR THREE CATEGORIES<sup>41</sup> OF ONE SPECIES,<sup>42</sup> OR [CONSISTING] OF THREE SPECIES [OF ONE CATEGORY]<sup>43</sup>, [RENDER THE MIXTURE] PROHIBITED,<sup>44</sup> AND THEY ARE RECKONED TOGETHER.<sup>45</sup> R. SIMEON SAID: [ADMIXTURES OF SEASONINGS CONSISTING OF] TWO OR THREE CATEGORIES OF ONE SPECIES, OR [CONSISTING OF] TWO SPECIES OF ONE CATEGORY, ARE NOT 'RECKONED TOGETHER'.<sup>46</sup>

MISHNAH 11. IF LEAVEN OF HULLIN AND OF TERUMAH HAVE FALLEN INTO DOUGH, AND NEITHER OF THE ONE WAS THERE SUFFICIENT TO CAUSE FERMENTATION, NOR OF THE OTHER WAS THERE SUFFICIENT TO CAUSE FERMENTATION, BUT TOGETHER THEY CAUSED [THE DOUGH] TO FERMENT, [THEN] R. ELIEZER SAYS: I GO AFTER THE LAST;<sup>47</sup> BUT THE SAGES SAY: WHETHER THE PROHIBITED QUANTITY FELL IN FIRST OR LAST, NEVER DOES IT [THE DOUGH] BECOME PROHIBITED UNLESS THERE BE OF IT [OF THE PROHIBITED ADMIXTURE BY ITSELF] SUFFICIENT TO CAUSE FERMENTATION.

MISHNAH 12. JO'EZER, MASTER OF THE TEMPLE,<sup>48</sup> [WHO] WAS ONE OF THE DISCIPLES OF THE SCHOOL OF SHAMMAI, SAID: I ASKED RABBAN GAMALIEL HA-ZAKEN<sup>49</sup> AS HE WAS STANDING AT THE EASTERN GATE,<sup>50</sup> AND HE SAID: NEVER DOES ANY [ADMIXTURE OF PROHIBITED LEAVEN] RENDER [DOUGH] PROHIBITED UNLESS THERE BE OF IT SUFFICIENT TO CAUSE FERMENTATION.<sup>51</sup>

MISHNAH 13. IF ONE OILED ARTICLES<sup>52</sup> WITH UNCLEAN OIL, AND [LATER] HE RETURNED [TO THE ARTICLES]<sup>53</sup> AND OILED THEM WITH CLEAN OIL; OR HE [FIRST] OILED THEM WITH CLEAN OIL, AND [LATER] HE RETURNED [TO THEM] AND OILED THEM WITH UNCLEAN OIL, R. ELIEZER SAYS: 'I GO AFTER THE FIRST',<sup>54</sup> AND THE SAGES SAY: AFTER THE LAST'.<sup>55</sup>

MISHNAH 14. IF LEAVEN OF TERUMAH AND OF 'MIXED-SEEDS' OF THE VINEYARD HAVE FALLEN INTO DOUGH, AND NEITHER OF THE ONE IS THERE SUFFICIENT TO CAUSE FERMENTATION, NOR IS THERE OF THE OTHER SUFFICIENT TO CAUSE FERMENTATION, BUT TOGETHER THEY CAUSED FERMENTATION, IT [THE DOUGH] IS PROHIBITED TO NON-PRIESTS<sup>56</sup> AND PERMITTED TO PRIESTS.<sup>57</sup> R. SIMEON DECLARES IT PERMITTED BOTH TO NON-PRIESTS AND TO PRIESTS.<sup>58</sup>

MISHNAH 15. IF SEASONINGS OF TERUMAH AND OF 'MIXED-SEEDS' OF THE VINEYARD HAVE FALLEN INTO A DISH, AND THERE IS NOT OF THE ONE SUFFICIENT TO SEASON, NOR IS THERE OF THE OTHER SUFFICIENT TO SEASON, BUT TOGETHER THEY SEASONED, IT [THE DISH] IS PROHIBITED TO NON-PRIESTS BUT PERMITTED TO PRIESTS.<sup>59</sup> R. SIMEON DECLARES IT PERMITTED TO NON-PRIESTS AND TO PRIESTS.<sup>59</sup>

MISHNAH 16. IF A PIECE OF [FLESH OF THE] MOST HOLY [SACRIFICES]<sup>60</sup> AND [A PIECE] OF [FLESH WHICH IS] PIGGUL,<sup>61</sup> OR NOTHAR,<sup>62</sup> HAVE BEEN COOKED WITH PIECES [OF NON-SACRED FLESH],<sup>63</sup> IT [THE NON-SACRED FLESH]<sup>64</sup> IS PROHIBITED TO

NON-PRIESTS<sup>65</sup> BUT PERMITTED TO PRIESTS.<sup>66</sup> R. SIMEON DECLARES IT PERMITTED TO NON-PRIESTS AND TO PRIESTS.<sup>67</sup>

MISHNAH 17. IF FLESH OF MOST HOLY [SACRIFICES]<sup>68</sup> AND FLESH OF [SACRIFICES] HOLY IN A LESSER DEGREE<sup>69</sup> HAVE BEEN COOKED TOGETHER WITH 'THE FLESH OF DESIRE',<sup>70</sup> IT [THE LATTER] IS PROHIBITED TO UNCLEAN PERSONS,<sup>71</sup> BUT PERMITTED TO CLEAN PERSONS.<sup>72</sup>

(1) V. Dem. I, 1, Hal. IV, 6, n. 1. The law stated here applies of course, and with greater force, to terumah and terumah-of-the-tithe of waddai (i.e., certainly untithed produce). Rash's reading was: Terumah and terumah-of-the-tithe of waddai, and terumah-of-the-tithe of demai'.

(2) Which, too, is spoken of as 'terumah. 'Num. XV, 20; cf. Hallah I, 3, n. 11.

(3) Bikkurim. The word terumah in 'the terumah of thy hand' (Deut. XII, 17) is interpreted as referring to Bikkurim (Sifre ad loc.). This is arrived at by a gezerah shawah, thus: Deut. XII, 17 speaks of 'the terumah of thy hand', and of the first-ripe fruits it is said 'And the priest shall take the basket out of thy hand' (Deut. XXVI, 4).

(4) When quantities of such consecrated produce (which is prohibited to non-priests) become mixed with a greater amount of hullin (i.e. non-sacred produce). If the prohibited is more than one to a hundred of the permitted, the whole becomes consecrated, and thus prohibited to non-priests (v. Ter. IV, 7). This rule is derived as follows: Num. XVIII, 29 says, Ye shall set apart the terumah of the Lord . . . even the hallowed part thereof out of it. By noting the words, 'the hallowed part thereof' signifying 'that which halloweth it', the sense is obtained that if anything that had been separated unto the Lord falls into non-sacred produce etc., the former hallows the latter with its own sanctity and renders it similarly prohibited. Further, since this passage deals in particular with the tithe-of-the-tithe, the proportion for the purpose of our rule is fixed as one part of the sacred (and prohibited) to a hundred parts of the non-sacred (and permitted), i.e., a proportion of forbidden admixture greater than one per cent of the permitted renders the mixture prohibited (Sifre ad loc.). (5) For the purpose of the law here concerned — a quantity a hundredth part of the non-sacred; v. preceding note.

(5) And give it to the priests, even though the consecrated matter has become void, so as to avoid 'robbing the tribe' sc. of Levi, i.e., depriving the priests and Levites of their perquisites.

(6) Cf. supra I, 6, n. 15.

(7) That 'mixed-seeds' of the vineyard also, like terumah, becomes neutralized in a given larger quantity of permitted produce is derived by gezerah shawah as follows: In Ex. XXII, 28 'the fulness of thy harvest' is taken to refer to terumah, and in Deut. XXII, 9 the same term, viz., 'the fulness of the seed', refers expressly to 'mixed seeds' of the vineyard. — 'Orlah is placed for this purpose in the same category as 'mixed-seeds', because, like the latter, it is prohibited not only for consumption but also for deriving any benefit whatsoever. — The proportion of 'orlah and 'mixed-seeds' of the vineyard becoming neutralized, viz., 1 to 200, is arrived at a fortiori from terumah as follows: Since in the case of the latter which is prohibited only for consumption the cancelling proportion is 100 of permitted to 1 of forbidden, it follows that in the case of 'orlah and 'mixed-seeds' of the vineyard which are doubly prohibited (viz., both for consumption and deriving any benefit) the cancelling proportion should correspondingly be doubled viz., 200 of permitted to 1 of prohibited (T.J.).

(8) Because (a) the prohibited matter has become neutralized, and (b) the reason for 'taking off' when the admixture was terumah, viz., avoiding 'robbing of the tribe' (v. note 1) does not exist here, inasmuch as priests and Levites are prohibited from consuming or deriving benefit from 'orlah and 'mixed-seeds' just as much as any Israelite.

(9) Viz., 'orlah and 'mixed-seeds' of the vineyard.

(10) Whether dry or liquid forms of produce are concerned, because 'orlah and 'mixed-seeds' are two distinct prohibited categories, and it is R. Simeon's view (infra Mish. 10) that lesser quantities are 'reckoned together' only when they are of the same 'name' i.e., they belong to the same prohibited category and are, too, of a like species. (Cf. T.J.).

(11) Where, in the case of liquids and cooked dishes, the prohibited admixture is of a species unlike the bulk, the question as to whether the whole mixture is rendered as forbidden depends on whether the forbidden admixture imparts its flavour to the mixture. It is computed that a prohibited component imparts flavour to a mixture and renders it prohibited, when the former is more than a sixtieth of the permitted portion (v. Hul. 68b for an explanation how this proportion is arrived at). It is the view of R. Eliezer that if such a prohibited flavour-imparting quantity is made up of 'orlah and 'mixed-seeds' of the vineyard, then though either of these by itself be too little to impart flavour without the

other, still the composite admixture renders the whole mixture prohibited.

(12) I.e. where 'imparting flavour' is not involved, viz., with dry produce. If in such a case the two prohibited lesser amounts, each not more than a two-hundredth part of the bulk, have fallen in separately, and are of two unlike species, but one is of a like species with the bulk, then the latter being less than the statutory minimum becomes merged and neutralized in the bulk and is not 'reckoned together with' the other of the lesser prohibited amounts which is of an unlike species. The latter, now on its own less than the statutory minimum, becomes neutralized in the rest of the mixture, the whole of which thus remains permitted.

(13) Or 'mixed-seeds' of the vineyard, as is evident from the rest of the Mishnah. (3) I.e., the non-sacred produce together with the terumah-admixture making a hundred se'ahs. One must assume that this is meant, since if there were a hundred se'ahs clear of permitted produce, that itself, without reckoning in the terumah, would since to make void the three kabs of 'orlah. (4) I.e. half a se'ah. When this half-a-se'ah of 'orlah falls into the produce which already contains an admixture of terumah, the latter is reckoned in with the original non-sacred produce to make void the 'orlah which now is one part of a total quantity of 201 (v. supra p. 355, n. 3).

(14) This must be assumed to mean: 'Orlah goes towards neutralizing neta' reba'i fruit (v. supra. I, 7, n. 7) and vice-versa (Asheri). Since all are agreed that two lesser quantities of the same prohibited category are reckoned together, "'orlah....'orlah' cannot be taken literally. The interchangeability here of the terms 'orlah and neta' reba'i is no doubt due to the fact that the state of neta' reba'i is an inevitable and automatic continuation of that of 'orlah. L. suggests the "'orlah 'orlah' can be taken literally by' assuming the Mishnah to mean that the first admixture of 'orlah fell into full 200 parts of hullin and became neutralized, in which case the mixture is permitted and neutralizes the second admixture of 'orlah. In this way the first admixture of 'orlah may be said to help to neutralize the second admixture of 'orlah

(15) Tosef. Yom Tob says that 'and over' is added to intimate that a 'little over' can also be considered as becoming neutralized. See L. for a discussion of the various views on this point.

(16) E.g., by means of an apple (of 'orlah) falling into dough (T.J. cf. Terumah X, 2).

(17) Fermentation, like seasoning, of course imparts flavour (v. supra I).

(18) V. Hal. I, 4, n. 7.

(19) This passage is to be understood as: '. . . . causes to ferment, or seasons with terumah or 'orlah or 'mixed-seeds'.....or makes medumma' with terumah'.

(20) This is qualified in the next Mishnah.

(21) Sc. even if it is big enough to cause prohibition in respect of medumma' (to priests) or of 'orlah or 'mixed-seeds' (to all Israelites). On the fixing of the 'size of an egg' as a norm in the matter of uncleanness of comestibles, v. Yoma 79b-80a. Cf. Hal. II, 8, n. 3.

(22) Perhaps Jetma, in the district of Samaria, so Jast. who refers to Neubauer. Geographie, p. 268. in Kaftor wa-Ferah the reading is Kefar Jama.

(23) Lit., 'I heard'. Another reading has 'I asked'.

(24) I.e., the Elder, or the Sage. The same designation was accorded also to Shammai's contemporary and controversialist, Hillel.

(25) Sc. as far as comestibles are concerned.

(26) Thus the School of Shammai agrees on this point with the School of Hillel (Mish. 4). This is an instance of how in the Tannaitic Schools, the original halachoth before them — when indefinite — were amplified and defined with the aid of traditions received by one or other of those present; v. Halevy, Doroth, p. 846.

(27) Quoted also in Hul. 99a.

(28) V. supra 4, n. 4.

(29) Likewise if leaven of barley has fallen into dough of barley, i.e. , where both the bulk and the admixture are of the same species.

(30) Because in the case of a mixture of a species with its like (as here, wheat with wheat) for the permitted bulk to neutralize the prohibited admixture two conditions are essential: the prohibited portion must be (a) not more than one within 101 of the whole, and (b) incapable of imparting flavour to the mixture. Here even if the former condition is present, the latter is lacking.

(31) Because condition (in) referred to in the preceding note, is lacking here, even if condition (b) exists.

(32) Sc. of terumah. The rules given in this Mishnah apply also when the admixture is of 'orlah or 'mixed-seeds' of the vineyard, with the substitution of 201 where our Mishnah has 101.

(33) This is an example of 'a species with not its species', which would cover an instance of, say, leaven of barley in

wheaten dough. Pounded beans are cited as an example probably to show that though pounded beans as such have a decided flavour, yet if (as in the second contingency) the flavour cannot be distinctly felt in the mixture, the whole dish is permitted. In addition, this instance is an intimation that beans and lentils are not deemed like species, notwithstanding the fact that both are legumens.

(34) In conformity with the principle that an admixture of prohibited matter of an unlike species renders the whole prohibited when the former (being in a proportion of more than one in sixty) imparts its flavour; v. supra I, n. 7.

(35) Because the circumstance of imparting flavour is absent; v. preceding note.

(36) I.e., after the non-sacred (hullin) dough had fallen in, but before it had time to ferment the dough.

(37) One might have argued that since the dough would have fermented from the permitted leaven alone, the second admixture of leaven can be deemed as of no material effect, and that, therefore, the dough is permitted. We do not argue thus because the second — prohibited — admixture certainly accelerated the fermentation.

(38) In spite of the fact that the second admixture of leaven overferments the dough and spoils it, and the rule, which thus becomes applicable, that a prohibited admixture which imparts a deteriorating flavour ( **נותן טעם לפגם** ) does not render the mixture prohibited; the dough though now unfit for consumption by itself, can be used as leavening for a number of other doughs.

(39) On the ground that since the dough had already become fermented before the prohibited leaven came in, the latter is deemed as of no effect. In the case stated in the preceding Mishnah, R. Simeon does not dispute the prohibition, since there, at the time the prohibited leaven fell in, the permitted leaven had not yet caused any fermentation, and the prohibited leaven, though it came in later, played an equal part with the permitted leaven in the process of fermentation.

(40) Maim. points out that the term 'seasoning' ( **תבלין** ) includes not only spices but onions, garlic, wine, vinegar, oil — in fact everything used for the purpose of giving the dish a special flavour.

(41) Sc. of prohibitions; lit 'names' ( **שמות** ). So explained by Rabbenu Jacob Tam quoted in Tosaf. Shab. 89b in opposition to Rashi (ibid.) whose interpretation is: 'names' denoting several varieties of one species, (so also Maim. to our Mishnah).

(42) E.g., (a) pepper of 'orlah, of Asherah and of the city condemned for apostacy (Deut. XIII, 13 ff), or (b) of terumah of the Second Tithe, and of the Seventh-Year produce (Ex. XXIII, 10-11, Lev. XXV, 2-7), or (c); cummin of 'mixed-seeds' of the vineyard, of terumah, and of the Second Tithe; so Rash, following R. Tam in Tosaf. (loc. cit.). against Rashi whose example is long (-grain) pepper, white pepper and black pepper (so also Maim. and Siponto). R. Tam points with justification to the beginning of T. J. to Mishnah I as conclusively bearing out his interpretation. V. Rash. to our Mishnah for a review of this point.

(43) E.g., pepper and ginger and cummin of 'orlah, or of terumah.

(44) V. Rash. who favours reading **אוסרין** rather than **אסור** .

(45) Bert., following Maim., takes 'prohibited' and 'reckoned together' as one rule meaning that the two (or three) are reckoned together as forming the statutory proportion rendering a dish thus seasoned prohibited in-so-far as the seasonings impart taste (v. L.'s note 36). Rash. after Tosaf. (loc. cit.), gives also an alternative interpretation, viz., 'render prohibited' in the case of liquid food or cooked dishes (where 'imparting flavour is a factor), and 'are reckoned together' in the case of dry produce (where the principle of neutralization in 101 or in 201, operates), v. L. Another alternative explanation is: they are 'reckoned together' as forming a kazayyith (a quantity equal to the size of an olive) of a consecrated comestible which, when consumed by a person to whom it is prohibited, renders the consumer liable to punishment by stripes, v. Rash.

(46) R. Simeon's view, as that of an individual against that of a majority, is rejected. — The general term for the principle involved in this dispute is **זה וזה גורם** i.e., the status (whether permitted or forbidden) of something brought into being by two contributing causes, one of which is prohibited and the other permitted, or both of which are prohibited but each subject to a different prohibition.

(47) I.e., If the leaven of terumah was the last to fall in the dough becomes medumma'; if the non-sacred leaven fell in last the dough remains permitted, but only if the prohibited leaven was removed before the permitted fell in. In such a case R. Eliezer would overlook as inconsiderable the slight contribution towards the ultimate fermentation made by the prohibited leaven whilst it was with the dough.

(48) **איש הבירה** . This Jo'ezer was apparently the senior officer of the Temple. W. Jawitz identifies this office with 'The Master of the Temple Mount', cf. Mid. I, 2. The office **שר הבירה** is already mentioned in Neh. VII, 2. As some Amoraim are also so designated Bacher (Ag. Pal. Am. I) concludes that it became eventually an honorary title of the descendants of priests who had held the post. V. Klein, S. **מחקרי ארצי ישראלים** II, p. 76.

(49) I.e. the Sage or the Elder, the first Tanna of that name, the grandson of Hillel. Tosaf. Yom Tob points out that the Shammaites did not abstain from seeking knowledge from the Hillelites. Bacher, *Tradition und Tradentem* (p. 88), points out that this is the earliest instance of a legal 'tradition' recorded as having been passed on in this manner.

(50) Sc. of the Temple.

(51) The purpose of this Mishnah is purely the corroboration of the view of the Sages against that of R. Eliezer as stated in the preceding Mishnah (Maim.).

(52) Skin or leather articles, such as sandals, oiled for the purpose of softening.

(53) After the (unclean) oil had become fully absorbed in the material, and after the articles had been immersed for ritual cleansing.

(54) When the oil is thoroughly absorbed and dried into the material, the article, after ritual immersion, is clean. Use of the articles expels the oil which then, as a liquid — if itself unclean — renders unclean whatever is in contact with it. R. Eliezer holds that the first oil is expelled (as well as the second oil) so that in whatever order the oils were applied, the article is rendered unclean, since one of the oils is unclean. R. Eliezer's dictum is to be understood as 'I go even after the first' if that was unclean.

(55) Their point is that the article already saturated with oil does not readily or thoroughly absorb any more oil, so that the liquid oil (expelled by use) on the article, must be presumed to be of the oil applied last; therefore the cleanness or otherwise of the article depends on the cleanness or otherwise of the oil applied last. — The purpose of this Mishnah in the present context is apparently to give an example involving the principle of 'going after the first (or the last)' referred to in Mishnah 11.

(56) Since to them both parts of the admixture are prohibited, and the Sages hold that admixtures of two or three prohibited categories are 'reckoned together' (supra 10).

(57) Since to them the terumah leaven is permitted, and the leaven of 'mixed-seeds' which is prohibited to them is of a quantity insufficient by itself to cause fermentation (Bert.). Since they hold that something which results from a combination of something prohibited and something permitted, is permitted, cf. supra 20, n. 5 (L).

(58) In conformity with his view that admixtures of two or more prohibited categories are not 'reckoned together', (v. Mish. 10).

(59) By the same reasoning as Mishnah 14 notes 5,6,7. The virtual repetition of these views of R. Eliezer and of the Sages in this and the preceding Mishnahs give definite examples of the application of the principles as laid down by the disputants in Mishnah 10. Thus according to the Sages different prohibited categories of one species (the subject of this Mishnah), as well as different species subject to the same prohibition (dealt with in Mishnah 14), 'are reckoned together', whilst R. Eliezer differs from the Sages in both instances. In addition, our Mishnah establishes beyond a peradventure the application of the principles of Mishnah 10 to mixtures with cooked dishes and liquids (as well as to instances of mixtures where both the bulk and the admixture are dry).

(60) Viz., sin-offerings, guilt-offerings, and the 'peace-offerings of the congregation', viz., the two he-lambs offered on the Feast of Weeks (Lev XXIII, 19-20). (The burnt-offering also belongs to the category of the 'most holy', but as it is wholly burnt on the altar no question arises as to any portion thereof being eaten.)

(61) Lit., 'an abhorred thing', a term used in Lev. VII, 18: And if any of the flesh of the sacrifice of his peace-offerings be at all eaten on the third day, it shall not be accepted, neither shall it be imputed unto him that offereth it; it shall be an abhorred thing; and the soul that eateth of it shall bear his iniquity. V. also Lev. XIX, 7,8. The penalty for transgression is kareth ('excision'). In Zeb. 28a this term is interpreted as applying to sacrificial flesh which is invalidated through the (improper) intention of the officiating priest either to have it eaten or burnt on the altar later than the appointed time

(62) Lit., 'that which remaineth over'. According to Ex. XII, 10, the Paschal lamb was to be eaten on the day of the sacrifice only; according to Lev. VII, 15-17, and XIX, 8, the flesh of certain other sacrifices was to be eaten only on the day of the sacrifice and the following; whatever 'remaineth over' to the day after, may not be eaten, and must be burnt. Nothar, like Piggul is prohibited to priests and non-priests alike.

(63) Of which there is sufficient to neutralize either of the prohibited pieces there being 60 parts of the permitted to one part of each of the prohibited) but not enough to neutralize both of them together.

(64) The pieces that had fallen in having been removed (Maim.).

(65) In accordance with the view of the Sages that two or three admixtures of prohibited matter of one species but belonging to different prohibited categories, are 'reckoned together', and both the 'most holy' and the Piggul or Nothar are prohibited to non-priests.

(66) Because only the Piggul or Nothar is prohibited to them, but not the 'most holy', which by itself is small enough to

neutralize.

(67) In accordance with his views that admixtures of differing prohibited categories are not 'reckoned together'. L. suggests a reason for the Mishnah citing this after the principles involved have already, and apparently adequately, been established, viz.: It is stated in Lev. VI, 11, that anything touched by the flesh of sacrifices itself becomes consecrated and from this is inferred (in Pes. 45a) the principle **היתר מצטרף לאיסור** i.e., that permitted food is added to prohibited food as making up the statutory minimum of a kazayith (the equivalent of an olive in size). It might have been thought that in view of this, R. Simeon would, in the circumstances stated in the first part of the Mishnah, agree with the Sages. Our Mishnah, therefore, goes on to inform us that R. Simeon nevertheless adheres to his principle that quantities of the same species belonging to different prohibited categories are not 'reckoned together'.

(68) Which is prohibited to all non-priests, whether clean or unclean.

(69) Viz., the thank-offering the male firstborn of clean animals, the Paschal lamb, the tithe of clean animals (which has been redeemed) and the Nazirite's ram. The flesh of these is permitted to non-priests as long as they are clean.

(70) I.e., ordinary flesh for consumption by Israelites, which is non-sacred. It is termed 'the flesh of desire' because in the injunction relating to the slaughter of animals for general Israelite consumption, the phrase used is, when thy soul desireth to eat flesh (Deut. XII, 20). This flesh is permitted to clean and unclean alike (ibid. verse 22). In our case there is of this non-sacred flesh to neutralize either of the two sacred pieces separately, but not sufficient to neutralize both pieces taken together.

(71) Because the 'most holy' and the 'holy in a lesser degree' are prohibited to unclean persons. Even R. Simeon agrees that in this case the two quantities are reckoned together' as they are not only of the same matter (viz., flesh) but belong to the same prohibited category (the difference between 'most holy' and 'holy in a lesser degree' being only a matter of degree and not of category).

(72) Even the Sages are of this opinion, since the 'most holy' is neutralized by the overwhelming quantity of the non-sacred flesh, and the 'less holy' is in any case permitted to clean persons.

### **Mishna - Mas. Orlah Chapter 3**

MISHNAH 1. IF ONE DYED<sup>1</sup> A GARMENT WITH SHELLS<sup>2</sup> OF 'ORLAH, IT [THE GARMENT] SHALL BE BURNT; IF IT BECAME MIXED UP WITH OTHER [GARMENTS], ALL OF THEM SHALL BE BURNT. [THIS IS] THE OPINION<sup>3</sup> OF R. MEIR,<sup>4</sup> BUT THE SAGES SAY: IT BECOMES NEUTRALIZED IN TWO-HUNDRED-AND-ONE.

MISHNAH 2. IF ONE DYED A THREAD THE WHOLE [LENGTH] OF A SIT<sup>5</sup> WITH SHELLS OF 'ORLAH, AND WOVE IT INTO A GARMENT, AND IT IS NOT KNOWN WHICH [THREAD] IT IS, R. MEIR SAYS: THE GARMENT SHALL BE BURNT,<sup>6</sup> BUT THE SAGES SAY: IT [THE THREAD] BECOMES NEUTRALIZED IN TWO-HUNDRED-AND-ONE.<sup>7</sup>

MISHNAH 3. IF ONE WOVE THE WHOLE OF A SIT'S LENGTH OF THE WOOL OF A FIRSTLING<sup>8</sup> INTO A GARMENT, THE GARMENT SHALL BE BURNT;<sup>9</sup> AND [IF ONE WOVE A SIT] OF THE HAIR OF A NAZIRITE<sup>10</sup> OR OF THE FIRST-BORN OF AN ASS<sup>11</sup> INTO SACK-CLOTH, THE SACK-CLOTH SHALL BE BURNT,<sup>12</sup> AND [IF ONE HAS WOVEN] WITH [SOME WOOL OR HAIR OF] CONSECRATED [ANIMALS],<sup>13</sup> THESE [KINDS OF WOOL OR HAIR] HAVE THE EFFECT OF RENDERING [THE WOVEN ARTICLE] CONSECRATED, WHATEVER [SMALL AMOUNT] OF THEM<sup>14</sup> THERE BE.<sup>12</sup>

MISHNAH 4. A DISH WHICH ONE COOKED WITH SHELLS<sup>15</sup> OF 'ORLAH<sup>16</sup> SHALL BE BURNT;<sup>17</sup> IF IT [SUCH COOKED FOOD] BECAME MIXED UP WITH OTHER [COOKED FOODS], IT BECOMES NEUTRALIZED IN TWO-HUNDRED-AND-ONE.<sup>18</sup>

MISHNAH 5. IF ONE FIRED AN OVEN WITH SHELLS OF 'ORLAH, AND BAKED THEREIN BREAD, THE BREAD SHALL BE BURNT. IF IT BECAME MIXED UP WITH OTHER [LOAVES] IT BECOMES NEUTRALIZED IN TWO-HUNDRED-AND-ONE.<sup>19</sup>

MISHNAH 6. IF ONE HAS BUNDLES OF TREFOIL<sup>20</sup> OF 'MIXED-SEEDS' OF THE VINEYARD, THEY SHALL BE BURNT; IF THEY BECAME MIXED UP WITH OTHERS,<sup>21</sup> ALL OF THEM SHALL BE BURNT. THIS IS THE OPINION OF R. MEIR; BUT THE SAGES SAY THEY BECOME NEUTRALIZED IN TWO-HUNDRED-AND-ONE.<sup>22</sup>

MISHNAH 7. BECAUSE R. MEIR USED TO SAY: [THE ADMIXTURE OF] ANYTHING WHATSOEVER ONE IS WONT TO COUNT [WHEN SELLING],<sup>23</sup> CONDEMN TO FORFEITURE;<sup>24</sup> BUT THE SAGES SAY ONLY SIX THINGS CONDEMN TO FORFEITURE, AND R. AKIBA SAYS SEVEN [THINGS], AND THESE ARE THEY: NUTS WITH BRITTLE SHELLS,<sup>25</sup> AND POMEGRANATES OF BADAN,<sup>26</sup> AND STOPPED-UP CASKS,<sup>27</sup> AND SHOOTS OF BEET, AND CABBAGE-HEADS, AND GREEK PUMPKINS. R. AKIBA<sup>28</sup> SAYS: ALSO LOAVES OF A HOUSEHOLDER.<sup>29</sup> SUCH [OF THESE] AS ARE LIABLE TO 'ORLAH<sup>30</sup> [CONDEMN THE MIXTURE TO FORFEITURE] AS ORLAH, [SUCH OF THESE AS ARE LIABLE TO THE LAW OF] 'MIXED-SEEDS' OF THE VINEYARD<sup>31</sup> [CONDEMN THE MIXTURE TO FORFEITURE AS] 'MIXED-SEEDS' OF THE VINEYARD.

MISHNAH 8. IN WHAT [DEFINED] MANNER<sup>32</sup> [MAY THE ABOVE BECOME NEUTRALIZED]? IF THE NUTS CRACKED, OR IF THE POMEGRANATES BURST OPEN, OR THE CASKS BECAME UNSTOPPED, OR THE PUMPKINS WERE CUT, OR THE LOAVES WERE BROKEN UP, THEY BECOME NEUTRALIZED IN TWO-HUNDRED-AND-ONE.<sup>33</sup>

MISHNAH 9. [WHATEVER IS UNDER DOUBT] AS TO [WHETHER IT IS] 'ORLAH<sup>34</sup> IS, IN THE LAND OF ISRAEL, PROHIBITED,<sup>35</sup> AND IN SYRIA — PERMITTED;<sup>36</sup> [AND] OUTSIDE THE LAND<sup>37</sup> ONE MAY GO DOWN AND PURCHASE [FROM A NON-ISRAELITE],<sup>38</sup> PROVIDED ONLY THAT ONE HAS NOT SEEN HIM GATHERING IT.<sup>39</sup> IF [THERE IS] A VINEYARD PLANTED WITH GREENS, AND GREENS ARE SOLD OUTSIDE THEREOF,<sup>40</sup> THESE ARE, IN THE LAND OF ISRAEL, PROHIBITED,<sup>41</sup> AND IN SYRIA — PERMITTED;<sup>42</sup> OUTSIDE THE LAND<sup>43</sup> ONE MAY [PURCHASE THEM FROM A NON-ISRAELITE WHOM ONE HAS SEEN] GO DOWN AND GATHER ['MIXED-SEEDS' OF THE VINEYARD], PROVIDED ONLY THAT ONE DOES NOT GATHER [THEM] WITH [ONE'S OWN] HAND.<sup>44</sup> 'NEW [PRODUCE]'<sup>45</sup> IS PROHIBITED BY THE TORAH IN ALL PLACES;<sup>46</sup> AND 'ORLAH IS A HALACHAH;<sup>47</sup> AND 'MIXED-SEEDS'<sup>48</sup> IS ONE OF THE ENACTMENTS OF THE SCRIBES<sup>49</sup>.

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(1) It is prohibited to derive any sort of use or benefit (hanna'ah) from 'orlah. The Mishnah instances dyeing rather than state this rule in general terms, because if it had done the latter, it might have been thought that dyeing was not included in the prohibition of hanna'ah in conformity with the principle, that, i.e., improvement in appearance is not (considered) a (substantial) thing (to be taken account of in prohibitions), a principle which applies only to Rabbinic and not to Biblical prohibitions, to which category 'orlah belongs, v. B.K. 101a.

(2) Or peel, or husks; these, as an integral part of the fruit, are subject to 'orlah, v. supra I, 8.

(3) Lit., '(these are) the words of....'.

(4) In conformity with his (unaccepted) principle (Mish. infra) that a consecrated article of any kind sold by number, when mixed with others, consecrates and prohibits the others irrespective of the relative proportions of forbidden and permitted articles.

(5) A measure of length. Definitions vary; viz., (a) the distance between the tips of the forefinger and middle finger when fully stretched apart (the distance between the tips of the forefinger and the thumb when fully stretched apart being a 'double sit'), v. Rashi to Shab. 105b-106a; (b) a handbreadth (i.e. the width, across the knuckles, of the four fingers held together, plus the thumb when held close to them; (c) ==a sixth of a span (zereth), (Maim.).

(6) But he permits the material as long as the length of the 'orlah-dyed thread is less than a sit.

(7) Even if the length of the prohibited thread is less than a sit, the Sages require two hundred times of permitted thread to neutralize the prohibited.

(8) The use of such wool is forbidden, as the whole animal is consecrated and its shearing is forbidden. Deut. XV, 19,

All the firstling males that are born of thy herd and of thy flock shalt sanctify unto the Lord thy God . . . thou shalt not shear the firstling of thy flock.

(9) However overwhelming the amount of permitted thread it contains.

(10) In Num. VI, 5, He shall be holy, he shall let the locks of the hair of his head grow long; the words קדש יהיה are interpreted 'it shall be holy' and taken to refer to the hair; so that a Nazirite's hair is deemed consecrated and prohibited for use, v. Josephus Ant. VI, 4.

(11) Sc. which has not been redeemed and is to have its neck broken. Ex. XIII, 13, And every firstling of an ass thou shalt redeem . . . and if thou wilt not redeem it, then thou shalt break its neck. By analogy with Deut. XXI, 4 . . . and shall break the heifer's neck, the rule is derived that (at any rate after the breaking of its neck) the firstling of an ass is subject to the same prohibitions of use as are prescribed, or inferred, with regard to the heifer whose neck is broken. That the use of the latter's hair is forbidden is inferred, by analogy, from the 'red heifer'. Of the firstling ass it is said (Deut. XXI, 2). which hath not drawn in the yoke, and of the 'red heifer' it is said (Num. XIX, 3), upon which never came a yoke. This common factor is interpreted to render both subject to the same prohibitions of use, and since in the case of the 'red heifer', the injunction to burn it whole deliberately mentions the skin, it is clear that its skin and hair are deemed consecrated and their use prohibited, and likewise, by analogy, the hair of the heifer-whose-neck-is-broken; by extension of the analogy, also the hair of the firstling of an ass (that has not been redeemed) is forbidden.

(12) However large the proportion of permitted wool or hair. Sack-cloth is instanced in regard to hair, and a garment in regard to wool, Because such were the uses to which hair and wool respectively were commonly put.

(13) I.e. only such as one may redeem, e.g., קדשי מזבח animals voluntarily designated for sacrifice which became unfit, through blemish, for the altar, and קדשי בדק הבית such animals (or objects) devoted for purposes of the upkeep of the Temple.

(14) I.e. of the prohibited hair or wool. (8) This stringent ruling applies only, as already stated, to such (consecrated) objects as can be made permitted by redemption, to which applies the principle that 'whatever may be rendered permitted is not annulled even in a thousand'. Where, however, Scripture has precluded the alternative redemption (v. note 6), the law is more lenient, viz., only if the prohibited admixture is of a given minimum measure (in our case a sit of consecrated wool or hair) has it the effect of rendering the rest consecrated, prohibited for use and condemned to destruction (T.J.).

(15) V. supra Mish. 1, n. 2.

(16) Or stubble of 'mixed-seeds' of the vineyard, used as fuel; the dish being open to the flame (v. Pes. 26b and Rashi ad loc.).

(17) The dish having become prohibited by absorbing, as it were, the 'goodness of the prohibited fuel.

(18) Even R. Meir agrees with this, and does not insist, as he does in the instances cited earlier in the chapter, that the slightest amount of matter affected by 'orlah, should render other matter mixed therewith similarly prohibited. The reason for leniency here, is that the prohibited element in the dish is from shells etc, a material not significant enough that its flame should impose not only a prohibition, but also a completely prohibitory character on a dish cooked in front of it.

(19) V. notes to Mishnah 4.

(20) תלתן from the Aramaic תלת == three, a three-leaved leguminous plant, particularly fenugreek (v. Jast.). A bundle of this consists of twenty-five stalks (T.J.).

(21) In the quotation of this Mishnah in Bez. 3b 'and (these) others with other' is added. Tosaf. there, in the name of R. Tam, rejects the addition. In Zeb. 72a — b the added words are enclosed in brackets. In Yeb. 81a — b the text is as in our Mishnah.

(22) For reasons stated by him in the next Mishnah.

(23) I.e., sold and bought by number (so R. Johanan Bez. 3b). This would include bundles of fenugreek, which are spoken of in Mishnah 6.

(24) By way of disposal in a manner whereby no benefit whatsoever is derived. The term used here, viz., מקדש is based on the use of the verb in Deut. XXII, 9, Thou shalt not sow thy vineyard with two kinds of seeds, lest the fullness of the seed which thou hast sown be forfeited (תקדש) together with the increase of the vineyard.

(25) פרך but Maim. and Bert. (also Rashi to Bez. loc. cit.) take it as a place known for its nuts, just as בדן mentioned immediately afterwards as a place famous for pomegranates. B., however, already mentions the alternative adopted in our translation.

(26) A place N.E. of Shechem.

- (27) I.e., stopped-up casks of forbidden wine mixed up with stopped-up casks of permitted wine (v. T.J.); cf. M. Sh. III, 13.
- (28) Not R. Simeon, as in one text.
- (29) These are usually larger, and more distinctive than bakers' loaves.
- (30) I.e., such of the enumerated items as are tree-produce, viz., nuts, pomegranates and wine.
- (31) I.e., such of the enumerated items as are vegetable-produce or grain, viz., shoots of beet, cabbage-heads, Greek pumpkins, also loaves.
- (32) כִּיצַד . The text of the Mishnah in T.J. omits the word, which, indeed, appears superfluous, though Maim. tries to justify its retention.
- (33) When these things are no longer whole, their significance is impaired, and they have a prohibitory effect only if there be of any of them the minimum of one part to two hundred parts of the permitted.
- (34) E.g., produce which is being sold outside a vineyard which is 'orlah, but with regard to which fruit it is nor known whether it is from that vineyard or another permitted one (T.J.); or, the fruit of an orchard of a non-Israelite (Rash, Bert.) or of an Israelite suspected of neglecting the law of 'orlah (Rashi to Ber. 36a, q.v.), but it is nor known whether the fruit he is selling is from an old tree or from a young tree still subject to 'orlah; or, simply, from a tree of unknown age (Rashi to Kid. 38b, q.v.).
- (35) On the principle that wherever there exists a doubt, however slight, as to whether a Scriptural prohibition applies, the ruling is stringent, i.e., the prohibition is, the doubt notwithstanding, enforced.
- (36) Syria was conquered not by the Israelites coming up from Egypt but later by King David, and therefore, as the conquest of an individual, has not the full sanctity of the Land of Israel proper. This inferiority of status accounts for the difference of the treatment of 'doubtful' 'orlah (or 'doubtful' 'mixed-seeds' of the vineyard). In the Land of Israel it is prohibited (just as is 'certain' 'orlah or 'mixed-seeds' of the vineyard); in Syria it is permitted, but only when the presumption against its being 'orlah (or 'mixed-seeds' of the vineyard) is a formidable one. — Tosef. has 'in Syria and outside the Land it is permitted'.
- (37) There 'orlah, though not forbidden by the Torah, is nevertheless forbidden by a rule orally given to Moses at Sinai (v. later in this Mishnah). Ordinarily when there is a doubt whether anything is subject to such a prohibition, the prohibition is yet maintained (just as in the case of a doubt in connection with a Scriptural prohibition, v. supra n. 2), but in this case it is held that the 'Rule given to Moses at Sinai' explicitly stated that whilst 'certain' 'orlah was forbidden, outside Palestine 'doubtful' 'orlah was permitted (Kid. 39a).
- (38) Or from an Israelite suspected of neglecting 'orlah (v. supra n. 1).
- (39) This example shows that 'doubtful' 'orlah outside the Land of Israel is permitted even when the presumption against its being 'orlah is a very slender one. In Syria the permission is applied in rather stricter fashion (v. supra n. 3).
- (40) These greens are thus 'doubtful' 'mixed-seeds' of the vineyard.
- (41) V supra n, 2.
- (42) V. p. 381, n. 3.
- (43) Where 'mixed-seeds' of the vineyard are not prohibited by the Torah, but by Rabbinic enactment (v. later in the Mishnah and n. 7).
- (44) Ordinarily, where there is a doubt as to whether anything is subject to a Rabbinic (as distinct from a direct Scriptural) prohibition, the prohibition is not maintained but here in the case of 'mixed-seeds' of the vineyard outside the Land, it is maintained to a rather minor degree, viz., only forbidding an Israelite to pick such doubtful 'mixed-seeds' with his own hand, for the purpose of impressing on the mind of the Israelite that the sowing of 'mixed-seeds' of the vineyard is something forbidden (v. L.).
- (45) V. Lev. XXIII, 14.
- (46) Outside as well as in the Land of Israel. Cf. Kid. I, 9, where according to the Gemara (p. 37a) the extension of the application of the law to countries outside the Land of Israel is in accordance with (Lev. *ibid.*) 'in all your dwelling places', viz., whether in the Land or elsewhere.
- (47) 'Rule'. According to T.J. ad loc. and Kid. 38b it means here הלכה למשה מסיני 'A Rule given to Moses at Sinai'. This is the view of R. Johanan, accepted against that of Samuel who thought it meant הלכתא מדינה i.e., a rule voluntarily adopted by Jews outside the Land of Israel as binding upon themselves. Cf. Bacher Tradition and Tradenter, p. 39; v. p. 381, n. 4.
- (48) Sc. of the vineyard; these alone are to be understood here. As for other kinds of mixed-seeds, since they are prohibited in the Land of Israel only for eating, the Rabbis made no prohibition at all regarding them outside the Land (v.

Kid. 39a). Other kinds of kil'ayim (mixture of species) e.g. of animals or of garments (cloth) (Lev. XIX,19) which have no connection with land, and come under the category of 'obligation of the person', are incumbent equally inside and outside the Land of Israel.

(49) Soferim, a designation of the teachers of the period, from Ezra (cf. Ezra VII, 6, 10-11) to the beginning of the Tannaitic age. But **דברי סופרים** says Bacher, Tradition p. 163 — means the same as **דברי חכמים** 'the words of the 'Wise', which means words, or enactments of the oral tradition (v. op. cit. p. 160).